Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development
635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050
Fax (503) 378-5518
www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

July 10, 2008

TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Happy Valley Plan Amendment
DLCD File Number 006-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: July 23, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*__NOTE:__ **THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Bill Holmstrom, DLCD Transportation Planner
Michael Walter, City of Happy Valley

<paa> ya

FORM 2 Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: CITY OF HAPPY VALLEY Local file number: CPA-03-08/LDO-03-08

Date of Adoption: JULY 1, 2008 Date Mailed: JULY 2, 2008

Date original Notice of Proposed Amendment was mailed to DLCD: MARCH 3, 2008

- [X] Comprehensive Plan Text Amendment
- [ ] Land Use Regulation Amendment
- [X] New Land Use Regulation
- [X] Comprehensive Plan Map Amendment
- [X] Zoning Map Amendment
- [ ] Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

LEGISLATIVE APPLICATION PROPOSING CHANGES TO THE CITY'S COMPREHENSIVE PLAN AND DEVELOPMENT CODE TO ESTABLISH A ROCK CREEK MIXED EMPLOYMENT (RC-ME) ZONING DISTRICT, AND APPLY SAID COMPREHENSIVE PLAN DESIGNATION/ZONING DISTRICT TO AN APPROXIMATELY 145-ACRE GEOGRAPHIC AREA.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

SAME

Plan Map Changed from: CLACKAMAS COUNTY EFU to: CITY RC-ME

Zone Map Changed from: CLACKAMAS COUNTY EFU to: CITY RC-ME

Location: WEST OF 162ND AVE., NORTH OF HWY 212, EAST OF ROCK CREEK Acres Involved: APPROX. 145

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 1,2,5,6,9,11,12,13&14

Was and Exception Adopted? [ ] YES [X] NO

DLCD File No.: 006-08 (16754)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing?	☐ **Yes**	☒ **No**
If no, do the statewide planning goals apply?	☐ **Yes**	☐ **No**
If no, did Emergency Circumstances require immediate adoption?	☐ **Yes**	☐ **No**

Affected State or Federal Agencies, Local Governments or Special Districts:

CLACKAMAS COUNTY, HAPPY VALLEY

Local Contact: MICHAEL WALTER, PLANNING SERVICES MANAGE Phone: (503) 760-3325 Extension:

Address: 12915 SE KING ROAD City: HAPPY VALLEY

Zip Code + 4: 97086- Email Address: michaelw@ci.happy-valley.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO (2) Copies** of the Adopted Amendment to:

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.

6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

Mayor
HON. ROBERT WHEELER

City Councilors
LORI DEREMER
MARKLEY DRAKE
TOM ANDRUSKO
KRISTEN MITCHELL

City of Happy Valley

12915 SE KING ROAD, HAPPY VALLEY, OREGON 97086
Telephone (503) 760-3325 ~ Fax (503) 760-9397
Web Site: www.ci.happy-valley.or.us

July 2, 2008

File No. CPA-03-08/LDO-03-08
(RC-ME Comprehensive Plan)

NOTICE OF DECISION

This is official notice of action taken by the City of Happy Valley City Council at a public hearing on July 2, 2008, with regard to the adoption of the "Rock Creek Mixed Employment (RC-ME) Comprehensive Plan" which created a new RC-ME development district; incorporated the development district within the City's Comprehensive Plan; and, applied the development district legislatively to all annexed properties within the subject area on properties totaling approximately 146 acres in size, generally located north of State Highway 212; east and south of Rock Creek and an un-named tributary to Rock Creek that flows to the southeast; and, west of 162nd Avenue.

At the public hearing, the City Council voted to uphold a unanimous recommendation from the Planning Commission to approve CPA-03-08/LDO-03-08 based upon submitted information, public testimony and deliberations of the City Council.

Copies of the original Staff Reports for CPA-03-08/LDO-03-08 are available upon request.

This action of the City Council may be subject to appeal to the State of Oregon Land Use Board of Appeals per the auspices of ORS 197.830. An appeal of this decision must be filed within 21 days of the mailing of this Notice of Decision. If no appeal is filed by **Wednesday, July 23, 2008 at 5:00 p.m.**, this decision shall be deemed final.

Michael D. Walter, AICP
Planning Services Manager

cc: Providence Health Services - Oregon, attention Dana White
Michael Robinson, Perkins Coie (via e-mail)
Seth King, Perkins Coie (via e-mail)
David Noren, Esq. (via e-mail)
Chris Crean, City Attorney (via e-mail)

CITY OF HAPPY VALLEY
ORDINANCE NO. 376

AN ORDINANCE ADOPTING THE "ROCK CREEK MIXED EMPLOYMENT COMPREHENSIVE PLAN"; ADOPTING CONGRUENT COMPREHENSIVE PLAN AND DEVELOPMENT CODE TEXT AMENDMENTS; AND, AMENDING OFFICIAL MAP EXHIBIT 11 OF THE CITY OF HAPPY VALLEY LAND DEVELOPMENT ORDINANCE NO. 97, AS AMENDED – COMPREHENSIVE PLAN MAP AMENDMENT/ZONE CHANGE FROM CLACKAMAS COUNTY EXCLUSIVE FARM USE (EFU) TO CITY ROCK CREEK MIXED USE EMPLOYMENT (RC-ME) FOR SPECIFIC PROPERTIES.

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

WHEREAS, Application CPA-03-08/LDO-03-08 was initiated by a public-private partnership between the City of Happy Valley and Providence Health & Services – Oregon to adopt the "Rock Creek Mixed Employment Comprehensive Plan"; amend and augment existing Comprehensive Plan and Development Code text; and, amend the Development District Map (Official Map Exhibit 11 of Ordinance 97) by applying City RC-ME zoning to the properties known as Clackamas County Assessor Map Nos. 22E12A: Tax Lots 200, 304, 800, 801, 900 and 1000 and 22E12D: Tax Lots 200, 400, 500 and 600 as illustrated within Exhibit "A"; and,

WHEREAS a hearing was held before the City of Happy Valley Planning Commission on May 13, 2008; and,

WHEREAS, the Planning Commission unanimously recommended that said "Rock Creek Mixed Employment Comprehensive Plan" be implemented based on the submitted materials; that the Comprehensive Plan and Development Code Text Amendments be implemented; and that the Development District Map be amended as recommended in the Staff Report to the Planning Commission dated May 13, 2008; and,

WHEREAS, the City has timely forwarded a copy of the proposed amendment to the Department of Land Conservation and Development of the State of Oregon and Metro; and,

WHEREAS, the City Council of the City of Happy Valley, Oregon, has determined that it is reasonable, necessary and in the public interest to adopt the "Rock Creek Mixed Employment Comprehensive Plan"; incorporate the proposed Comprehensive Plan and Development Code Text Amendments; and, revise the Development District Map and upholds the Planning Commission's recommendation pursuant to the findings within the Staff Report to the Planning Commission dated May 13, 2008 and the "Findings of Fact and Conclusions of Law for City of Happy Valley Ordinance No. 376".

NOW, THEREFORE, based on the foregoing,

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

Section 1. The City of Happy Valley declares that the RC-ME district be applied to the ten properties described in Exhibit "A".

Section 2. The City of Happy Valley declares that the proposed Comprehensive Plan Policy be added to the City's Comprehensive Plan; and that the proposed amendments to Title 16 of the City's Municipal Code be

amended as set forth as part of Exhibit "B" and are fully incorporated herein.

Section 3. The City of Happy Valley declares that the Findings of Fact included within the Staff Report to the Planning Commission dated May 13, 2008 are hereby adopted in conjunction with this Ordinance.

Section 4. The City of Happy Valley declares that the "Findings of Fact and Conclusions of Law for City of Happy Valley Ordinance No. 376" are hereby adopted in conjunction with this Ordinance.

Section 5. The City of Happy Valley declares that this Ordinance shall become effective thirty (30) days after approval by the City Council.

READ for the first time at the regular meeting of the City Council of the City of Happy Valley, Oregon, on June 3, 2008 and read for the second time on July 1, 2008, and adopted by a unanimous vote of the members of the City Council of the City of Happy Valley, Oregon.

CITY OF HAPPY VALLEY

Mayor Rob Wheeler

ATTEST:

Marylee Walden, City Recorder

BEFORE THE CITY COUNCIL FOR
THE CITY OF HAPPY VALLEY, OREGON

In the Matter of The Implementation of the Damascus-Boring Concept Plan on 145 Acres Designated "Employment" on the Concept Plan and Located North of Oregon Highway 212 and West of SE 162nd Avenue	**FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR CITY OF HAPPY VALLEY ORDINANCE NUMBER 376**

1. Procedural Status

A. Initiation of Amendments

On February 22, 2008, Providence Health & Services (a/k/a Providence Health Systems-Oregon ("Providence") submitted a consolidated application ("Application") to the City of Happy Valley ("City") requesting the following: (1) Text amendments to the City's Comprehensive Plan ("Plan") to establish the Rock Creek Mixed Employment ("RC-ME") zoning district ("District"); (2) Text amendments to the City's Development Code ("HVDC") to establish the District; and (3) Map amendment to the acknowledged combined Plan and zone maps to implement the District (collectively, the three amendments are the "Amendments").

B. Notices of Public Hearings

On March 4, 2008, the City provided notice on the applicable form to the Oregon Department of Land Conservation and Development ("DLCD"), more than 45 days prior to the initial public hearing before the Happy Valley Planning Commission ("Commission"). This mailing satisfied the City's obligations for notice to DLCD.

Pursuant to Ballot Measure 56, on April 15, 2008, the City mailed a notice for the Amendments that included both public hearings to property owners within 300 feet of the area affected by the Amendments. On April 23, 2008, the City provided published notices in *The Oregonian* for both the Commission and Happy Valley City Council ("Council") hearings relating to the Amendments. These notices listed the dates, times and places of the hearings.

C. Commission Action

On May 13, 2008, the Commission opened a public hearing on the Application. Michael Walter, the City's Planning Services Manager, noted that the entire Planning Department file was physically before the Commission. The Commission did not reject any part of the Planning Department file. Following presentation of the City Planning Department's staff report, Michael Robinson and Terry Smith gave a presentation on behalf of Providence. Several proponents presented testimony in favor of the Application, including Judy Johnson-Bari, Gary Cook, Gary Barth, Anthony Hall, Doug Bollam, Shelly Parini, Doug Cook, George Faris, and Wilda Parks.

David Noren and Lynn Marie-Crider presented testimony in opposition to the Application as proposed.

At the conclusion of public testimony, the Commission closed the public hearing and discussed the Application. Chairman Klever made a motion, seconded by Commissioner Ellis, to recommend that the Council adopt the Amendments, subject to specific language amendments regarding low impact development strategies and policies, based upon the findings set forth in the City Planning Department's staff report. The Commission unanimously voted to approve the motion.

D. Council Action

On June 3, 2008, the Council opened a public hearing on the Amendments in the form of Ordinance No. 376 ("Ordinance"). Michael Walter, the City's Planning Services Manager, noted that the entire Planning Department file was physically before the Council. The Council did not reject any part of the Planning Department file. Following presentation of the City Planning Department's staff report, the Council accepted public testimony. On behalf of the Service Employees International Union Local 49 ("SEIU"), David Noren argued that there had been inadequate opportunity for public input and that Commission procedures had favored Providence. He requested that the Council grant each of SEIU's experts and representatives at least five (5) minutes of time to testify before Council. The Council rejected this argument and granted Providence ten (10) minutes to testify and each other party three (3) minutes to testify. The City finds that the unequal time allocation is justified because Providence bears any burden of proof and therefore requires more time, there has been an unlimited opportunity to submit written testimony at both *de novo* hearings, the unequal allocation of time does not cause substantial prejudice because of this unlimited opportunity to submit written testimony and because of Mr. Noren's client's ability to make a full and fair case.

Michael Robinson gave a presentation on behalf of Providence. Several proponents presented testimony in favor of the Application, including Burton Weist, Gary Barth, Judy Johnson-Bari, Wilda Parks, Anthony Hall, Gary Cook, Shelly Parini, Dale Seal, Doug Bollam, and Amanda Walker. David Noren, Lynn Marie-Crider, Bryce Ward, Joe Cortwright, Amy Bruno, Julie Markowitz, Kelsie Joshua, and Mary Beth Keeley presented testimony in opposition to the Application as proposed.

At the conclusion of public testimony, the Council closed the public hearing and discussed the Application. Based upon the Commission recommendation, the evidence before the Council (which included the evidence before the Commission), oral and written testimony presented to Council, Councilor Andrusko made a motion, seconded by Councilor Mitchell, to adopt the Amendments in the form of the Ordinance, to allow the Ordinance to be read by title only, and to hold two readings for the Ordinance at the same meeting. The Council unanimously voted to approve the motion. On the second reading, Council President DeRemer made a motion, seconded by Councilor Mitchell to adopt the Ordinance. The Council unanimously voted to approve the motion.

The Council further directed City staff to prepare findings embodying the arguments and evidence in favor of the Amendments. At that time, staff noted that Happy Valley Municipal Code Section 16.40.060.D requires the findings to accompany the Council's final decision. Accordingly, the City Council could not accept a second-reading motion at the June 3, 2008, hearing because the final findings were not ready. For this reason. the vote approving the ordinance was treated as the vote on first-reading under Happy Valley Charter, Chapter VIII, Section 31, and the revised Ordinance and second reading was presented to the Council and approved on July 1, 2008. The Council hearing on June 3, 2008 was not the initial evidentiary hearing, and the record was not required to be held open or the hearing continued, although the Council had the ability to do so. No party requested that the Council continue the public hearing or hold the record open.

E. Record Before the Council

The record before the Council consists of the Staff Report to the Planning Commission dated May 13, 2008, including Exhibits A-I; the Staff Report to the City Council dated June 3, 2008, including Attachments A-C; and, all materials entered into the record on the evening of June 3, 2008. The entire City Planning Department file was physically before and not rejected by the Council prior to the close of the record. The record also includes the audio recordings of the public hearings before the Commission on May 13, 2008.

2. Findings of Fact and Conclusions of Law

The applicable criteria for each of the Amendments include applicable Statewide Planning Goals (the "Goals") and associated State Administrative Rules, applicable sections of the Metro Urban Growth Management Functional Plan (the "Functional Plan"), applicable Plan policies, and applicable HVDC provisions. These Findings apply to the Amendments unless expressly stated otherwise.

The Application by Providence dated February 22, 2008, Providence's supplemental information dated May 5, 2008, the two (2) City Planning Department staff reports dated May 13, 2008, and June 3, 2008, and oral and written evidence in support of the Amendments submitted prior to the close of the evidentiary record before the Council are hereby incorporated by reference in their entirety, including any attachments or exhibits referenced in the above-described documents. In the event of a conflict between these incorporated documents and the Findings, these Findings shall prevail.

A. Applicable Statewide Planning Goals

The incorporated findings address the applicable Goals. The Council finds that the applicable Goals are satisfied.

B. Applicable State Administrative Rules

The incorporated findings address the applicable State Administrative Rules. The Council finds that the applicable State Administrative Rules are satisfied.

C. Applicable Titles of the Metro Urban Growth Management Functional Plan

The incorporated findings address the applicable Functional Plan policies. The Council finds that these criteria are satisfied.

D. Applicable Happy Valley Comprehensive Plan Policies

The incorporated findings address the applicable Plan policies. The Council finds that these criteria are satisfied.

E. Applicable Happy Valley Development Code Provisions

The incorporated findings address the applicable HVDC provisions. The Council finds that these criteria are satisfied.

F. Other Issues

1. Goal 11 Does Not Require the City to Plan for Non-Profit Hospitals as Public Facilities.

Opponents of the Amendments argued before the Commission and the Council that approval of the Amendments will be inconsistent with Goal 11, apparently because the City does not have a coordinated plan for "health services." Opponents further contended that the land use process is the appropriate avenue to conduct this planning.

Goal 11 requires cities to "plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." Goal 11 is implemented through the Land Conservation and Development Commission ("LCDC")'s Public Facilities Planning Rule, OAR chapter 660, division 11. These rules define a "public facility" as "water, sewer, and transportation facilities, but does not include buildings, structures, or equipment incidental to the direct operation of those facilities." OAR 660-011-0005(5). This definition is consistent with the definition in Goal 11 of a "public facilities plan" as a "plan [that] describes the water, sewer and transportation facilities to support the land uses designated in the appropriate comprehensive plan."

Significantly, neither of these definitions includes "health services." Opponents' argument apparently arises from the definition of "urban facilities and services" in Goal 11, which includes such things as police protection, planning services, energy and communication services, and "health services." The only language in Goal 11 regarding "urban" facilities and services is found in the planning guidelines:

> 5. A public facility or service should not be provided in an urbanizable area unless there is provision for the coordinated development of all other urban facilities and services appropriate to that area.

This provision directs local governments to not allow public facilities in urbanizable areas until there are sufficient urban services available to the area. In other words, under Goal

11, the City may not extend sewer, water or transportation facilities (i.e. "public" services) to an area until adequate urban services (e.g. police, fire, health services) are also available to the area. Properly understood, Goal 11 applies to a decision to extend sewer or water lines to an area and may involve consideration of the availability of urban services in the affected area; it does not apply to a decision to allow health services in the same area. Indeed, to the extent public facilities (roads, sewer, water) are already available in the Rock Creek area, the lack of health services within a reasonable proximity could be interpreted as inconsistent with Goal 11 and approving this application, which will provide such health services, is more consistent with the Goal's requirements, not less.

Opponents also do not provide substantial evidence that Goal 11 even applies to private facilities such as hospitals. Providence rebutted this evidence with reference to the plain and express language of Goal 11. The Goal is entitled "*Public* Facilities and Services") (emphasis added), and it relates to public facility planning. This proposal is for private facilities which will support urban levels of development as required by Goal 11. Thus, it does not governed by Goal 11.

Opponents further argue that "key facilities" includes health services. Again, opponents are incorrect. Providence submitted into the record that, under the Goals, "key facilities" are defined as follows: "Basic facilities that are primarily planned for by local government but which may also be provided by private enterprise and are central to the support of more intense development, including public schools, transportation, water supply, sewage and solid waste disposal." LCDC, which adopted Goal 11, could have included the phrase "health services" in this definition, as it did with the phrase "urban facilities and services." LCDC's conscious choice not to include "health services" in the definition of key facilities means that health services is not one of the types of key facilities that must be included in the public facilities plan.

Finally, the opponents did not identify any of the 240 cities or 36 counties in Oregon that have adopted or implemented a land use plan for health services. There is simply insufficient evidence to support opponents' argument.

The Council finds that there is no legal requirement under Goal 11 that the City plan for health services. Accordingly, the Council finds that the Amendments are in compliance with Goal 11.

2. Adoption of the Amendments will Generate "Traded Sector Jobs" and Further the City's Economic Development Objectives.

Opponents argued that the City should not adopt the Amendments, because the resulting development will be inconsistent with Goal 9, the Damascus-Boring Concept Plan ("DBCP"), and the Metropolitan Service District ("Metro")'s Title 4 map. Specifically, opponents contended that adoption of the Amendments will deprive the region of industrial land needed to create traded sector jobs that support rising wages.

Opponents have not cited to any applicable provisions of Goal 9 or its implementing rules that control the outcome of this decision. In addition, as explained in the Application, OAR 660-009-0010(4) is not applicable, as it only relates to certain other post-acknowledgement amendments. This rule provides as follows:

"(4) For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

(a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or

(b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or

(c) Adopt a combination of the above, consistent with the requirements of this division."

The City finds that this administrative rule is inapplicable. It applies to changes to a Comprehensive Plan designation of land in excess of two (2) acres within an existing Urban Growth Boundary from an industrial use designation to a non-industrial use designation, or another employment use designation to any other use designation. In this case, the current Comprehensive Plan designation is Agricultural with an Exclusive Farm Use ("EFU") zoning designation. An Agricultural plan designation is neither an industrial designation nor is it another employment use designation. Therefore, this administrative rule is inapplicable.

Secondly, as to the DBCP, opponents note that this document identifies the Rock Creek area as suitable for industrial research and development. The Rock Creek Employment Area Study for Clackamas County dated September 15, 2004 ("Employment Study"), further elaborates this vision by proposing a "new industrial research and development campus with high traffic generation uses, such as a regional hospital, emergency care, ambulatory care, and ancillary medical office facilities." According to opponents, the scenario outlined in the Employment Study requires development of a research center first, with the possibility of a subsequent, ancillary hospital in a supporting role. Council is not persuaded by opponents' reading of the Employment Study. This study proposes the development of a campus, and a hospital is identified as the first potential element of that campus. Moreover, that hospital is identified as "regional" in nature. In this way, the Employment Study envisions the hospital as the centerpiece of the campus, providing services and generating economic impacts beyond the local area. In fact, the Employment Study estimated that this development scenario would create 5,328 jobs at build-out. By comparison, a light industrial land use alternative would only create 2,801 jobs. The Amendments seek to implement the Employment Study's vision for a hospital development. With reference to this vision, the Council finds that the Amendments encourage the creation of traded sector jobs in the Rock Creek area.

In a closely related argument, opponents argue that the City must limit non-industrial uses in the Rock Creek area in accordance with the subject property's RSIA designation. As set forth in more detail in Finding 2.F.3., Metro staff have determined that the proposal is in compliance with Metro's Urban Growth Management Functional Plan ("UGMFP"), including the Title 4 map. Accordingly, the Council rejects this argument.

Furthermore, the Council notes that the Application does not request the right to develop a specific hospital in the Rock Creek area. As a result, whether a hospital is proposed or how it relates to surrounding uses is not at issue in this decision.

Finally, substantial evidence in the record as a whole fully rebuts opponents' arguments that the Amendments will not foster creation of traded sector jobs in the Rock Creek area. Gary Barth, Deputy Director of the County's Business and Economic Development Department, testified to the following:

(1) Health care is a major economic engine in the County, generating total wages of over $604 million.

(2) Access to quality health care is a major community asset that businesses consider when siting or relocating operations.

(3) Generating new high wage employment will balance the City's jobs-housing ratio, which should, in turn, reduce trip lengths as City residents no longer need to travel elsewhere to work.

(4) Health care expenditures have a significant multiplier effect, as each dollar spent in this sector generates an additional $2.69 of economic activity.

(5) The industry cluster allowed within the RC-ME District will likely produce jobs averaging over $42,000 per year.

The United Association of Plumbers and Steamfitters also submitted evidence that the RC-ME District will create hundreds of family wage jobs and additional health care options.

Shelly Parini of Clackamas Community College testified that encouraging development of the health care sector would support the City's economic growth and commitment to sustainability.

Wilda Parks, ACE, of the North Clackamas Chamber of Commerce offered additional testimony in support of the Amendments, arguing that the resulting changes will promote the highest and best use of land in the Rock Creek area and will enhance the economic stability of the community by producing employment opportunities.

The Council finds the evidence in support of the economic development benefits of the Amendments outweighs the opponents' arguments. Accordingly, Council rejects opponents' arguments. There is substantial evidence in the record that approval of the Application will further the economic development objectives of the City and the entire region.

3. The Proposal is in Compliance with Metro's Urban Growth Management Functional Plan.

Opponents contend that adoption of the Amendments will violate Titles 4 and 11 of Metro's UGMFP, by redesignating existing industrial land to non-industrial uses.

Although Metro does not make the decision on the Application, it is important to this planning effort that the City, Providence, and Metro successfully coordinate on the Application. The City provided notice of the application to Metro pursuant to MC 3.07.820.A. Although provided late, Providence and the City have coordinated with Metro and Metro had adequate time to review the Application.

A. Compliance with Title 4

The May 8, 2008, letter from Mr. Ray Valone, principal planner with Metro, supports this request. Mr. Valone is the Metro liaison for the City, was the project manager during the DBCP process, and is a member of the review team for the East Happy Valley Comprehensive Plan, implementing the remainder of the DBCP area. Mr. Valone's letter states: "I am very familiar with and understand the planning history of this Rock Creek site. Based on my knowledge and additional internal review, we [Metro] conclude that this proposal fulfills the intent of the DBCP [the Concept Plan] and complies with Title 4 of the [Metro] Functional Plan." Earlier in the letter, Mr. Valone concluded that the application, if adopted, would comply with the UGMFP (MC 3.07). While others may argue that the Application does not satisfy applicable requirements of the Metro Code, not only are they substantively incorrect, but the individual in the best position to make that conclusion has found that the Application does comply.

The City finds that, upon adoption of the Amendments, Metro is obligated to update its Title 4 maps for consistency. MC 3.07.450.B requires that the Metro Chief Operating Officer ("COO") conform these maps to the City's action. The COO's action is ministerial because it is clear and objective (it does not involve discretion because the MC provision provides that the COO "shall" conform the maps), is not a land use decision (because it does not meet the definition of a land use decision contained in ORS 197.015(10)), is not appealable and does not require a public hearing. Although others may argue that the COO's conformance of Metro's Title 4 maps to the City's action provides another opportunity to appeal, not only Metro but the Oregon Land Use Board of Appeals would disagree.

In this case, the site that is the subject of this application was added to the Portland Metropolitan Urban Growth Boundary and was designated Industrial. This MC provision expressly provides that after completion of Title 11 planning by the responsible city (in this case, the approval of the DBCP by the City), Metro's COO "shall issue an order to conform [Title 4] map to the boundaries established by the responsible city." In other words, this MC provision recognizes that notwithstanding the original designation, upon implementation of the DBCP through completion of the Title 11 planning, the COO has a ministerial duty to conform the Title 4 map to the city's action. In this case, the Metro planner most knowledgeable about the concept planning activity has confirmed that the proposed designation is consistent with Title 4 and with the DBCP.

B. Compliance with Title 11

MC 3.07.1120 requires that adopted comprehensive plan provisions be consistent with the requirements of all applicable titles of the UGMFP and, in particular, Title 11. The Council finds that the Amendments satisfy the provisions of MC 3.07.1120 as follows:

1. MC 3.07.1120(F):

"Provision for sufficient commercial and industrial development for the needs of the area to be developed consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency."

The Amendments satisfy MC 3.07.1120(F) for two (2) reasons.

First, the "area" in this case is the DBCP area. The criterion requires that, with the adoption of the urban regulations for implementation of the DBCP in the Rock Creek area, there must be provision for sufficient commercial and industrial development for the needs of the area consistent with 2040 Concept design types. In other words, the Application, if approved, should leave the City in the position of being able to otherwise satisfy this requirement in the remainder of the area subject to the DBCP.

As noted above in Section 2.F.2. of these Findings, the City finds that the Application satisfies the DBCP requirement for employment needs in the Rock Creek area. As to the remainder of the DBCP area inside the City of Happy Valley (known as the "East Happy Valley Plan Area"), the City can make the same finding.

Second, the East Happy Valley Plan Area contains 455 acres designated for Employment Center and Industrial Campus. The Employment Center ("EC") designation contains 224 acres. The Industrial Campus ("IC") designation contains 231 acres. The IC designation implements the Regionally Significant Industrial Area ("RSIA") Design Type. The City projects that year 2025 total employment in these 455 acres will be 8,384 employees. These figures compare to approximately 100 acres of Employment designated land and 330 acres of Industrial designated land proposed in the DBCP. The RC-ME plan designation and zoning district implements the DBCP Mixed Employment design type, which is consistent with Metro's Employment design type.

For these reasons, the City can find this criterion satisfied.

2. MC 3.07.1120(G):

"A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan, and that is also consistent with the protection of natural resources, either identified in acknowledged comprehensive plan inventories or as required by Title 3 of the Urban Growth Management Function Plan. The Plan shall, consistent with OAR Chapter

660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches."

The applicant's initial response is found at Page 35 of the Application. The record includes a memorandum dated April 14, 2008, from Lancaster Engineering addressing conceptual transportation plan and including a conceptual transportation map. The memorandum addresses this UGMFP requirement.

OAR 660-011-0010 is entitled "The Public Facility Plan." OAR 660-011-0010(1) requires that public facility plans included certain items. As relevant to this functional plan requirement, OAR 660-011-0010(c) requires "rough cost estimates of each public facility project." OAR 660-011-0010(1)(g) requires " a discussion of the provider's existing funding mechanisms and the ability of these and possible new mechanisms to fund the development of each public facility project or system."

Consistent with this UGMFP requirement, the Application satisfies these requirements. The only public facility project is the connector from SE 162nd Avenue on the east to the future Sunrise Highway facility on the south. Known as Rock Creek Boulevard, the facility will be classified as a Collector road on the City's Transportation System Plan ("TSP") map. The rough cost estimate depends on the ultimate alignment and design but could be anywhere from ten to twenty-five million dollars ($10,000,000 to $25,000,000). The City's existing funding mechanisms include the following:

- Developer construction with Traffic Impact Fee ("TIF") credit for those eligible portions of the public facility construction.
- The Local Improvement District ("LID") construction of the public facility.
- Full local funding of the public facility.
- Local funding with assistance from the State of Oregon State Transportation Improvement Program ("STIP") or other state and federal sources.

The City finds that one or more of these financing mechanisms can fund the development of this public facility when needed. The City finds that the need for the public facility arises only in the future when development requires the construction of the facility. Until that time, interim improvements on SE 162nd Avenue and Oregon Highway 224 will suffice. For these reasons, the City finds that this criterion is satisfied.

Based upon this evidence, the Council finds that the Amendments are in compliance with the Metro Code.

4. It is Not Necessary to Classify Hospitals in the RC-ME as Conditional Uses.

Opponents asserted that the City should revise the Amendments to require that medical centers and their ancillary facilities, including hospitals, be classified as conditional uses.

Evidence in the record demonstrates there is no need to classify medical centers and their ancillary facilities, including hospitals, as conditional uses. The RC-ME District is intentionally designed to provide for a hospital, associated medical uses and collaborative businesses that will provide important employment opportunities to the City. There is nothing inappropriate about the hospital use at this location, and a conditional use permit process would be both superfluous and unnecessary.

Conditional uses, as the Oregon Supreme Court noted, have historically been employed as a device to permit discretionary decisions on certain uses. *Anderson v. Peden*, 284 Or 313 (1978). In this case, where the creators of the DBCP anticipated that a hospital would be a major component of that design type; where the City, the County, and Metro have approved the DBCP; and where the proposed ordinance makes a hospital a permitted use but subject to Master Plan and Design Review approval; there is no policy or legal reason to make the use a conditional use permit which would simply require another discretionary level of review.

HVDC 16.16.220 is entitled "Conditional Use." Subsection A is entitled "Purpose" and provides in part:

> A conditional use is that use which, by virtue of special circumstances surrounding its use and development, cannot be effectively placed in any development district as an allowable use permitted by right. The specific uses may have significant impacts on traffic, school enrollments, public services, surrounding land uses in neighborhood or community to the extent that those impacts create adverse effects in the generally established patterns and trends; therefore, those uses must be carefully considered and, if necessary, have the impacts and operating circumstances controlled and directed by some conditions of approval.

The very rationale for the District is to provide for, among other uses, a hospital. The impacts of that use are considered in the establishment of the District. This use will precede the other uses in the surrounding area. Therefore, it is not possible for this use to have adverse impacts on surrounding uses because those uses do not yet exist.

Finally, through the Master Plan and Design Review processes, the City has substantial discretionary review over the development of medical facilities, even after the Amendments are adopted. Pursuant to the Amendments, any new development is subject to a Master Plan, which involves an exhaustive public process. Additionally, the City's Design Review process in HVDC 16.32 is a public, noticed process that concerns the appearance of the buildings and their layout on the site. These two (2) reviews are more than sufficient to assure that the public and the City decision-makers have an opportunity to determine how the site develops.

The Council recognizes that there is competing evidence, but rejects the arguments of the opponents as unpersuasive. There is no need to classify medical centers and ancillary facilities, including hospitals, as conditional uses.

5. The City and the Applicant Have Provided Adequate Notice and Opportunity for Community Input.

Opponents alleged that the City has provided insufficient opportunity for community input with respect to the Amendments and resulting development in the Rock Creek area. The facts do not support this argument.

Planning for the Rock Creek area as a location for intensive employment dates back several years and has involved three cities (Happy Valley, Damascus, and Gresham), the County, Metro, the State of Oregon, a 26-member advisory committee, and a 45-member steering committee. In addition, before finalization and approval of the DBCP, 1,625 citizens attended six community forums over a two-year period in 2004 and 2005. Three hundred community members attended a seven-day workshop in 2004. Community members were also able to attend numerous advisory committee meetings. The County sponsored various newsletters and mailings to the study area, which consists of 9,000 residents on 12,200 acres. As a culmination of this extensive public process, in 2006, the City, the County, and Metro adopted the DBCP which laid the foundation for conceptual development of the East Happy Valley Plan Area. The DBCP contemplated that the Rock Creek area was appropriate for "mixed employment" uses. The Amendments now seek to implement the DBCP.

More recently, Providence and the City have provided notice and additional opportunities for public comment with respect to the Amendments.

On May 31, 2006, and February 25, 2008, Providence noticed and sponsored two (2) community meetings to discuss the Amendments and solicit questions and feedback from area citizens. These neighborhood meetings, which were voluntarily initiated by Providence, provided an informal setting for neighbors of the site and Providence to discuss the future of the Rock Creek area.

Pursuant to Ballot Measure 56, on April 15, 2008, the City mailed a notice for the Amendments that included both public hearings to property owners within 300 feet of the area affected by the Amendments. On April 23, 2008, the City provided published notices in *The Oregonian* for both the Commission and Council hearings relating to the Amendments. These notices listed the dates, times, and places of the hearings.

The Commission and the Council have considered all testimony submitted by citizens prior to or at their respective meetings.

Thus, this has been a process noticed to the public, and it is not a backroom deal for any private property owner. In fact, by choosing to hold this process separate from the rest of the 2,500-acre East Happy Valley area, the Council has allowed for additional scrutiny for the Amendments. If anything, the meetings associated with the DBCP and those sponsored by Providence actually resulted in a process that provided extra opportunities for citizen input and careful deliberation by decision-makers. Therefore, the Council finds that there has been adequate notice and opportunity for community input in this matter.

6. The Council was Justified in Granting Providence Additional Time to Testify.

As explained in Section D. above, Mr. Noren requested additional time for SEIU to present testimony at the Council hearing in this matter.

Mr. Noren did not object to the time limits and rebuttal opportunity at the Commission hearing, and it is too late to raise those issues now, if that is what he intends to do. Further, the Council hearing is *de novo*, which cures any alleged procedural defects at the Commission hearing. However, no procedural defects occurred and, in any event, as noted, Mr. Noren waived any allegations because he failed to object at the time. *Wicks-Snodgrass v. City of Reefport*, 32 Or. LUBA 292 (1997). LUBA has held that where a city allows one party more time to present oral testimony during a land use hearing than it has allowed another party, an unequal allocation of time will not constitute error so long as the city's position explains the reason for the differentiation, there is an unlimited opportunity to submit written testimony, and the unequal allocation of time does not cause substantial prejudice. *Kane v. City of Beaverton*, 38 Or. LUBA 183 (2000). Further, LUBA has held that local government may limit oral testimony if there are adequate opportunities provided for the submission of written testimony. *Wildrose Ranch Enterprises v. Benton County*, 37 Or. LUBA 368 (1999). The City finds that the unequal time allocation is justified because Providence bears any burden of proof and therefore requires more time, there has been an unlimited opportunity to submit written testimony at both *de novo* hearings, the unequal allocation of time does not cause substantial prejudice because of this unlimited opportunity to submit written testimony and because of Mr. Noren's client's ability to make a full and fair case.

Mr. Noren's client had ample opportunity prior to the May 13, 2008 hearing and prior to tonight's hearing to submit substantial written evidence. Because this is a post-acknowledgement amendment application, the City provided notice of the hearings forty-five (45) days prior to the initial evidentiary hearing. Mr. Noren's client was well aware of these proceedings and participated fully at the Commission. Mr. Noren's client also has submitted or had the opportunity to submit additional written argument during the twenty (20) days between the Commission hearing and Council hearing. Mr. Noren's evidence is in the packet that was distributed to Council one (1) week in advance giving the Mayor and Councilors an ample opportunity to review the information.

Mr. Noren's client was well aware of the process because his client made a public records request to the City. Evidence in the record shows that at no time prior to the Commission hearing did Mr. Noren's client ask to meet with Providence to discuss the application, ask other property owners to meet to discuss the process, or ask for a joint meeting with Providence, the other property owners and City staff to discuss the process.

For these reasons, the Council rejects Mr. Noren's request.

7. Speculative Evidence Regarding How the Amendments, as Implemented, May Affect Existing Health Care Providers Outside the City is not Relevant.

Opponents suggested that approval of a hospital in the Rock Creek area will jeopardize the future of other area hospitals, including Providence Milwaukie Hospital and Willamette Falls Hospital, by creating competition for health care personnel and patients. The Council notes that the Application does not request the right to develop a specific hospital in the Rock Creek area. As a result, this argument is speculative at best. Further, it is not directed at any applicable approval criterion.

Therefore, the Council finds this evidence to be irrelevant to the decision in this matter.

8. Speculative Evidence Regarding How the Amendments, as Implemented, May Affect Health Care Costs is Not Relevant.

Opponents further argued that construction of a new hospital in the Rock Creek area will drive up health care costs for consumers. The Council notes that the Application does not request the right to develop a specific hospital in the Rock Creek area. As a result, this argument is speculative at best. Further, it is not directed at any applicable approval criterion.

Therefore, the Council finds this evidence to be irrelevant to the decision in this matter.

9. The Amendments Should Be Amended to Include Amendments Proposed by Water Environment Services.

Tim Finley of the County's Water Environment Services ("WES") submitted a memorandum dated May 15, 2008, into the record. The memorandum proposed a series of amendments to the Amendments to provide for consideration and implementation of low-impact development standards in the Rock Creek area, to require a detailed stormwater management plan and report for each phase of development and final build-out, and to make related changes to application requirements. City incorporated these proposed amendments into the draft version of the Ordinance presented to Council.

The Council finds that the Amendments, as amended consistent with WES' input and as drafted by City staff, will satisfy the applicable approval criteria.

10. The City is Authorized to Implement the Amendments for the Rock Creek Area Prior to Implementing the Remainder of the East Happy Valley Comprehensive Plan.

Opponents further object to the City's adoption of the Amendments prior to consideration of the amendments applicable to the remainder of the East Happy Valley planning area.

The City previously decided to move forward with implementation of amendments in the Rock Creek area in advance of the remainder of the East Happy Valley area due to the unique nature of the Rock Creek area and its proposed development program. The City previously followed this practice in planning for the Snodgrass property and its neighbors. Nothing in the Metro Code, HVDC, or the Plan prevents this action.

Moreover, the subject property is quite small and includes only 146 of an approximate total of 2,500 acres within the East Happy Valley planning area. In addition, the Amendments are consistent with the DBCP, which proposed a hospital in this area. The City's decision with respect to the Amendments does not preclude a later decision to amend the Amendments in conjunction with implementation of the East Happy Valley Comprehensive Plan amendments if evidence supports such a decision. Finally, there is sufficient land in the remainder of the East Happy Valley planning area to provide for industrial lands to offset those lost by the adoption of the Amendments.

Therefore, the Council finds that adoption of the Amendments at this time is warranted.

11. Until Annexed by the City, Unincorporated Properties Within the Rock Creek Mixed Employment Area Are Not Subject to the Amendments.

There are five (5) tax lots identified within the Rock Creek Mixed Employment area (Clackamas County Assessor Map No. 22E-12A: Tax Lots 100, 101, 300, and 1200; and, 22E-12D: Tax Lot 1400) ("County Properties") that are not yet within the City limits. The City does not have land use regulatory authority outside of its boundaries. Accordingly, the City finds that the Amendments will not apply to the County Properties unless and until they are annexed into the City. The City finds that upon annexation of the County Properties, the City will assign a map designation to the County Properties to implement the Amendments.

12. The Council Declines to Amend the Amendments to Identify a Specific Location for the Rock Creek Trail.

Mr. Bollam requested that the Council amend the Plan to adopt a specific alignment for the Rock Creek Trail ("Trail") to follow the existing interstate natural gas pipeline that crosses Rock Creek and continues southerly to the Clackamas River and beyond.

The Council finds that this issue is not germane to the Amendments. Accordingly, the Council declines Mr. Bollam's request but finds that nothing in the Amendments prohibits locating the Trail in this alignment in the future.

13. The Council Declines to Amend the Amendments to Include 60 Acres of Adjacent Property.

Mr. Bollam further expressed his support for the Amendments and his desire to combine his adjacent property with the RC-ME zoned property. Mr. Bollam's adjacent property is not located inside the DBCP area and is not part of the area subject to the Amendments. Mr. Bollam's property is classified as "urban" in nature.

The Council finds that there is insufficient evidence in the record to establish whether amending the Amendments to include Mr. Bollam's property will satisfy the applicable approval criteria; thus, the Council declines Mr. Bollam's request. The Council notes that nothing in the record or these Findings precludes Mr. Bollam from applying to change the map designation of his property to RC-ME at a later date.

14. The Ordinance and its Exhibits are Accurate.

Mr. Bollam also questioned whether all of the properties identified in the Ordinance and its exhibits as being within the City limits were actually located in the City. City staff responded that the Ordinance and its exhibits, including the map depicting ten properties in the City limits are correct.

Based upon this testimony, Council finds that the Ordinance and its exhibits are accurate.

15. Information Posted on the SEIU Website is Inflammatory and Erroneous.

The record reflects that SEIU posted information on its website with respect to the Amendments that was inflammatory and misleading in nature. Providence rebutted all elements of the SEIU postings. With respect to these postings, the Council finds as follows:

A. "Providence Health and Services wants Happy Valley to re-zone 145 acres of farmland to build a new hospital."

The "farmland" was brought into the Urban Growth Boundary ("UGB") by the Metro in 2002 for the express purpose of accommodating urban uses. The record includes the executive summary of the DBCP. It states, in part: "In December 2002 Metro expanded the UGB, including 12,200 acres in the Damascus/Boring area east of Happy Valley and south of Gresham. The next step was for local governments to create plans to guide the transition of this area from rural to urban uses. The DBCP provides that guidance by identifying general patterns of future urban development that meet federal, state and regional requirements as well as community aspirations."

This "farmland" is classified by the state as urbanizable land because it is within the UGB. Urbanizable land is expressly intended to become urban and its inclusion in the UGB means that it is not intended to remain farmland but is needed to accommodate urban uses; otherwise, it would not have been included in the UGB.

Providence (which owns only about 70 acres in the area) and the other property owners in this 146 acre area support the DBCP Mixed Employment designation and appreciate the City Council's consideration of its appropriate implementation. However, it is not just Providence and its neighbors that support the implementation of the DBCP. Metro and the City also support the process to appropriately designate urbanizable land for urban purposes. This process is required by Title 11 of Metro's UGMFP. In fact, the Executive Summary for the DBCP describes this very process: "Creating a concept plan is just the first step of the urbanization process. Successful implementation of the concept plan can only happen with strong comprehensive plan policies, flexible zoning ordinances, capital improvements plans for transportation and other services, and public/private partnerships. Once these are in place, individual property owners decide when and how to develop their land, consistent with City zoning, availability of services, and the market. The cities of Damascus, Happy Valley and Gresham are scheduled to begin detail planning in early 2006."

The DBCP shows this area as designated for Mixed Employment uses. Page 144 of the "Report on the Damascus/Boring Concept Plan," dated February 2006, describes the mixed employment area as including sites suitable for industrial, office, tech-flex, creative arts and other business in multi-tenant (and in some cases) multi-story buildings. In fact, the photograph next to this description is of the Oregon Nurses Association. Page 49 of the DBCP contains information obtained at a March 2004 workshop. As explained in Section E.5 above, thousands of residents of this area attended numerous workshops to produce a community-based Concept Plan. Among the types of industries the community participants said they wanted were medical (hospital/research) uses.

In summary, this proposed legislative amendment to the City's comprehensive plan and land use regulations is predicated on a community-based effort to implement of the Concept Plan. The concept plan has been approved by both the Metro Council and this Council in public meetings. Accordingly, the Council finds that the property in question is urbanizable and eligible for the RC-ME map designation.

B. "Providence wants the Happy Valley City Council to approve this change without requiring accountability to our community."

Only two people testified at the May 13, 2008 Planning Commission hearing against this proposal — an SEIU member and SEIU's lawyer. The vast majority of citizens who testified at that hearing supported this process.

Because this process is public, there is ample opportunity for accountability. The Council further incorporates Section E.5 of these Findings in response to this website posting. The Council finds that the Amendments and later opportunities for noticed public hearings with respect to development in the RC-ME District provide significant meaningful chances for public discourse. Thus, there is accountability.

C. "Instead of following existing zoning rules, Providence has made up its own special zoning rules."

There are no existing zoning rules for the urban uses contemplated by the DBCP. This proposal includes a new zoning district because there is no Mixed Employment zone. As the DBCP Executive Summary explains, the DBCP is only the beginning of the community-based planning process. Implementation of the DBCP through amendments to the City's Plan and land use regulations such as this are necessary to provide for urban uses. This process is both public and substantive.

Moreover, Providence has worked closely with City staff by holding numerous meetings and going through numerous revisions to the proposed ordinances. The City staff, independent of Providence, supports the proposed ordinances. Ultimately, the City will amend its comprehensive plan and zoning ordinance through a public process to implement the DBCP. All of the property owners in this area will have abide to by the amendments to the City's Comprehensive Plan and zoning ordinance. Accordingly, Council finds that there are no special zoning rules.

D. "Health care planning should be done by the community based on what services we need?"

Commission Chair Rob Klever asked SEIU representative Marie Crider where this has been done before, what law required it and why it should be started now in Happy Valley? These were fair questions and Ms. Crider, in answering Chair Klever, acknowledged that such planning has not been done. SEIU could not point to a state or regional requirement for planning of health care services. In actuality, the City is engaging in the very activity—community-based planning—that SEIU requested. The Council rejects this argument.

E. "Tell City Councilors to vote no! Tell our City Councilors to reject the sweetheart deal with Providence. We shouldn't cut community members out of the planning process or give Providence an open invitation to build whatever they want."

This hearing process is public and anyone has been invited to participate. In fact, City staff went out of its way to provide public notice of the two public hearings. Moreover, Providence cannot "build whatever they want." Providence must go through another series of public hearings to receive approval to build even a single building. City staff is vigilant about ensuring that the public interest is protected and my experience with the City staff suggests that they will continue to be so. Providence has asked for no special favors and has acknowledged in each interaction with the City that it has a burden of proof which must be satisfied. If it fails to meet its burden of proof, it will not receive an approval. All this will be done subject to public disclosure and involvement. The City finds that there have been and will continue to be ample opportunities for community input and that no property has an invitation, license, or approval to build in the District.

4. Conclusions

For the reasons contained herein, the Council adopts the Amendments.

By adoption of the Amendments, the City establishes the text requirements in the Plan and the HVDC for the RC-ME zone, the subject property is included in the City's RC-ME zone district, and the City's combined map is updated accordingly.

Mayor
HON. ROB WHEELER

Council President
LORI DEREMER

City Councilors
TOM ANDRUSKO
MARKLEY DRAKE
KRISTIN MITCHELL

City of Happy Valley

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STAFF REPORT TO THE CITY COUNCIL

COMPREHENSIVE PLAN TEXT AMENDMENT, DEVELOPMENT CODE TEXT AMENDMENT AND COMPREHENSIVE PLAN MAP AMENDMENT/ZONE CHANGE

FILE NO. CPA-03-08/LDO-03-08

(ROCK CREEK MIXED EMPLOYMENT COMPREHENSIVE PLAN)

June 3, 2008

I. GENERAL INFORMATION

Applicant: City of Happy Valley

Property Owners: 15 different subject properties make up an approximately 146-acre geographic region.

Development Dist.: A new development district is proposed.

Proposal: Create a new Rock Creek Mixed Employment (RC-ME) development district; incorporate the development district within the Comprehensive Plan; and, apply the development district legislatively to all annexed properties within the subject area.

Discussion: The following Comprehensive Plan Text Amendment; Development Code Text Amendments; and, Comprehensive Plan Map Amendment/Zone Change reflect the joint efforts of a private-public partnership between the City of Happy Valley and Providence Health & Services - Oregon. Providence requested approval from the City of Happy Valley City Council

to pay for the cost of planning for the entire Rock Creek Employment Area (the approximately146-acre subject area) outside of and prior to, the City's comprehensive plan for the City's portion of the Damascus-Boring Concept Plan, which has come to be known as the East Happy Valley Comprehensive Plan (EHVCP). The City Council subsequently approved said request and directed staff to coordinate with Providence and their consultants in crafting the text and map amendments. For further discussion, please see the Staff Report and Exhibits to the Planning Commission dated May 13, 2008 (Attachment "A").

Conclusion and Recommendation:

The Planning Commission held a Public Hearing on May 13, 2008, and unanimously recommended that the City Council endorse the proposed amendments (as amended) 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 the amended language as crafted by staff in response to the communication from Clackamas County WES **(see bold, underlined text, below).**

Attachments:

A. Staff Report to the Planning Commission dated May 13, 2008.
B. Materials entered into the record on May 13, 2008, including:
    1. Letter from Ray Valone of Metro dated May 8, 2008;
    2. Letter from Judy Johnson-Bari of Sterling Savings Bank dated May 13, 2008;
    3. Letter from Burton Weast of the Clackamas County Business Alliance dated May 13, 2008;
    4. Letter from Shelly Parini of Clackamas Community College dated May 13, 2008, including accompanying documents;

5. Proposed Pedestrian Master Plan Exhibit submitted by Douglas W. Bollam, dated May 1, 2008;
6. Letter from David C. Noren, Attorney at Law dated May 13, 2008;
7. Letter from Joseph Cortright of Impresa, Inc. dated May 13, 2008;
8. Letter from Bryce A. Ward, Ph.D of ECONorthwest dated May 13, 2008; and,
9. Testimony of Lynne-Marie Crider of SEIU Local 49 dated May 13, 2008, including accompanying documents.

C. Materials subsequently added into the record:
1. Memorandum from Tim Finley of Clackamas County Water Environment Services (WES) dated May 15, 2008;
2. Memorandum from Chris Crean, City Attorney dated May 21, 2008;
3. Letter and Exhibits from Michael Robinson of Perkins Coie dated May 23, 2008; and,
4. Letter and Executive Summary from David Noren dated May 23, 2008.

II. PROPOSED AMENDMENTS (AS AMENDED PER PLANNING COMMISSION DISCUSSION) AND PER WES RECOMMENDATIONS

(Language to be omitted is ~~strikethrough~~, proposed language additions are in **bold underline**)

DRAFT

Proposed Amendments to the Comprehensive Plan and Title 16 of the City of Happy Valley Municipal Code (Land Development Code)

COMPREHENSIVE PLAN POLICY:

"Policy No. 55C

To plan for the creation of the Rock Creek Employment District.

The Rock Creek Employment District is an approximately 146-acre area located generally northwest of the intersection of Oregon Highway 224 and SE 162nd Avenue. The Area has historically been zoned Exclusive Farm Use ("EFU") pursuant to Clackamas County's acknowledged comprehensive plan and land use regulations while it was outside of the Portland Metropolitan Urban Growth Boundary ("UGB"). This area is subject to the Damascus-Boring Concept Plan ("Concept Plan") required by the site's 2002 inclusion within the UGB. The Concept Plan, approved by Metro and the Happy Valley City Council, established that this area will be an Employment Area implementing Metro Functional Plan Title 4, "Industrial and Other Employment Areas." However, the site is not subject to the Industrial or the Regionally Significant Industrial Area restrictions contained in Title 4.

To implement the Concept Plan vision for this site, the City intends to establish a Rock Creek Mixed Employment ("RC-ME") zoning district consistent with applicable provisions of the Happy Valley Comprehensive Plan and the Metro Functional Plan providing for a variety of employment-generating uses. The City shall implement the District by designating the area with a Rock Creek Mixed Employment comprehensive plan map and zoning map designation.

The City acknowledges that the area's transportation and **ecosystems services** infrastructure must be improved to accommodate the proposed uses.

Accordingly, the implementing zoning ordinance text and map amendments shall **address ecosystem services, including the implementation of low impact development strategies and** include requirements that the area not be developed until there are adequate transportation facilities for proposed uses as determined by the requirements of the Oregon Transportation Planning Rule found in OAR 660-012-0060(1)-(3) and Statewide Planning Goal 12, 'Transportation" and consistent with Happy Valley Land Development Code requirements."

PROPOSED REGULATIONS FOR THE RC-ME ZONING DISTRICT

[insert at Page 232-1]

"Chapter 16.12
DEVELOPMENT DISTRICTS

[...]

16.12.150 Rock creek mixed employment (RC-ME)

[...]

[insert at Page 238-12e]

16.12.150 Rock creek mixed employment (RC-ME)

A. Purpose. The Rock Creek Mixed Employment (RC-ME) district permits land uses with high job densities that provide stable, family-wage employment within the City. This zone provides a mix of uses that are compatible with nearby residential uses and provide a buffer between residential and industrial areas. Permitted uses in the Rock Creek Mixed Employment Zone include office, creative arts, small-scale manufacturing, research and development, and medical centers. Commercial uses are limited to those serving the primary uses of the district. A limited number of residential uses, including pre-existing dwelling units, are permitted by right.

B. Permitted Uses. The following uses are permitted in the RC-ME district.

Table 16.12.150-1: Permitted Uses (RC-ME)
P=Permitted; C=Conditional Use; X=Prohibited

Land Use	RC-ME
Residential	
Single-Family dwellings - when pre-existing as of June 1, 2008.	P[1]
Home Occupations in pre-existing dwellings	P
Assisted Living Facilities	C[2]
Commercial - Retail	
Commercial Day Care	C
Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities.	C
Parking Lot (when not an accessory use)	X
Restaurant – Full Service	P[3]
Retail – Sales	P[9]
Retail – Personal services	P[4]
Commercial – Office	
Professional and Administrative Offices	P
Medical Office Buildings	P
Industrial	
Industrial Services – fully enclosed	P[5]
Manufacturing and production - fully enclosed	P
Fabrication	P
Energy recovery systems	
Research and development facilities	P

Land Use	RC-ME
Laboratories	P
Repair, finishing, and testing	P
Assembly	P
Distribution activities	P[6]
Warehousing and freight movement	P[6]
Institutional	
Basic utilities	P
Colleges	P[7]
Emergency services	P
Medical centers	P
Heliport	C
Postal service facilities	P[8]
Public parks and open space - pedestrian amenities	P
Public parks and open space – parks and recreation facilities	C
Public parks, usable open space	P
Other	
Agriculture – Animals/Horticulture when pre-existing as of June 1, 2008	P
Transportation facilities (operation, maintenance, preservation, and construction - in accordance with the City's Transportation System Plan	P
Wireless telecommunication facilities: Wireless telecommunication facilities are subject to the requirements of Chapter 16.59(Wireless Communication Facilities).	P
Any accessory use or structure, not otherwise prohibited, that the Planning Official or designee finds to be customarily accessory and incidental to a permitted use.	P
Any use that the Planning Official or designee finds to be similar to one or more of those specified above.	P/C

1) Pre-existing dwellings are allowed to re-model or expand.
2) Assisted living and senior housing may include a range of housing type including

single-family detached, single-family attached, assisted-living multi-family units, and congregate care facilities permitted on a single property to provide for a variety of dwelling units and continuous care for seniors of varying levels of health and independence.

3) Drive-through facilities are not permitted.
4) Maximum building size of 20,000 gross square feet.
5) Outdoor storage or outdoor fleet storage not permitted.
6) Permitted as an accessory use - may not exceed 20 percent of the total site area.
7) Use limited to public and non-profit institutions providing technology, health sciences or creative arts education and job training. No dormitories permitted.
8) Fleet parking or mail processing centers not allowed. Permitted use limited to direct consumer services.
9) Retail sales uses may not exceed 60,000 square feet of gross lease area in a single building; or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel; or, on contiguous lots or parcels, including those separated only by transportation right-of-way.

C. Master Plan Required. Within the RC-ME district, uses will provide high densities of employment. This district encourages creative development patterns that achieve these densities in a well-planned, urban environment. Development on sites of ten acres or larger shall require preparation of a master plan pursuant to Section 16.12.150.E of this Chapter. On sites smaller than ten acres, the preparation of a master plan shall be optional. However, if a master plan is not prepared, the development shall be subject to Chapter 16.32 (Design Review). As part of the Design Review application, the applicant shall provide a traffic impact analysis (TIA) as required by the City Engineer. The traffic impact analysis shall be consistent with the requirements of OAR 660-012-0060(1)-(3) and the requirements of Section 16.12.150.B.4.b.ix, below. Development will not be approved prior to submission and review of this analysis.

D. Development Standards.
   1. Compliance Required. All of the applicable development standards contained in the underlying zoning district, except where the applicant has obtained variances pursuant to Chapter 16.28 (Variances), or adjustments in accordance with the RC-ME Master Plan process as contained in Section 16.12.150.E.

2. Development Standards. Development in the RC-ME district shall comply with all of the development standards in the table below and all other applicable standards in this title, except as modified through the RC-ME Master Plan provisions in Section 16.12.150.E.4.b.iv.

Table 16.12.150-2: Development Standards (RC-ME)

STANDARD	RC-ME
Minimum lot size	1 Acre[1]
Minimum lot width	100'
Minimum lot depth	100'
Minimum/Maximum Floor Area Ratio (FAR)	Maximum of **2:1** unless increased through a Master Plan
Minimum Setbacks	
• Front and Side facing street on corner and through lots	50 feet when abutting a highway or expressway, **20 feet when abutting an arterial,** otherwise, setback equals zero feet.
• Side/Rear yard	50 feet when abutting a residential zoning district, otherwise setback equals zero feet.
Maximum building height	Established through Master Plan except for a maximum height of 70' within 100' of an abutting residential district.
Minimum Landscape/Open Space	15% of net site area shall be landscaped. Up to 1/3 of the required landscaped area may be used for active or passive recreational use or pedestrian amenities. Examples include walking/running paths, play areas, plazas, picnic areas, water quality facilities, open recreational facilities and natural existing landscaping.

Low Impact Development Standards	**Plans for implementation of low-impact development strategies including pervious pavement; infiltration swales; green roofs; landscaping; habitat protection; and, protection of natural resources.**

[1] Legal lots of record of less than one acre created prior to the adoption of these regulations shall be conforming for purposes of development.

E. Master plan requirements specific to the RC-ME district.

1. Purpose. The purpose of the RC-ME Master Plan is to allow large-scale, multi-phased developments to obtain approval of several projects at one time within the RC-ME district. The RC-ME Master Plan process allows the review authority to evaluate the cumulative impacts associated with the full-build out of the over-all development, to ensure that the impacts of such development are mitigated to the extent practicable and to coordinate the provision of future infrastructure.
2. Applicability. These provisions shall apply to all development on parcels ten acres in size or larger within the RC-ME district and may be used voluntarily for parcels smaller than ten acres.
3. Components of RC-ME Master Plans and Detailed Phasing Plans.
   a. Concept Master Plan. A proposed plan for development of the site at full build-out of the concept plan that contains the approximate building envelopes by use within a conceptual framework including pedestrian, bicycle and vehicular circulation, open space/natural resource and on-site utility plans. The concept plan also includes minimum and maximum development standards; architectural, landscaping and pedestrian design standards; building and landscaping materials lists; **low-impact development strategies;** and other information that will illustrate planned development. The plan also shall include a phasing plan and proposed schedule of development. For each phase of development and at full build-out, the applicant shall identify the total square footage by type of use; development density; parking and traffic generation; on-site utility requirements; and required off-site capital improvements for roads and other public infrastructure. A detailed traffic impact analysis

(TIA) detailing traffic volumes at each phase of development and at full build-out is required. **In addition, a detailed storm water management plan and report for each phase of the development and at full build-out is required, that will illustrate how the site will implement storm water management and not adversely impact watershed health.**

b. Detailed Phasing Plans. At the time of development of each phase of development, the applicant shall present a detailed development plan including but not limited to the maximum size, location and use of specific buildings; size and location of parking facilities; building and parking structure elevations; location and design of on-site pedestrian, bicycle and vehicle circulation; design and location of open space and natural resource protection; and detailed utility plan. The applicant also shall confirm traffic impacts for the phase originally identified in the overall TIA required at the time of the concept plan approval. The proposed development shall substantially conform to the architectural and site design standards approved in the Concept Master Plan.

4. RC-ME Concept Master Plan submittal requirements.
   a. Existing conditions plan:
      i. Legal description of all parcels on the proposed site within the applicant's ownership or control.
      ii. Vicinity map that identifies abutting uses. For the purposes of these regulations, "abutting" means those properties sharing one or more property lines with the subject site.
      iii. Zoning map that identifies base and overlay zoning designations for the proposed site and abutting properties.
      iv. Site description for all property in the applicant's ownership and /or control including the following information provided in narrative, tabular and/or graphic formats:
         (A) Topography and natural resources including 100-year flood plain; drainage patterns and courses; wetlands, rivers, springs and other water bodies; significant stands of trees and individual trees with a caliper greater than 6" as measured 4' above grade; significant fish and wildlife habitat, and natural hazards such as steep slopes greater than 15% and unstable,

impermeable or weak soils. The application must include a site plan with no greater than 2'-contours for slopes of 0–10% and no greater than 5'-contours for slopes greater than 10%;

(B) Inventory of Goal 5 resources, including natural, cultural, historic and/or archeological resources on the site, if any;

(C) Existing building inventory including use, location and size, noting whether any existing buildings will be retained and incorporated into the final build-out of the site;

(D) Location and size of all public and private utilities on and immediately abutting the site including water, sanitary sewer, storm water retention/treatment facilities, and electrical, telephone and data transmission lines; and,

(E) Location of all public and private easements.

v. Detailed description of the existing roadway system within and adjacent to the site including:

(A) Street classification of all internal and adjacent streets;

(B) Transit service availability;

(C) Baseline traffic impact study within the vicinity of the site prepared by a licensed civil engineer to include information as required by the City's Engineer; and,

vi. Description and evaluation of capacity of existing infrastructure on and in the vicinity of the site.

b. Concept Master Plan.

i. A proposed plan for development of the site at full build-out at the conceptual level including:

(A) Master plan boundary;

(B) Approximate location and building envelopes by use;

(C) Pedestrian, bicycle and vehicular circulation plan;

(D) Open space/natural resource plan;

(E) On-site utility plan;

(F) Conceptual stormwater plan, including preliminary drainage report; on-site infiltration plan; water quality plan; and, landscaping and

other measures designed to reduce ovarll stormwater runoff using low-impact development techniques and strategies;

(G) Conceptual Low Impact Development Plan that details how effective impervious areas have been minimized, including demonstration of low-impact development strategies such as innovative street designs, pervious pavement, on-site infiltration, retention of native species, maximization to the extent possible of existing tree canopy, utilization of bio-swales in off-street parking areas, etc.

ii. Phasing plan and tentative schedule that establishes the likely order in which the site will develop. Such a phasing plan is presented for purposes of estimating roadway and public utility capacity, with the understanding that phases may be developed out of order and that timing is approximate.

iii. Calculations for each phase and at total build-out of the following:
   (A) Gross and net acreage, with the latter including deductions for public streets, natural resource corridors and other non-private development activities;
   (B) Maximum number of employees and anticipated number of patient and related visits on typical weekday;
   (C) Maximum development area, as expressed in gross square feet.
   (D) Maximum total floor-to-area (FAR) ratio;
   (E) Maximum building coverage, as expressed in percentage of total net site area;
   (F) Minimum open space, as expressed in percentage of total net site area;
   (G) Total number of employee and visitor parking spaces required.

iv. Minimum and maximum development standards, including but not limited to and as appropriate:
   (A) Minimum and maximum lot size;

(B) Minimum and maximum setbacks;
(C) Maximum height, which may vary throughout the site;
(D) Maximum FAR at full build-out;
(E) Maximum building coverage at full build-out;
(F) Minimum open space requirements at full build-out;
(G) Minimum and maximum vehicular and bicycle parking ratios by use;
(H) Minimum number of loading bays.

v. Design standards including but not limited to:
(A) Architectural design standards, including design illustrations and building materials boards;
(B) Landscaping, including design standards and standardized plant list. Native plant materials are preferred where practicable;
(C) Pedestrian facilities, including development standards, materials and street furniture;
(D) Bicycle parking facilities, including specifications;
(E) Signage plan including prototypical examples, color palette and materials board;
(F) Low-impact development design standards.

vi. Graphic illustrations of proposed development at full build-out including but not limited to:
(A) Density "block" and other three-dimensional concept studies.
(B) Illustrative color "typical" street perspectives that portray the proposed architectural style and urban design elements to be used throughout the development, in recognition that these are still conceptual in nature.

vii. Goal 5 resource protection plan, if needed.

viii. Public utility capacity analyses/infrastructure plans for each phase and total build-out, as required by the City Engineer.

ix. Traffic impact analysis (TIA) for each phase and total build-out, as required by the City Engineer. The traffic impact analysis shall be sufficient to demonstrate compliance with OAR 660-012-0060(1)-(3). Development of the site will not

be approved without this analysis. The traffic impacts will be reviewed against, and any mitigation must be consistent with, the function, capacity and performance standards of affected transportation facilities. The following criteria apply only when compliance with the Transportation Planning Rule is deferred to the master plan stage, in which case the TIA shall identify whether the plan or proposed development significantly affects a transportation facility by:

(A) Changing the functional classification of an existing or planned transportation facility;

(B) Changing the standards implementing the street classification system;

(C) Allowing types or levels of development that would result in levels of travel or access that are inconsistent with the level of service of a transportation facility;

(D) Reducing the performance of a transportation facility below the minimum acceptable performance standard identified in the City of Happy Valley Transportation System Plan; or

(E) Reduce the performance of a transportation facility that is otherwise performing below the minimum acceptable performance standard identified in the City Transportation System Plan.

x. A proposed Concept Master Plan or Detailed Phasing Plan that will significantly affect a transportation facility must ensure that the proposed uses or development are consistent with the identified function, capacity and performance standards of the transportation facility by:

(A) Limiting the proposed uses or development to be consistent with the function, capacity, and performance standards of the transportation facility;

(B) Altering densities or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

(C) Providing or improving transportation facilities sufficient to support the proposed uses or development.

5. RC-ME Detailed Phasing Plan submittal requirements.
   a. Detailed Phasing Plan of subsequent phases. The following information shall be required for each Detailed Phasing Plan:
      i. Schedule for initiating and completing construction of phase;
      ii. Anticipated utilization at completion of the phase, including the total number of employees, daily visitors and other indicators of full utilization of the structure(s) within the phase;
      iii. Detailed description of all proposed development presented in narrative, tabular and/or graphic formats as follows:
         (A) Description of new buildings anticipated, including size, location, approximate footprint and use;
         (B) All other site improvements including new surface and structured parking facilities; bicycle parking facilities; on-site pedestrian, bicycle and vehicular circulation; transit stops; pedestrian/transit amenities; and open space and landscaped areas;
         (C) The location of new and/or expanded existing public and private infrastructure including water, sanitary sewer, storm water retention/treatment facilities, and electrical, telephone and data transmission lines;
         (D) Landscaping plan;
         (E) Goal 5 resource protection plan, if required;
         (F) Sign plan;
         (G) Lighting plan;
         (H) Grading and erosion control plans;
         (I) Stormwater plan;
         (J) Low-impact development strategy plan.
      iv. Building elevations;
      v. Summary of development intensity at completion of the phase including average FAR and lot coverage for the development area and for the site as a whole;

vi. Calculation of minimum vehicular and bicycle parking spaces based on parking ratios established in the Concept Master Plan;

vii. Reconfirmation of traffic impacts associated with completion of the phase first described in the TIA prepared for the Concept Master Plan.

viii. Neighborhood communication and coordination plan to ensure that the applicant implements an on on-going process for communicating and problem resolution with neighbors.

ix. Narrative that demonstrates how the Detailed Phasing Plan for the specific project or groups of projects within a phase are consistent with the phase as conceptually approved in the Concept Master Plan. If there is some aspect of the phase that does not comply, the applicant may request a Detailed Phasing Plan modification as described in Section 16.12.150.H.

6. RC-ME Concept Master Plan and Detailed Phasing Plan approval process.

a. Initial approval. The initial application for a Concept Master Plan shall be reviewed as a quasi-judicial action at a public hearing before the Planning Commission and subsequently, with regard to architectural standards, by the Design Review Board, pursuant to the requirements of this section and using the approval criteria contained in Section 16.12.150.E.7 below. The application also may include a request for a use that is permitted conditionally in Table 16.12.150-1 subject to the requirements of Section 16.16.220 of this Title. As part of the review process for the Concept Master Plan, the Design Review Board shall consider alternative design standards for institutional development in the Rock Creek Mixed Employment area in lieu of the "Happy Valley Style" design standards that govern the design of development elsewhere in the City.

b. Detailed Phasing Plans. Prior to construction of one or more projects within a phase of development approved in the Concept Master Plan, the applicant shall submit a Detailed Development Plan that contains all of the information listed in the submittal requirements for review and approval by the Community Development Director or designee, using the approval criteria in

Section 16.12.150.E.7. This review shall be undertaken in lieu of the City's formal Design Review process.

c. Concurrent review. An applicant may submit applications for initial review of the Concept Master Plan and review of the first and subsequent Detailed Phasing Plan(s) to be reviewed concurrently. In this case, the Detailed Phasing Plan for one or more phases of development shall be reviewed at the public hearing before the Planning Commission and Design Review Board at which the Concept Master Plan is reviewed. The Detailed Phasing Plan shall require no further review, providing the phase is built out in a manner that is substantially consistent with that which was approved.

7. RC-ME Concept Master Plan and Detailed Phasing Plan approval criteria.
   a. Concept Master Plan. An application for a Concept Master Plan must demonstrate compliance with the following criteria:
      i. Content. The Concept Master Plan must contain all of the components required in Section 16.12.150.E.4.
      ii. Compliance with all applicable standards. The proposed development and uses must comply with all applicable standards of this Title, except where modifications are being approved as part of the Concept Master Plan.
      iii. Traffic system capacity. There is either sufficient capacity in the transportation system to safely support the development proposed in all future phases, or there will be adequate capacity by the time each phase of development is completed, as demonstrated by a TIA that conforms with the requirements of Section 16.12.150.E.4.b.
      iv. Availability of public services. There is either sufficient capacity for public services such as water supply, police and fire services, and sanitary waste and storm water disposal, to support adequately the development proposed in all future phases, or there will be adequate capacity available by the time each phase of development is completed.
      v. Protection of designated resources. Resources such as historic landmarks, significant trees and sensitive natural resources identified on the City's Goal 5 inventories are protected and enhanced in compliance with the regulations in

this and other Titles of the Municipal Code.

vi. Internal design compatibility with adjacent uses. The Concept Master Plan must contain building design, landscaping, parking and circulation elements that minimize conflict with adjacent uses to the greatest extent practicable.

vii. Mitigation of off-site impacts. All potential off-site impacts including litter, noise, shading and glare shall be identified and mitigated to the greatest extent practicable.

b. Detailed Phasing Plans. To obtain an approval of one or more subsequent phases of development, the applicant shall demonstrate compliance with all of the following criteria:

i. Consistency. A Detailed Phasing Plan shall be substantially consistent with the phase as approved in the Concept Master Plan.

ii. Content. A Detailed Phasing Plan shall contain all of the information required in the submittal requirements in Section 16.12.150.E.5.

iii. Numerical development standards. A Detailed Phasing Plan shall adhere to all of the numerical development standards approved in the Concept Master Plan. However, as part of the review of a Detailed Phasing Plan, the applicant may introduce modifications necessary for a specific project or projects subject to the approval criteria without the requirement for a variance, if the proposed modification is equal to or less than a 20% increase or decrease in the numerical standard. If the proposed modification involves a change in a numerical standard of greater than 20%, the review of the Detailed Phasing Plan shall be accompanied by a concurrent variance request consistent with the requirements of Chapter 16.28 of this Title.

iv. Design and non-numerical development standards. A Detailed Phasing Plan shall adhere to all of the design and non-numerical development standards approved in the Concept Master Plan. However, as part of the review of a Detailed Phasing Plan, the applicant may introduce any

modifications necessary to a specific project or projects subject to the approval criteria and the provisions of Section 16.12.150.H.

8. Conditions of approval. In approving the a Concept Master Plan and subsequent Detailed Phasing Plans, the appropriate Review Authority may impose any conditions of it deems necessary to mitigate potentially adverse impacts on surrounding properties to the greatest extent practicable.

F. Vesting.

1. Applicability. A complete application for a Concept Master Plan shall be reviewed under this Chapter and the zoning, development and other land use ordinances in the Happy Valley Municipal Code, including any un-codified ordinances modifying the same, in effect on the date the Concept Master Plan is submitted. An approved Concept Master Plan may be implemented by means of Detailed Phasing Plans for subsequent phases under the zoning, development and land use ordinances applied by the City in its review of the Concept Master Plan, provided the phases are implemented in substantial compliance with the Concept Master Plan. An approved Concept Master Plan shall govern subsequent phases for the period described in 16.12.150.G.
2. Vesting of infrastructure capacity. An approved Concept Master Plan may include a list of on-site and off-site transportation improvements and other public infrastructure needed to support each proposed phase of development. In the event that the applicant agrees to install public improvements or infrastructure in excess of the capacity needed for a particular Detailed Phasing Plan, and in conformance with an approved Concept Master Plan, the City, through a development agreement or the formation of a reimbursement district, or both, shall accommodate future uses and building square footages based on the extent of the overbuilt infrastructure and consistent with the approved Concept Master Plan.
3. Loss of vesting. A Detailed Phasing Plan for which modification is sought under 16.12.150.H.4 or 16.12.150.H.5 is not subject to the laws in effect when the Concept Master Plan was submitted as described in Section 16.12.150.F.1. above. An application for a Detailed Phasing Plan that is subject to Section 16.12.150.H.4 or 16.12.150.H.5 shall comply with the land use regulations in effect at the time the Phasing Plan is submitted.

Post-approval modifications that require only a minor review pursuant to Section 16.12.150.H.3 do not result in the loss of the vesting described in 16.12.150.F.1 above.

G. Term.

1. General. The term of a Concept Master Plan shall not exceed fifteen (15) years. An extension may be granted in accordance with the criteria and procedures provided in Section 16.12.150.G.2, below.
2. Extension. If all phases of development in the approved Concept Master Plan are not built within the approved term, the applicant may request an extension in writing to the Community Development Director. Two one (1)-year extension requests may be approved subject to the following criteria:
   a. The applicant has pursued in good faith completing the build-out of the approved Concept Master Plan.
   b. There have been no changes to the comprehensive plan, development code or other applicable governing documents that are inconsistent with the approved Concept Master Plan.
   c. There are no other significant changed conditions that would render the extension of the Concept Master Plan contrary to the public health, safety or general welfare.
3. An extension request shall be filed in writing with the Community Development Director at least sixty (60) days prior to the expiration of the initial 15-year period or any subsequently approved extensions.

H. Post-Approval Modification of a Detailed Phasing Plan.

1. Purpose. The purpose of this section is to address instances in which the applicant may not be able to construct a phase of the development exactly as approved in an approved Detailed Phasing Plan. This section permits the applicant to seek post-Concept Master Plan approval changes using a review process that is determined by the magnitude of the proposed change or changes. As noted in Section 16.12.150.F, post-approval modifications that require a quasi-judicial review by either the Community Development Director or Planning Commission or Design Review Board, procedure result in a loss of vesting in the approval criteria for that specific phase of development.

2. Modifications allowed by right. The following modifications are permitted by right and are allowed upon issuance of a building permit, if required:
   a. Interior improvements.
   b. Exterior improvements associated with existing buildings that do not involve an expansion of floor area, subject to all applicable base zone development and design standards, as modified in the approved Concept Master Plan, and relevant conditions of approval thereto.
   c. Installation of new or modification of existing mechanical or electrical equipment, subject to all applicable base zone development and design standards, as modified in the approved Concept Master Plan, and relevant conditions of approval thereto.
   d. Maintenance of existing facilities when a building permit is required.

3. Minor decision. The following modifications shall be reviewed by the Community Development Director or designee, pursuant to the City's administrative decision-making procedure:
   a. Modification of the location of an approved building or building addition, providing the modification complies with the development and design standards, as approved in the Concept Master Plan and as modified in the applicable Detailed Phasing Plan, including all relevant conditions of approval thereto.
   b. Modification of use, design, or development standards including architecture, landscape architecture, pedestrian and bicycle facilities; signs and/or lighting elements approved in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval, including all relevant conditions of approval thereto.
   c. A new building of any size in any location that replaces a building approved but not constructed, providing there is: 1) no net increase in total building coverage, and 2) compliance with the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval, and all relevant conditions of approval thereto.
   d. New buildings or building additions up to 10,000 gross square feet (gsf) not anticipated and, therefore, not contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval. Construction of such unanticipated buildings or building additions shall not exceed 10,000 gsf in any one year, and

shall not exceed 30,000 gsf in any four years. As part of this review, the applicant shall provide information on the amount of floor area built to date for the year in which the application is submitted, and the amount of floor area built within the four-year period preceding the request.

e. Adjusting the sequence of buildings within a phase of development provided that there is no net increase in traffic impacts.

4. Quasi-judicial review by the Community Development Director. The following modifications shall be reviewed by the Community Development Director or designee, pursuant to the City's quasi-judicial decision-making procedure:
   a. A change in the approved site boundary resulting in the exchange of properties where the total amount of land in the approved boundary remains the same or is decreased.
   b. A new building or building addition exceeding 10,000 gsf but less than 50,000 gsf, not anticipated and, therefore, not contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval. For new buildings or building additions exceeding 25,000 gsf under this provision, the applicant shall provide traffic and parking analyses of the proposal as part of the application.
   c. An increase or decrease of up to 10% in the total number of parking spaces approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval. The applicant shall provide a parking analysis related to the proposal as part of the application.
5. Quasi-judicial review by the Planning Commission or Design Review Board. The following modifications shall be reviewed in a public hearing before the Planning Commission or Design Review Board, pursuant to the City's quasi-judicial decision-making procedure:
   a. Expansion of the master plan boundary beyond that contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval.
   b. New building or building additions of 50,000 gsf or more, not anticipated and, therefore, not contained in the initial Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.

c. Proposals that result in an increase of 10% or more of site-generated vehicular trips approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.
d. An increase or decrease greater than 10% in the total number of parking spaces approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.
e. A proposed use or development that was denied in the approved Concept Master Plan."

Mayor
HON. ROB WHEELER

Council President
LORI DEREMER

City Councilors
TOM ANDRUSKO
MARKLEY DRAKE
KRISTIN MITCHELL

City of Happy Valley

12915 SE KING ROAD, HAPPY VALLEY, OREGON 97086-6298
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CITY OF HAPPY VALLEY
STAFF REPORT TO THE PLANNING COMMISSION

MAY 13, 2008

COMPREHENSIVE PLAN TEXT AMENDMENT, DEVELOPMENT CODE TEXT AMENDMENT AND COMPREHENSIVE PLAN MAP AMENDMENT/ZONE CHANGE

(ROCK CREEK MIXED EMPLOYMENT COMPREHENSIVE PLAN)

FILE NO. CPA-03-08/LDO-03-08

The following staff report has been prepared based on the information provided through a public-private partnership between Providence Health & Services – Oregon (Providence) and the City of Happy Valley.

I. GENERAL INFORMATION:

APPLICABLE CRITERIA:

Applicable Statewide Planning Goals; Divisions 9 and 12 of the Oregon Administrative Rules; Titles 3, 4 and 11 of Metro Chapter 3.07 (Urban Growth Management Functional Plan); applicable Goals and Policies from the City of Happy Valley Comprehensive Plan; applicable Sections of Title 16 (Development Code) of the City of Happy Valley Municipal Code, including §16.40.020 (Initiation of a plan amendment), §16.40.040 (Public hearing and notice), §16.40.041 (Review criteria), §16.40.080; and, §16.40.090 (Amendments to the land development code).

EXHIBITS:

A. Staff Report and Findings of Fact
B. Narrative, Exhibits and Proposed Findings by Providence
C. Supplemental Letter and Exhibits provided by Providence dated May 5, 2008
D. METRO Title 4 Design Types Map
E. METRO 2040 Plan Map (Excerpt)
F. Metro Council Resolution 06-3676 dated March 16, 2006
G. City of Happy Valley Resolution No. 06-14 dated May 2, 2006

ATTACHMENT # "A"

EXHIBIT # "A"

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EXHIBIT # "A"

H. Measure 56 Public Notice
I. Standard Public Notice

BACKGROUND:

The following Comprehensive Plan Text Amendment; Development Code Text Amendments; and, Comprehensive Plan Map Amendment/Zone Change reflect the joint efforts of a private-public partnership between the City of Happy Valley and Providence. Providence requested approval from the City of Happy Valley City Council to pay for the cost of planning for the entire Rock Creek Employment Area (the approximately146-acre subject area) outside of and prior to, the City's comprehensive plan for the City's portion of the Damascus-Boring Concept Plan, which has come to be known as the East Happy Valley Comprehensive Plan (EHVCP). The City Council subsequently approved said request and directed staff to coordinate with Providence and their consultants in crafting the text and map amendments.

SUBJECT AREA:

As observed, the Rock Creek Mixed Employment Comprehensive Plan area is approximately 146 acres in size and consists of 15 properties (17 "tax lots"), with two properties totaling approximately 70 acres in size owned by Providence. The plan area is generally located north of State Highway 212; east and south of Rock Creek and an un-named tributary to Rock Creek that flows to the southeast; and, west of 162nd Avenue. 10 of the 15 properties have annexed into the City of Happy Valley, while the remainder of the properties remain in unincorporated Clackamas County. All the properties within the subject area are currently zoned Clackamas County Exclusive Farm Use (EFU), the five un-annexed properties have the ability to annex into the City of Happy Valley.

The flatter, developable land is generally located within the eastern section of the greater subject area, which slopes to the south and much more steeply to the west, including very steep grade changes as the land approaches Rock Creek. Existing natural features include the described waterways and their associated riparian corridors; upland forest; wetland and wet meadows; and, wildlife corridors.

ADJACENT ZONING & USES:

A combination of Clackamas County zones exists to the west (across Rock Creek), including; City zoned R-8.5 property (Bollam Property) exists to the north; lands to the east are located within the EHVCP area, and though at a draft stage, are being considered for a combination of "Employment Center", Industrial Campus; and Community Commercial Center; and lands to the south, across Hwy. 212 are zoned a combination of Clackamas County FU-10 and I-2.

West/Southwest. Adjacent properties to the west are primarily residential subdivisions located within unincorporated Clackamas County, though at the south end, industrial properties existing along Hwy. 212. These properties are currently zoned a combination of FU-10, R-7, MR-1 and I2.

South. Adjacent properties to the south are primarily industrial properties along Hwy. 212, residential subdivisions and a creek/riparian corridor, also located within unincorporated Clackamas County. These properties are currently zoned a combination of FU-10 and I2.

East. The properties to the east are primarily large rural residential properties, portions of which have been purchased by the North Clackamas Parks District and the North Clackamas School District for the planned development of a regional park, a middle school and an elementary school, and are currently being planned and developed within the City of Happy Valley. Said lands to the east are located within the EHVCP area, and though at a draft stage, are being considered for a combination of "Employment Center", "Industrial Campus"; and "Community Commercial Center." These properties are currently zoned a combination of Clackamas County EFU and RRFF-5.

North. The properties to the west include residential subdivision lots and a large property being developed as "The Reserve Phase II". These properties are currently zoned City R-8.5.

OBSERVATIONS:

METRO 2040 PLAN/DAMASCUS-BORING CONCEPT PLAN

- At the time of the expansion by Metro of the Urban Growth Boundary (UGB) in 2002, the subject area was envisioned as being planned for a combination of "Industrial Land" and "Regionally Significant Industrial Area" (RSIA) – see the Metro Title 4 Design Types Map (Exhibit "D") and the excerpted section of the Metro 2040 Plan Map (Exhibit "E"). Subsequently, with the "acceptance" by the Metro Council and the City of Happy Valley City Council of the Damascus-Boring Concept Plan (see Exhibits "F" and "G") the planning document illustrated a combination of relatively flat "Mixed Employment" land, transition areas (approximately 15-25 percent slope) and conservation areas (approximately greater than 25 percent slope area and/or riparian corridor or wetlands). For an illustration of the applicable section of the Damascus-Boring Concept Plan, see the applicant's provided exhibit within Exhibit "B". This "Mixed Employment" designation is reflective of the "Employment Land" envisioned in Exhibits "D" and "E", which is in turn governed by Title 4 (Industrial and Other Employment Areas) of the Metro Urban Growth Management Functional Plan (Functional Plan), specifically Section 3.07.440 (Protection of Employment Areas). Staff notes that the requirements of Section 3.07.440 are reflected within the Rock Creek – Mixed Employment (RC-ME) zoning district that is proposed to be added to Title 16 of the City's Municipal Code

(Development Code). If approved by the City Council, adoption of the RC-ME zoning district and application of the zone to the approximately 146-acre subject area will be forwarded to Metro for consideration of the formal amendment of the 2040 Plan Map to the "Employment" designation.

We further note and emphasize that the Damascus-Boring Concept Plan provides but a "conceptual guide" to the illustration of conservation and "transition" areas, and that although true survey data would be the litmus test for any future analysis, this mapping illustrates one of the basic premises of the landscape based place-making that is a precept of the Damascus-Boring Concept Plan – that flatter, less steep areas accommodate development, while steeper sloped areas and natural resource areas do not. Staff notes that commercial development within the entire western portion of the subject area (abutting Rock Creek) will be seriously constrained by the City's steep slopes overlay and the buffering requirements of this jurisdictional creek and any related jurisdictional wetlands.

FUTURE TRANSPORTATION SYSTEM

- As described and illustrated within the submitted Transportation System Assessment (see the applicant's exhibit within Exhibit "C"), the Rock Creek Mixed Employment Comprehensive Plan area is planned to be served by a cohesive and well integrated transportation system of highway/expressway (in the short term, Highway 212 and in the long term by the Sunrise Corridor); major arterials (172nd Avenue and Rock Creek Blvd.); collectors (162nd Avenue and a number of projected, un-named roadways); and eventual local accessways and commercial-type private drives. Staff notes that with the exception of the Sunrise Corridor and 172nd Ave., all other street systems, including the development of the Rock Creek Blvd. major arterial, are at this time anticipated to be funded by future development, with considerable SDC credits available to pertinent developers for constructed sections of the applicable public right-of-way.

NATURAL RESOURCE OPPORTUNITIES/CONSTRAINTS

- Although the discussion within the submitted Natural Resource Assessment (Exhibit "B"), is limited to but the Providence properties, the information provided therein is indicative of the natural resource opportunities and constraints within the greater subject area. Primarily, the presence of Rock Creek and associated riparian corridor and wetlands (including applicable buffers) along the western border of the subject area combined with the un-named tributaries to Rock Creek to the north and south; stand alone wetlands and the "wet meadow"; and, the Class "A" (Metro) wildlife habitat designation and corridors that exist within the subject properties. Staff notes that current "Title 3" requirements from both the City of Happy Valley and its service provider (Clackamas County Water Environment Services) provide Goal 5 compliant

requirements for protection of natural resources and their buffer areas, which are scheduled to be amended to include "Title 13" compliant regulations by early 2009.

UTILITY INFRASTRUCTURE

- As detailed within the submitted Utility Infrastructure Assessment (Exhibit "B") existing sanitary sewer service includes an 18-inch main within Hwy. 212/224. In addition, CCSD#1 has completed Phase I of the "Rock Creek Interceptor", providing significant sanitary sewer line sizes in the Rock Creek Employment Area. Existing water service includes water mains at Hwy. 212/162nd Ave.; 152nd Ave./Sedona Drive; 172nd Ave.; and, Armstrong Circle. Stormwater provisions will be addressed at the time of development, and franchise utilities are available to serve the greater subject area.

PUBLIC INVOLVEMENT

- Providence held two neighborhood meetings prior to the initial evidentiary hearing before the Planning Commission. The first meeting occurred on May 08, 2006, and the second meeting occurred on February 25, 2008. Detailed information including Meeting Notes is included within the Supplemental Letter and Exhibits submitted by Providence (Exhibit "C").

COMPREHENSIVE PLAN POLICY AMENDMENT

- Staff recommends that a specific Comprehensive Plan Policy be crafted to "tie" the proposed Rock Creek Mixed Employment Comprehensive Plan to the City's greater Comprehensive Plan:

"**Policy No. 55C**
To plan for the creation of the Rock Creek Employment District.

The Rock Creek Employment District is an approximately 146-acre area located generally northwest of the intersection of Oregon Highway 224 and SE 162nd Avenue. The Area has historically been zoned Exclusive Farm Use ("EFU") pursuant to Clackamas County's acknowledged comprehensive plan and land use regulations while it was outside of the Portland Metropolitan Urban Growth Boundary ("UGB"). This area is subject to the Damascus-Boring Concept Plan ("Concept Plan") required by the site's 2002 inclusion within the UGB. The Concept Plan, approved by Metro and the Happy Valley City Council, established that this area will be an Employment Area implementing Metro Functional Plan Title 4, "Industrial and Other Employment Areas." However, the site is not subject to the Industrial or the Regionally Significant Industrial Area restrictions contained in Title 4.

To implement the Concept Plan vision for this site, the City intends to establish a Rock Creek Mixed Employment ("RC-ME") zoning district consistent with applicable

provisions of the Happy Valley Comprehensive Plan and the Metro Functional Plan providing for a variety of employment-generating uses. The City shall implement the District by designating the area with a Rock Creek Mixed Employment comprehensive plan map and zoning map designation.

The City acknowledges that the area's transportation infrastructure must be improved to accommodate the proposed uses. Accordingly, the implementing zoning ordinance text and map amendments shall include requirements that the area not be developed until there are adequate transportation facilities for proposed uses as determined by the requirements of the Oregon Transportation Planning Rule found in OAR 660-012-0060(1)-(3) and Statewide Planning Goal 12, 'Transportation" and consistent with Happy Valley Land Development Code requirements."

DEVELOPMENT CODE TEXT AMENDMENTS

- Staff recommends that certain changes and a specific Zoning District be crafted to implement the RC-ME Comprehensive Plan within Title 16 of the City's Municipal Code (Development Code):

16.04.080 Definitions.

"For the purposes of this title certain terms and words are defined in this section. Specific definitions which shall also apply to this title may be found in various appropriate sections throughout. When not inconsistent with the context, words used in the present tense shall include the future; the singular tense shall include the plural, and the plural the singular; the word "shall" is always mandatory and the word "may" denotes a use of discretion.

[...]

"Medical Center" means an inpatient hospital and supporting emergency outpatient and related ancillary services to the sick and infirm. Usually developed in campus setting. Accessory uses may include diagnostic and treatment facilities, laboratories, surgical suites, kitchen/food service facilities; laundry, housekeeping and maintenance facilities; short-term lodging for patients and families; administrative offices and parking. Medical centers may also include free-standing offices for hospital-based and/or private-practice physicians and other allied health care professionals."

[insert at Page 232-1]
Chapter 16.12
DEVELOPMENT DISTRICTS
[...]
"16.12.150 Rock creek mixed employment (RC-ME)"

[...]
[insert at Page 238-12e]
"16.12.150 Rock creek mixed employment (RC-ME)
A. Purpose. The Rock Creek Mixed Employment (RC-ME) district permits land uses with high job densities that provide stable, family-wage employment within the City. This zone provides a mix of uses that are compatible with nearby residential uses and provide a buffer between residential and industrial areas. Permitted uses in the Rock Creek Mixed Employment Zone include office, creative arts, small-scale manufacturing, research and development, and medical centers. Commercial uses are limited to those serving the primary uses of the district. A limited number of residential uses, including pre-existing dwelling units, are permitted by right.

B. Permitted Uses. The following uses are permitted in the RC-ME district.

Table 16.12.150-1: Permitted Uses (RC-ME)
P=Permitted; C=Conditional Use; X=Prohibited

Land Use	RC-ME
Residential	
Single-Family dwellings - when pre-existing as of June 1, 2008.	P[1]
Home Occupations in pre-existing dwellings	P
Assisted Living Facilities	C[2]
Commercial - Retail	
Commercial Day Care	C
Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities.	C
Parking Lot (when not an accessory use)	X
Restaurant – Full Service	P[3]
Retail – Sales	P[9]
Retail – Personal services	P[4]
Commercial – Office	
Professional and Administrative Offices	P
Medical Office Buildings	P

Land Use	RC-ME
Industrial	
Industrial Services – fully enclosed	P[5]
Manufacturing and production - fully enclosed	P
Fabrication	P
Energy recovery systems	
Research and development facilities	P
Laboratories	P
Repair, finishing, and testing	P
Assembly	P
Distribution activities	P[6]
Warehousing and freight movement	P[6]
Institutional	
Basic utilities	P
Colleges	P[7]
Emergency services	P
Medical centers	P
Heliport	C
Postal service facilities	P[8]
Public parks and open space - pedestrian amenities	P
Public parks and open space – parks and recreation facilities	C
Public parks, usable open space	P
Other	
Agriculture – Animals/Horticulture when pre-existing as of June 1, 2008	P
Transportation facilities (operation, maintenance, preservation, and construction - in accordance with the City's Transportation System Plan	P
Wireless telecommunication facilities: Wireless telecommunication facilities are subject to the requirements of Chapter 16.59(Wireless Communication Facilities).	P
Any accessory use or structure, not otherwise prohibited, that the Planning Official or designee finds to be customarily accessory and incidental to a permitted use.	P

Land Use	RC-ME
Any use that the Planning Official or designee finds to be similar to one or more of those specified above.	P/C

1) Pre-existing dwellings are allowed to re-model or expand.
2) Assisted living and senior housing may include a range of housing type including single-family detached, single-family attached, assisted-living multi-family units, and congregate care facilities permitted on a single property to provide for a variety of dwelling units and continuous care for seniors of varying levels of health and independence.
3) Drive-through facilities are not permitted.
4) Maximum building size of 20,000 gross square feet.
5) Outdoor storage or outdoor fleet storage not permitted.
6) Permitted as an accessory use - may not exceed 20 percent of the total site area.
7) Use limited to public and non-profit institutions providing technology, health sciences or creative arts education and job training. No dormitories permitted.
8) Fleet parking or mail processing centers not allowed. Permitted use limited to direct consumer services.
9) Retail sales uses may not exceed 60,000 square feet of gross lease area in a single building; or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel; or, on contiguous lots or parcels, including those separated only by transportation right-of-way.

C. Master Plan Required. Within the RC-ME district, uses will provide high densities of employment. This district encourages creative development patterns that achieve these densities in a well-planned, urban environment. Development on sites of ten acres or larger shall require preparation of a master plan pursuant to Section 16.12.150.E of this Chapter. On sites smaller than ten acres, the preparation of a master plan shall be optional. However, if a master plan is not prepared, the development shall be subject to Chapter 16.32 (Design Review). As part of the Design Review application, the applicant shall provide a traffic impact analysis (TIA) as required by the City Engineer. The traffic impact analysis shall be consistent with the requirements of OAR 660-012-0060(1)-(3) and the requirements of Section 16.12.150.B.4.b.ix, below. Development will not be approved prior to submission and review of this analysis.

D. Development Standards.
1. Compliance Required. All of the applicable development standards contained in the underlying zoning district, except where the applicant has obtained variances pursuant to Chapter 16.28 (Variances), or adjustments in accordance with the RC-ME Master Plan process as contained in Section 16.12.150.E.
2. Development Standards. Development in the RC-ME district shall comply with all of the development standards in the table below and all other applicable standards in

this title, except as modified through the RC-ME Master Plan provisions in Section 16.12.150.E.4.b.iv.

Table 16.12.150-2: Development Standards (RC-ME)

STANDARD	RC-ME
Minimum lot size	1 Acre[1]
Minimum lot width	100'
Minimum lot depth	100'
Minimum/Maximum Floor Area Ratio (FAR)	Maximum of 2.0 unless increased through a Master Plan
Minimum Setbacks	
• Front and Side facing street on corner and through lots	50 feet when abutting a major arterial, highway or expressway, otherwise, setback equals zero feet.
• Side/Rear yard	50 feet when abutting a residential zoning district, otherwise setback equals zero feet.
Maximum building height	Established through Master Plan except for a maximum height of 70' within 100' of an abutting residential district.
Minimum Landscape/Open Space	15% of net site area shall be landscaped. Up to 1/3 of the required landscaped area may be used for active or passive recreational use or pedestrian amenities. Examples include walking/running paths, play areas, plazas, picnic areas, water quality facilities, open recreational facilities and natural existing landscaping.

[1] Legal lots of record of less than one acre created prior to the adoption of these regulations shall be conforming for purposes of development.

E. Master plan requirements specific to the RC-ME district.

1. Purpose. The purpose of the RC-ME Master Plan is to allow large-scale, multi-phased developments to obtain approval of several projects at one time within the RC-ME district. The RC-ME Master Plan process allows the review authority to evaluate the cumulative impacts associated with the full-build out of the over-all development, to ensure that the impacts of such development are mitigated to the extent practicable and to

coordinate the provision of future infrastructure.

2. Applicability. These provisions shall apply to all development on parcels ten acres in size or larger within the RC-ME district and may be used voluntarily for parcels smaller than ten acres.

3. Components of RC-ME Master Plans and Detailed Phasing Plans.

a. Concept Master Plan. A proposed plan for development of the site at full build-out of the concept plan that contains the approximate building envelopes by use within a conceptual framework including pedestrian, bicycle and vehicular circulation, open space/natural resource and on-site utility plans. The concept plan also includes minimum and maximum development standards; architectural, landscaping and pedestrian design standards; building and landscaping materials lists; and other information that will illustrate planned development. The plan also shall include a phasing plan and proposed schedule of development. For each phase of development and at full build-out, the applicant shall identify the total square footage by type of use; development density; parking and traffic generation; on-site utility requirements; and required off-site capital improvements for roads and other public infrastructure. A detailed traffic impact analysis (TIA) detailing traffic volumes at each phase of development and at full build-out is required.

b. Detailed Phasing Plans. At the time of development of each phase of development, the applicant shall present a detailed development plan including but not limited to the maximum size, location and use of specific buildings; size and location of parking facilities; building and parking structure elevations; location and design of on-site pedestrian, bicycle and vehicle circulation; design and location of open space and natural resource protection; and detailed utility plan. The applicant also shall confirm traffic impacts for the phase originally identified in the overall TIA required at the time of the concept plan approval. The proposed development shall substantially conform to the architectural and site design standards approved in the Concept Master Plan.

4. RC-ME Concept Master Plan submittal requirements.

a. Existing conditions plan:

i. Legal description of all parcels on the proposed site within the applicant's ownership or control.

ii. Vicinity map that identifies abutting uses. For the purposes of these regulations, "abutting" means those properties sharing one or more property lines with the subject site.

iii. Zoning map that identifies base and overlay zoning designations for the proposed site and abutting properties.

iv. Site description for all property in the applicant's ownership and /or control including the following information provided in narrative, tabular and/or graphic formats:

(A) Topography and natural resources including 100-year flood plain; drainage patterns and courses; wetlands, rivers, springs and other water bodies; significant stands of trees and individual trees with a caliper greater than 6" as measured 4' above grade; significant fish and wildlife habitat, and natural hazards such as steep slopes greater than

15% and unstable, impermeable or weak soils. The application must include a site plan with no greater than 2'-contours for slopes of 0–10% and no greater than 5'-contours for slopes greater than 10%;

(B) Inventory of Goal 5 resources, including natural, cultural, historic and/or archeological resources on the site, if any;

(C) Existing building inventory including use, location and size, noting whether any existing buildings will be retained and incorporated into the final build-out of the site;

(D) Location and size of all public and private utilities on and immediately abutting the site including water, sanitary sewer, storm water retention/treatment facilities, and electrical, telephone and data transmission lines; and,

(E) Location of all public and private easements.

v. Detailed description of the existing roadway system within and adjacent to the site including:

(A) Street classification of all internal and adjacent streets;

(B) Transit service availability;

(C) Baseline traffic impact study within the vicinity of the site prepared by a licensed civil engineer to include information as required by the City's Engineer; and,

vi. Description and evaluation of capacity of existing infrastructure on and in the vicinity of the site.

b. Concept Master Plan.

i. A proposed plan for development of the site at full build-out at the conceptual level including:

(A) Master plan boundary;

(B) Approximate location and building envelopes by use;

(C) Pedestrian, bicycle and vehicular circulation plan;

(D) Open space/natural resource plan;

(E) On-site utility plan.

ii. Phasing plan and tentative schedule that establishes the likely order in which the site will develop. Such a phasing plan is presented for purposes of estimating roadway and public utility capacity, with the understanding that phases may be developed out of order and that timing is approximate.

iii. Calculations for each phase and at total build-out of the following:

(A) Gross and net acreage, with the latter including deductions for public streets, natural resource corridors and other non-private development activities;

(B) Maximum number of employees and anticipated number of patient and related visits on typical weekday;

(C) Maximum development area, as expressed in gross square feet.

(D) Maximum total floor-to-area (FAR) ratio;

(E) Maximum building coverage, as expressed in percentage of total net site area;

(F) Minimum open space, as expressed in percentage of total net site area;

(G) Total number of employee and visitor parking spaces required.

iv. Minimum and maximum development standards, including but not limited to and as appropriate:
(A) Minimum and maximum lot size;
(B) Minimum and maximum setbacks;
(C) Maximum height, which may vary throughout the site;
(D) Maximum FAR at full build-out;
(E) Maximum building coverage at full build-out;
(F) Minimum open space requirements at full build-out;
(G) Minimum and maximum vehicular and bicycle parking ratios by use;
(H) Minimum number of loading bays.
v. Design standards including but not limited to:
(A) Architectural design standards, including design illustrations and building materials boards;
(B) Landscaping, including design standards and standardized plant list. Native plant materials are preferred where practicable;
(C) Pedestrian facilities, including development standards, materials and street furniture;
(D) Bicycle parking facilities, including specifications;
(E) Signage plan including prototypical examples, color palette and materials board.
vi. Graphic illustrations of proposed development at full build-out including but not limited to:
(A) Density "block" and other three-dimensional concept studies.
(B) Illustrative color "typical" street perspectives that portray the proposed architectural style and urban design elements to be used throughout the development, in recognition that these are still conceptual in nature.
vii. Goal 5 resource protection plan, if needed.
viii. Public utility capacity analyses/infrastructure plans for each phase and total build-out, as required by the City Engineer.
ix. Traffic impact analysis (TIA) for each phase and total build-out, as required by the City Engineer. The traffic impact analysis shall be sufficient to demonstrate compliance with OAR 660-012-0060(1)-(3). Development of the site will not be approved without this analysis. The traffic impacts will be reviewed against, and any mitigation must be consistent with, the function, capacity and performance standards of affected transportation facilities. The following criteria apply only when compliance with the Transportation Planning Rule is deferred to the master plan stage, in which case the TIA shall identify whether the plan or proposed development significantly affects a transportation facility by:
(A) Changing the functional classification of an existing or planned transportation facility;
(B) Changing the standards implementing the street classification system;
(C) Allowing types or levels of development that would result in levels of travel or access that are inconsistent with the level of service of a transportation facility;

(D) Reducing the performance of a transportation facility below the minimum acceptable performance standard identified in the City of Happy Valley Transportation System Plan; or

(E) Reduce the performance of a transportation facility that is otherwise performing below the minimum acceptable performance standard identified in the City Transportation System Plan.

x. A proposed Concept Master Plan or Detailed Phasing Plan that will significantly affect a transportation facility must ensure that the proposed uses or development are consistent with the identified function, capacity and performance standards of the transportation facility by:

(1) Limiting the proposed uses or development to be consistent with the function, capacity, and performance standards of the transportation facility;

(2) Altering densities or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

(3) Providing or improving transportation facilities sufficient to support the proposed uses or development.

5. RC-ME Detailed Phasing Plan submittal requirements.

a. Detailed Phasing Plan of subsequent phases. The following information shall be required for each Detailed Phasing Plan:

i. Schedule for initiating and completing construction of phase;

ii. Anticipated utilization at completion of the phase, including the total number of employees, daily visitors and other indicators of full utilization of the structure(s) within the phase;

iii. Detailed description of all proposed development presented in narrative, tabular and/or graphic formats as follows:

(A) Description of new buildings anticipated, including size, location, approximate footprint and use;

(B) All other site improvements including new surface and structured parking facilities; bicycle parking facilities; on-site pedestrian, bicycle and vehicular circulation; transit stops; pedestrian/transit amenities; and open space and landscaped areas;

(C) The location of new and/or expanded existing public and private infrastructure including water, sanitary sewer, storm water retention/treatment facilities, and electrical, telephone and data transmission lines;

(D) Landscaping plan;

(E) Goal 5 resource protection plan, if required;

(F) Sign plan;

(G) Lighting plan;

(H) Grading and erosion control plans.

iv. Building elevations;

v. Summary of development intensity at completion of the phase including average FAR and lot coverage for the development area and for the site as a whole;

vi. Calculation of minimum vehicular and bicycle parking spaces based on parking ratios established in the Concept Master Plan;

vii. Reconfirmation of traffic impacts associated with completion of the phase first described in the TIA prepared for the Concept Master Plan.

viii. Neighborhood communication and coordination plan to ensure that the applicant implements an on on-going process for communicating and problem resolution with neighbors.

ix. Narrative that demonstrates how the Detailed Phasing Plan for the specific project or groups of projects within a phase are consistent with the phase as conceptually approved in the Concept Master Plan. If there is some aspect of the phase that does not comply, the applicant may request a Detailed Phasing Plan modification as described in Section 16.12.150.H.

6. RC-ME Concept Master Plan and Detailed Phasing Plan approval process.

a. Initial approval. The initial application for a Concept Master Plan shall be reviewed as a quasi-judicial action at a public hearing before the Planning Commission and subsequently, with regard to architectural standards, by the Design Review Board, pursuant to the requirements of this section and using the approval criteria contained in Section 16.12.150.E.7 below. The application also may include a request for a use that is permitted conditionally in Table 16.12.150-1 subject to the requirements of Section 16.16.220 of this Title. As part of the review process for the Concept Master Plan, the Design Review Board shall consider alternative design standards for institutional development in the Rock Creek Mixed Employment area in lieu of the "Happy Valley Style" design standards that govern the design of development elsewhere in the City.

b. Detailed Phasing Plans. Prior to construction of one or more projects within a phase of development approved in the Concept Master Plan, the applicant shall submit a Detailed Development Plan that contains all of the information listed in the submittal requirements for review and approval by the Community Development Director or designee, using the approval criteria in Section 16.12.150.E.7. This review shall be undertaken in lieu of the City's formal Design Review process.

c. Concurrent review. An applicant may submit applications for initial review of the Concept Master Plan and review of the first and subsequent Detailed Phasing Plan(s) to be reviewed concurrently. In this case, the Detailed Phasing Plan for one or more phases of development shall be reviewed at the public hearing before the Planning Commission and Design Review Board at which the Concept Master Plan is reviewed. The Detailed Phasing Plan shall require no further review, providing the phase is built out in a manner that is substantially consistent with that which was approved.

7. RC-ME Concept Master Plan and Detailed Phasing Plan approval criteria.

a. Concept Master Plan. An application for a Concept Master Plan must demonstrate compliance with the following criteria:

i. Content. The Concept Master Plan must contain all of the components required in Section 16.12.150.E.4.

ii. Compliance with all applicable standards. The proposed development and uses must comply with all applicable standards of this Title, except where modifications are being approved as part of the Concept Master Plan.

iii. Traffic system capacity. There is either sufficient capacity in the transportation system to safely support the development proposed in all future phases, or there will be adequate capacity by the time each phase of development is completed, as demonstrated by a TIA that conforms with the requirements of Section 16.12.150.E.4.b.

iv. Availability of public services. There is either sufficient capacity for public services such as water supply, police and fire services, and sanitary waste and storm water disposal, to support adequately the development proposed in all future phases, or there will be adequate capacity available by the time each phase of development is completed.

v. Protection of designated resources. Resources such as historic landmarks, significant trees and sensitive natural resources identified on the City's Goal 5 inventories are protected and enhanced in compliance with the regulations in this and other Titles of the Municipal Code.

vi. Internal design compatibility with adjacent uses. The Concept Master Plan must contain building design, landscaping, parking and circulation elements that minimize conflict with adjacent uses to the greatest extent practicable.

vii. Mitigation of off-site impacts. All potential off-site impacts including litter, noise, shading and glare shall be identified and mitigated to the greatest extent practicable.

b. Detailed Phasing Plans. To obtain an approval of one or more subsequent phases of development, the applicant shall demonstrate compliance with all of the following criteria:

i. Consistency. A Detailed Phasing Plan shall be substantially consistent with the phase as approved in the Concept Master Plan.

ii. Content. A Detailed Phasing Plan shall contain all of the information required in the submittal requirements in Section 16.12.150.E.5.

iii. Numerical development standards. A Detailed Phasing Plan shall adhere to all of the numerical development standards approved in the Concept Master Plan. However, as part of the review of a Detailed Phasing Plan, the applicant may introduce modifications necessary for a specific project or projects subject to the approval criteria without the requirement for a variance, if the proposed modification is equal to or less than a 20% increase or decrease in the numerical standard. If the proposed modification involves a change in a numerical standard of greater than 20%, the review of the Detailed Phasing Plan shall be accompanied by a concurrent variance request consistent with the requirements of Chapter 16.28 of this Title.

iv. Design and non-numerical development standards. A Detailed Phasing Plan shall adhere to all of the design and non-numerical development standards approved in the Concept Master Plan. However, as part of the review of a Detailed Phasing Plan, the

applicant may introduce any modifications necessary to a specific project or projects subject to the approval criteria and the provisions of Section 16.12.150.H.

8. Conditions of approval. In approving the a Concept Master Plan and subsequent Detailed Phasing Plans, the appropriate Review Authority may impose any conditions of it deems necessary to mitigate potentially adverse impacts on surrounding properties to the greatest extent practicable.

F. Vesting.

1. Applicability. A complete application for a Concept Master Plan shall be reviewed under this Chapter and the zoning, development and other land use ordinances in the Happy Valley Municipal Code, including any un-codified ordinances modifying the same, in effect on the date the Concept Master Plan is submitted. An approved Concept Master Plan may be implemented by means of Detailed Phasing Plans for subsequent phases under the zoning, development and land use ordinances applied by the City in its review of the Concept Master Plan, provided the phases are implemented in substantial compliance with the Concept Master Plan. An approved Concept Master Plan shall govern subsequent phases for the period described in 16.12.150.G.

2. Vesting of infrastructure capacity. An approved Concept Master Plan may include a list of on-site and off-site transportation improvements and other public infrastructure needed to support each proposed phase of development. In the event that the applicant agrees to install public improvements or infrastructure in excess of the capacity needed for a particular Detailed Phasing Plan, and in conformance with an approved Concept Master Plan, the City, through a development agreement or the formation of a reimbursement district, or both, shall accommodate future uses and building square footages based on the extent of the overbuilt infrastructure and consistent with the approved Concept Master Plan.

3. Loss of vesting. A Detailed Phasing Plan for which modification is sought under 16.12.150.H.4 or 16.12.150.H.5 is not subject to the laws in effect when the Concept Master Plan was submitted as described in Section 16.12.150.F.1. above. An application for a Detailed Phasing Plan that is subject to Section 16.12.150.H.4 or 16.12.150.H.5 shall comply with the land use regulations in effect at the time the Phasing Plan is submitted. Post-approval modifications that require only a minor review pursuant to Section 16.12.150.H.3 do not result in the loss of the vesting described in 16.12.150.F.1 above.

G. Term.

1. General. The term of a Concept Master Plan shall not exceed fifteen (15) years. An extension may be granted in accordance with the criteria and procedures provided in Section 16.12.150.G.2, below.

2. Extension. If all phases of development in the approved Concept Master Plan are not built within the approved term, the applicant may request an extension in writing to

the Community Development Director. Two one (1)-year extension requests may be approved subject to the following criteria:

a. The applicant has pursued in good faith completing the build-out of the approved Concept Master Plan.

b. There have been no changes to the comprehensive plan, development code or other applicable governing documents that are inconsistent with the approved Concept Master Plan.

c. There are no other significant changed conditions that would render the extension of the Concept Master Plan contrary to the public health, safety or general welfare.

3. An extension request shall be filed in writing with the Community Development Director at least sixty (60) days prior to the expiration of the initial 15-year period or any subsequently approved extensions.

H. Post-Approval Modification of a Detailed Phasing Plan.

1. Purpose. The purpose of this section is to address instances in which the applicant may not be able to construct a phase of the development exactly as approved in an approved Detailed Phasing Plan. This section permits the applicant to seek post-Concept Master Plan approval changes using a review process that is determined by the magnitude of the proposed change or changes. As noted in Section 16.12.150.F, post-approval modifications that require a quasi-judicial review by either the Community Development Director or Planning Commission or Design Review Board, procedure result in a loss of vesting in the approval criteria for that specific phase of development.

2. Modifications allowed by right. The following modifications are permitted by right and are allowed upon issuance of a building permit, if required:

a. Interior improvements.

b. Exterior improvements associated with existing buildings that do not involve an expansion of floor area, subject to all applicable base zone development and design standards, as modified in the approved Concept Master Plan, and relevant conditions of approval thereto.

c. Installation of new or modification of existing mechanical or electrical equipment, subject to all applicable base zone development and design standards, as modified in the approved Concept Master Plan, and relevant conditions of approval thereto.

d. Maintenance of existing facilities when a building permit is required.

3. Minor decision. The following modifications shall be reviewed by the Community Development Director or designee, pursuant to the City's administrative decision-making procedure:

a. Modification of the location of an approved building or building addition, providing the modification complies with the development and design standards, as approved in the Concept Master Plan and as modified in the applicable Detailed Phasing Plan, including all relevant conditions of approval thereto.

b. Modification of use, design, or development standards including architecture, landscape architecture, pedestrian and bicycle facilities; signs and/or lighting elements

approved in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval, including all relevant conditions of approval thereto.

c. A new building of any size in any location that replaces a building approved but not constructed, providing there is: 1) no net increase in total building coverage, and 2) compliance with the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval, and all relevant conditions of approval thereto.

d. New buildings or building additions up to 10,000 gross square feet (gsf) not anticipated and, therefore, not contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval. Construction of such unanticipated buildings or building additions shall not exceed 10,000 gsf in any one year, and shall not exceed 30,000 gsf in any four years. As part of this review, the applicant shall provide information on the amount of floor area built to date for the year in which the application is submitted, and the amount of floor area built within the four-year period preceding the request.

e. Adjusting the sequence of buildings within a phase of development provided that there is no net increase in traffic impacts.

4. Quasi-judicial review by the Community Development Director. The following modifications shall be reviewed by the Community Development Director or designee, pursuant to the City's quasi-judicial decision-making procedure:

1. A change in the approved site boundary resulting in the exchange of properties where the total amount of land in the approved boundary remains the same or is decreased.

2. A new building or building addition exceeding 10,000 gsf but less than 50,000 gsf, not anticipated and, therefore, not contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval. For new buildings or building additions exceeding 25,000 gsf under this provision, the applicant shall provide traffic and parking analyses of the proposal as part of the application.

3. An increase or decrease of up to 10% in the total number of parking spaces approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval. The applicant shall provide a parking analysis related to the proposal as part of the application.

5. Quasi-judicial review by the Planning Commission or Design Review Board. The following modifications shall be reviewed in a public hearing before the Planning Commission or Design Review Board, pursuant to the City's quasi-judicial decision-making procedure:

a. Expansion of the master plan boundary beyond that contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval.

b. New building or building additions of 50,000 gsf or more, not anticipated and, therefore, not contained in the initial Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.

c. Proposals that result in an increase of 10% or more of site-generated vehicular trips approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.

d. An increase or decrease greater than 10% in the total number of parking spaces approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.

e. A proposed use or development that was denied in the approved Concept Master Plan."

AGENCY AND INTERESTED PERSONS COMMENTS

- Notification and materials were delivered to the Oregon Department of Land Conservation and Development (DLCD), the required 45 days prior to this initial evidentiary hearing. In addition, notice and materials were sent to the regional government (Metro) and other affected public and private agencies. As of the date this report was written, no official comments had been received.

  Measure 56 compliant notice was sent to all parcels within the subject area, and a general notice was sent to all properties within a 300-foot radius of the subject area. As of the date this report was written, no comments had been received.

II. RECOMMENDATION

The public-private partnership that has provided the planning and citizen involvement for the Rock Creek Mixed Employment Comprehensive Plan has illustrated the unique development and natural resource opportunities and constraints surrounding the approximately 146-acre subject site, which are addressed primarily through the provisions of the proposed Metro Title 4 "Employment" designation compliant zoning district (RC-ME), combined with the provisions of the City's Comprehensive Plan Policies and the Development Code, to which any future development applications within the plan area will be subject.

Therefore, staff recommends that the Planning Commission forward a recommendation of approval of CPA-03-08/LDO-03-08 (Rock Creek Mixed Employment Comprehensive Plan) on to the City Council.

III. FINDINGS OF FACT

1. The following Statewide Planning Goals are applicable to the subject request:

"Goal 1 (Citizen Involvement)

To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

Narrative Response:

See Page 20 of the submitted Narrative (Exhibit "B") and Page 2 and Exhibit 1 of the Supplemental Letter and Exhibits dated May 5, 2008 (Exhibit "C").

Staff Response:

Statewide Planning Goal 1has been addressed by a number of means in conjunction with the subject proposal. First, the process for a legislative amendment such as this follows the applicable requirements for legislative amendments in the City. This includes Measure 56 notice (ORS 227.186) to affected property owners (see Exhibit "H"). The affected property owners for purposes of a Measure 56 notice are only those property owners within the area to be designated RC-ME. Second, standard mailed notice went to property owners within 300 feet of the greater subject area (see Exhibit "I"). Third, the City's Comprehensive Plan and Development Code are consistent with the Statewide Planning Goals, including Goal 1 for citizen participation. Finally, as observed, Providence held two neighborhood meetings prior to the initial evidentiary hearing before the Planning Commission. The first meeting occurred on May 8, 2006, and the second meeting occurred on February 25, 2008. Therefore, this criterion is satisfied by the proposed amendments.

Goal 2 (Land Use Planning)

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to ensure an adequate factual base for such decisions and actions.

Narrative Response:

See Page 20 of the submitted Narrative (Exhibit "B").

Staff Response:

Statewide Planning Goal 2 has been addressed due to the fact that the City of Happy Valley has established a land use planning process and policy framework that includes an acknowledged Comprehensive Plan and Development Code that provides an adequate factual base for decisions and actions. Further, the subject proposal includes an amendment to the acknowledged Comprehensive Plan that provides the basis for the RC-ME district, and is implemented within the City's Development Code. Said amendments are subject to public notice, an initial evidentiary hearing before the Planning Commission and a final review by the City Council. Thus, a well established planning process and policy framework exists within the City. Therefore, this criterion is satisfied by the proposed amendments.

Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces)

To provide natural resources and conserve scenic and historic areas and open spaces.

Narrative Response:

See Page 21 of the submitted Narrative (Exhibit "B").

Staff Response:

Statewide Planning Goal 5 has been addressed due to the fact that Goal 5 and Metro Title 3 compliant regulations have been adopted within the City's Development Code, and any resource areas within the subject area shall be evaluated via these protective measures. In addition, the Oregon Court of Appeals has held in *Gould v. Deschutes County* that compliance with approval criteria can be deferred to another discretionary stage, provided notice and opportunity for a public hearing are provided. Therefore, this criterion is satisfied by the proposed amendments.

Goal 6 (Air, Water and Land Resources Quality)

To maintain and improve the quality of the air, water and land resources of the state.

Narrative Response:

See Page 21 of the submitted Narrative (Exhibit "B").

Staff Response:

Statewide Planning Goal 6 has been addressed due to the fact that environmental protection measures have been adopted within the City's Development Code, and any environmental restrictions shall be evaluated via these protective measures and coordination with the City's service providers at the next discretionary stage. Goal 6 is concerned with waste process discharges from development and their negative effects on air, water and land resources.

Through appropriate stormwater collection and treatment, the City can assure that Goal 6 will be satisfied. Therefore, this criterion is satisfied by the proposed amendments.

Goal 9 (Economic Development)

To provide adequate opportunities throughout the state for a variety of economic activities liable to the health, welfare, and prosperity of Oregon's citizens.

Narrative Response:

See Pages 21-22 of the submitted Narrative (Exhibit "B").

Staff Response:

Statewide Planning Goal 9 has been addressed due to the fact that the proposed Comprehensive Plan Policy Amendment, Development Code Text Amendment and Comprehensive Plan Map/Zoning Map Amendment provide an additional area suitable for increased economic growth and activity, especially related to medical services. The Comprehensive Plan and Development Code amendments implement the Damascus-Boring Concept Plan which designated this area for "Mixed Employment" uses. The City finds that this is an appropriate site for implementation of the Damascus-Boring Concept Plan Employment designation for several reasons. First, it is large enough to accommodate foreseeable growth for these uses for the next twenty (20) years. Second, it is adjacent to Oregon Highway 212/224. ODOT plans to improve Oregon Highway 212/224 to provide enhanced access to Interstate Highway 205 via the planned "Sunrise Corridor." Third, the site is adjacent to a variety of housing types and prices, thus providing an opportunity for housing for the employees in this area. Therefore, this criterion is satisfied by the proposed amendments.

Goal 11 (Public Facilities and Services)

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Narrative Response:

See Page 22 of the submitted Narrative (Exhibit "B").

Staff Response:

Statewide Planning Goal 11 has been addressed due to the fact that the greater subject area is located within the City of Happy Valley, which provides (in conjunction with its service providers) plans for the "timely, orderly and efficient arrangement of public facilities and

services" via the development of the City's Development Code, Engineering Design Standards Manual, Capital Improvement Plans and various Master Plans for service provision. Therefore, this criterion is satisfied by the proposed amendments.

Goal 12 (Transportation)

To provide and encourage a safe, convenient and economic transportation system.

Narrative Response:

See Page 22 of the submitted Narrative (Exhibit "B").

Staff Response:

Statewide Planning Goal 12 has been addressed with the planned provision of a safe, convenient and economic transportation system as outlined in the updated Transportation System Assessment (located within Exhibit "C") and that per the discussion addressing the Transportation Planning Rule (below), due to the fact that no development will occur until the subsequent master plan approval demonstrates adequate transportation facilities for the proposed uses. Therefore, this criterion is satisfied by the proposed amendments.

Goal 13 (Energy Conservation)

To conserve energy."

Narrative Response:

See Page 22 of the submitted Narrative (Exhibit "B").

Staff Response:

Statewide Planning Goal 13 has been addressed due to the fact that the subject proposal provides for additional employment development within the UGB and adjacent to surrounding housing opportunities, thereby providing many opportunities to reduce energy consumption. Therefore, this criterion is satisfied by the proposed amendments.

NOTE: The City finds that Goal 3, "Agricultural Land," Goal 4, "Forest Land," Goal 7, "Areas Subject to Natural Disasters and Hazards," Goal 8, "Recreational Needs," Goal 10, "Housing," and Goals 14-19 are inapplicable. Goals 3 and 4 are resource goals and are inapplicable because the greater subject area is now within the UGB. Goal 7 is inapplicable because the subject area contains no identified natural hazard areas. Goal 8 is inapplicable because the subject request does not provide for recreational facilities. Goal 10 is inapplicable because the subject request

does not affect housing supply. Goal 14 is inapplicable because the subject area is located within the UGB. Goals 15 through 19 are locational goals not applicable to the subject area.

2. The following Oregon Administrative Rules (OAR) are applicable to the subject request:

"OAR Chapter 660, Division 9 (Economic Development)

660-009-0010
Application
(1) This division applies to comprehensive plans for areas within urban growth boundaries. This division does not require or restrict planning for industrial and other employment uses outside urban growth boundaries. Cities and counties subject to this division must adopt plan and ordinance amendments necessary to comply with this division.
(2) Comprehensive plans and land use regulations must be reviewed and amended as necessary to comply with this division as amended at the time of each periodic review of the plan pursuant to ORS 197.712(3). Jurisdictions that have received a periodic review notice from the Department (pursuant to OAR 660-025-0050) prior to the effective date of amendments to this division must comply with such amendments at their next periodic review unless otherwise directed by the Commission.
(3) Cities and counties may rely on their existing plans to meet the requirements of this division if they conclude:
(a) There are not significant changes in economic development opportunities (e.g., a need for sites not presently provided for in the plan) based on a review of new information about national, state, regional, county and local trends; and
(b) That existing inventories, policies, and implementing measures meet the requirements in OAR 660-009-0015 to 660-009-0030.
(4) For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:
(a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or
(b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or
(c) Adopt a combination of the above, consistent with the requirements of this division.
(5) The effort necessary to comply with OAR 660-009-0015 through 660-009-0030 will vary depending upon the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on national, state, regional, county, and local

economic trends. A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division.
(6) The amendments to this division are effective January 1, 2007. A city or county may voluntarily follow adopted amendments to this division prior to the effective date of the adopted amendments.

Narrative Response:

See Page 23 of the submitted Narrative (Exhibit "B") and Page 5 of the Supplemental Letter and Exhibits dated May 5, 2008 (Exhibit "C").

Staff Response:

The City is scheduled to begin Periodic Review in 2009. The provisions of this rule that relate to a change to a Comprehensive Plan designation of land in excess of two acres (subsection "4", above) do not relate to the subject request due to the fact that the proposed change is from a Clackamas County EFU zoning district to City RC-ME. Therefore, these criteria are inapplicable to the proposed amendments.

660-009-0015
Economic Opportunities Analysis
Cities and counties must review and, as necessary, amend their comprehensive plans to provide economic opportunities analyses containing the information described in sections (1) to (4) of this rule. This analysis will compare the demand for land for industrial and other employment uses to the existing supply of such land.
(1) Review of National, State, Regional, County and Local Trends. The economic opportunities analysis must identify the major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area based on information about national, state, regional, county or local trends. This review of trends is the principal basis for estimating future industrial and other employment uses as described in section (4) of this rule. A use or category of use could reasonably be expected to expand or locate in the planning area if the area possesses the appropriate locational factors for the use or category of use. Cities and counties are strongly encouraged to analyze trends and establish employment projections in a geographic area larger than the planning area and to determine the percentage of employment growth reasonably expected to be captured for the planning area based on the assessment of community economic development potential pursuant to section (4) of this rule.
(2) Identification of Required Site Types. The economic opportunities analysis must identify the number of sites by type reasonably expected to be needed to accommodate the expected employment growth based on the site characteristics typical of expected uses. Cities and counties are encouraged to examine existing firms in the planning area to identify the types of sites that may be needed for expansion. Industrial or other employment uses with compatible site characteristics may be grouped together into common site categories.

(3) Inventory of Industrial and Other Employment Lands. Comprehensive plans for all areas within urban growth boundaries must include an inventory of vacant and developed lands within the planning area designated for industrial or other employment use.

(a) For sites inventoried under this section, plans must provide the following information:

(A) The description, including site characteristics, of vacant or developed sites within each plan or zoning district;

(B) A description of any development constraints or infrastructure needs that affect the buildable area of sites in the inventory; and

(C) For cities and counties within a Metropolitan Planning Organization, the inventory must also include the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land.

(b) When comparing current land supply to the projected demand, cities and counties may inventory contiguous lots or parcels together that are within a discrete plan or zoning district.

(c) Cities and counties that adopt objectives or policies providing for prime industrial land pursuant to OAR 660-009-0020(6) and 660-009-0025(8) must identify and inventory any vacant or developed prime industrial land according to section 3(a) of this rule.

(4) Assessment of Community Economic Development Potential. The economic opportunities analysis must estimate the types and amounts of industrial and other employment uses likely to occur in the planning area. The estimate must be based on information generated in response to sections (1) to (3) of this rule and must consider the planning area's economic advantages and disadvantages. Relevant economic advantages and disadvantages to be considered may include but are not limited to:

(a) Location, size and buying power of markets;

(b) Availability of transportation facilities for access and freight mobility;

(c) Public facilities and public services;

(d) Labor market factors;

(e) Access to suppliers and utilities;

(f) Necessary support services;

(g) Limits on development due to federal and state environmental protection laws; and

(h) Educational and technical training programs.

(5) Cities and counties are strongly encouraged to assess community economic development potential through a visioning or some other public input based process in conjunction with state agencies. Cities and counties are strongly encouraged to use the assessment of community economic development potential to form the community economic development objectives pursuant to OAR 660-009-0020(1)(a).

Narrative Response:

See Page 23 of the submitted Narrative (Exhibit "B").

Staff Response:

The subject request involves application of a zone that is compatible with the "Mixed Employment" designation of the Damascus-Boring Concept Plan, which was inclusive of an extensive two-year visioning/citizen involvement project done in conjunction with state agencies. The planning efforts and analysis that went into the Damascus-Boring Concept Plan are based on the Metro 2040 Concept Plan, and together are inclusive of the provisions of this administrative rule. Therefore, these criteria are satisfied by the proposed amendments.

660-009-0020
Industrial and Other Employment Development Policies
(1) Comprehensive plans subject to this division must include policies stating the economic development objectives for the planning area. These policies must be based on the community economic opportunities analysis prepared pursuant to OAR 660-009-0015 and must provide the following:

(a) Community Economic Development Objectives. The plan must state the overall objectives for economic development in the planning area and identify categories or particular types of industrial and other employment uses desired by the community. Policy objectives may identify the level of short-term supply of land the planning area needs. Cities and counties are strongly encouraged to select a competitive short-term supply of land as a policy objective.

(b) Commitment to Provide a Competitive Short-Term Supply. Cities and counties within a Metropolitan Planning Organization must adopt a policy stating that a competitive short-term supply of land as a community economic development objective for the industrial and other employment uses selected through the economic opportunities analysis pursuant to OAR 660-009-0015.

(c) Commitment to Provide Adequate Sites and Facilities. The plan must include policies committing the city or county to designate an adequate number of sites of suitable sizes, types and locations. The plan must also include policies, through public facilities planning and transportation system planning, to provide necessary public facilities and transportation facilities for the planning area.

(2) Plans for cities and counties within a Metropolitan Planning Organization or that adopt policies relating to the short-term supply of land, must include detailed strategies for preparing the total land supply for development and for replacing the short-term supply of land as it is developed. These policies must describe dates, events or both, that trigger local review of the short-term supply of land.

(3) Plans may include policies to maintain existing categories or levels of industrial and other employment uses including maintaining downtowns or central business districts.

(4) Plan policies may emphasize the expansion of and increased productivity from existing industries and firms as a means to facilitate local economic development.
(5) Cities and counties are strongly encouraged to adopt plan policies that include brownfield redevelopment strategies for retaining land in industrial use and for qualifying them as part of the local short-term supply of land.
(6) Cities and counties are strongly encouraged to adopt plan policies pertaining to prime industrial land pursuant to OAR 660-009-0025(8).
(7) Cities and counties are strongly encouraged to adopt plan policies that include additional approaches to implement this division including, but not limited to:

(a) Tax incentives and disincentives;
(b) Land use controls and ordinances;
(c) Preferential tax assessments;
(d) Capital improvement programming;
(e) Property acquisition techniques;
(f) Public/private partnerships; and
(g) Intergovernmental agreements.

Narrative Response:

See Page 23 of the submitted Narrative (Exhibit "B").

Staff Response:

The subject amendments include the addition of a Comprehensive Plan policy to be added to the City's existing Comprehensive Plan policies. These policies, combined with addition of a short-term supply of employment land via the application of the RC-ME zoning district to the 146-acre subject area, which is in turn planned to be "married" with additional employment and industrial lands to the east (within the EHVCP area) illustrate a commitment to provide a competitive short-term supply of employment land. As observed, the subject amendments involve application of a zoning district that is compatible with the "Mixed Employment" designation of the Damascus-Boring Concept Plan. The planning efforts and analysis that went into the Damascus-Boring Concept Plan are based on the Metro 2040 Concept Plan, and together are inclusive of the provisions of this administrative rule. Therefore, these criteria are satisfied by the proposed amendments.

660-009-0025
Designation of Lands for Industrial and Other Employment Uses
Cities and counties must adopt measures adequate to implement policies adopted pursuant to OAR 660-009-0020. Appropriate implementing measures include amendments to plan and zone map designations, land use regulations, public facility plans, and transportation system plans.
(1) Identification of Needed Sites. The plan must identify the approximate number, acreage and site characteristics of sites needed to accommodate industrial and other employment uses to

implement plan policies. Plans do not need to provide a different type of site for each industrial or other employment use. Compatible uses with similar site characteristics may be combined into broad site categories. Several broad site categories will provide for industrial and other employment uses likely to occur in most planning areas. Cities and counties may also designate mixed-use zones to meet multiple needs in a given location.

(2) Total Land Supply. Plans must designate serviceable land suitable to meet the site needs identified in section (1) of this rule. Except as provided for in section (5) of this rule, the total acreage of land designated must at least equal the total projected land needs for each industrial or other employment use category identified in the plan during the 20-year planning period.

(3) Short-Term Supply of Land. Plans for cities and counties within a Metropolitan Planning Organization or cities and counties that adopt policies relating to the short-term supply of land must designate suitable land to respond to economic development opportunities as they arise. Cities and counties may maintain the short-term supply of land according to the strategies adopted pursuant to OAR 660-009-0020(2).

(a) Except as provided for in subsections (b) and (c), cities and counties subject to this section must provide at least 25 percent of the total land supply within the urban growth boundary designated for industrial and other employment uses as short-term supply.

(b) Affected cities and counties that are unable to achieve the target in subsection (a) above may set an alternative target based on their economic opportunities analysis.

(c) A planning area with 10 percent or more of the total land supply enrolled in Oregon's industrial site certification program pursuant to ORS 284.565 satisfies the requirements of this section.

(4) If cities and counties are required to prepare a public facility plan or transportation system plan by OAR chapter 660, division 011 or division 012, the city or county must complete subsections (a) to (c) of this section at the time of periodic review. Requirements of this rule apply only to city and county decisions made at the time of periodic review. Subsequent implementation of or amendments to the comprehensive plan or the public facility plan that change the supply of serviceable land are not subject to the requirements of this section. Cities and counties must:

(a) Identify serviceable industrial and other employment sites. The affected city or county in consultation with the local service provider, if applicable, must make decisions about whether a site is serviceable. Cities and counties are encouraged to develop specific criteria for deciding whether or not a site is serviceable. Cities and counties are strongly encouraged to also consider whether or not extension of facilities is reasonably likely to occur considering the size and type of uses likely to occur and the cost or distance of facility extension;

(b) Estimate the amount of serviceable industrial and other employment land likely to be needed during the planning period for the public facilities plan. Appropriate techniques for estimating land needs include but are not limited to the following:

(A) Projections or forecasts based on development trends in the area over previous years; and

(B) Deriving a proportionate share of the anticipated 20-year need specified in the comprehensive plan.

(c) Review and, if necessary, amend the comprehensive plan and the public facilities plan to maintain a short-term supply of land. Amendments to implement this requirement include but are not limited to the following:

(A) Changes to the public facilities plan to add or reschedule projects to make more land serviceable;

(B) Amendments to the comprehensive plan that redesignate additional serviceable land for industrial or other employment use; and

(C) Reconsideration of the planning area's economic development objectives and amendment of plan objectives and policies based on public facility limitations.

(d) If a city or county is unable to meet the requirements of this section, it must identify the specific steps needed to provide expanded public facilities at the earliest possible time.

(5) Institutional Uses. Cities and counties are not required to designate institutional uses on privately owned land when implementing section (2) of this rule. Cities and counties may designate land in an industrial or other employment land category to compensate for any institutional land demand that is not designated under this section.

(6) Compatibility. Cities and counties are strongly encouraged to manage encroachment and intrusion of uses incompatible with industrial and other employment uses. Strategies for managing encroachment and intrusion of incompatible uses include, but are not limited to, transition areas around uses having negative impacts on surrounding areas, design criteria, district designation, and limiting non-essential uses within districts.

(7) Availability. Cities and counties may consider land availability when designating the short-term supply of land. Available land is vacant or developed land likely to be on the market for sale or lease at prices consistent with the local real estate market. Methods for determining lack of availability include, but are not limited to:

(a) Bona fide offers for purchase or purchase options in excess of real market value have been rejected in the last 24 months;

(b) A site is listed for sale at more than 150 percent of real market values;

(c) An owner has not made timely response to inquiries from local or state economic development officials; or

(d) Sites in an industrial or other employment land category lack diversity of ownership within a planning area when a single owner or entity controls more than 51 percent of those sites.

(8) Uses with Special Siting Characteristics. Cities and counties that adopt objectives or policies providing for uses with special site needs must adopt policies and land use regulations providing for those special site needs. Special site needs include, but are not limited to large acreage sites, special site configurations, direct access to transportation facilities, prime industrial lands, sensitivity to adjacent land uses, or coastal shoreland sites designated as suited for water-dependent use under Goal 17. Policies and land use regulations for these uses must:

(a) Identify sites suitable for the proposed use;

(b) Protect sites suitable for the proposed use by limiting land divisions and permissible uses and activities that interfere with development of the site for the intended use; and

(c) Where necessary, protect a site for the intended use by including measures that either prevent or appropriately restrict incompatible uses on adjacent and nearby lands.

Narrative Response:

See Page 23 of the submitted Narrative (Exhibit "B").

Staff Response:

The subject amendments involve application of a zoning district that is compatible with the "Mixed Employment" designation of the Damascus-Boring Concept Plan. The planning efforts and analysis that went into the Damascus-Boring Concept Plan are based on the Metro 2040 Concept Plan, and together are inclusive of the provisions of this administrative rule. Therefore, these criteria are satisfied by the proposed amendments.

OAR Chapter 660, Division 12 (Transportation Planning)

660-012-0060
Plan and Land Use Regulation Amendments
(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) As measured at the end of the planning period identified in the adopted transportation system plan:

(A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.
(2) Where a local government determines that there would be a significant effect, compliance with section (1) shall be accomplished through one or a combination of the following:

(a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.

(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

(d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

(e) Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.

(3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:

(a) The facility is already performing below the minimum acceptable performance standard identified in the TSP or comprehensive plan on the date the amendment application is submitted;

(b) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;

(c) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;

(d) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and

(e) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (d) of this section.

(4) Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.

(a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.

(b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:

(A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.

(B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.

(C) Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.

(D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.

(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.

(c) Within interstate interchange areas, the improvements included in (b)(A)-(C) are considered planned facilities, improvements and services, except where:

(A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or

(B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.

(d) As used in this section and section (3):

(A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;

(B) Interstate highway means Interstates 5, 82, 84, 105, 205 and 405; and

(C) Interstate interchange area means:

(i) Property within one-half mile of an existing or planned interchange on an Interstate Highway as measured from the center point of the interchange; or

(ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.

(e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)-(C) to determine whether there is a significant effect that requires application of the remedies in section (2).

(5) The presence of a transportation facility or improvement shall not be a basis for an exception to allow residential, commercial, institutional or industrial development on rural lands under this division or OAR 660-004-0022 and 660-004-0028.

(6) In determining whether proposed land uses would affect or be consistent with planned transportation facilities as provided in 0060(1) and (2), local governments shall give full credit for potential reduction in vehicle trips for uses located in mixed-use, pedestrian-friendly centers, and neighborhoods as provided in (a)-(d) below;

(a) Absent adopted local standards or detailed information about the vehicle trip reduction benefits of mixed-use, pedestrian-friendly development, local governments shall assume that uses located within a mixed-use, pedestrian-friendly center, or neighborhood, will generate 10% fewer daily and peak hour trips than are specified in available published estimates, such as those provided by the Institute of Transportation Engineers (ITE) Trip Generation Manual that do not specifically account for the effects of mixed-use, pedestrian-friendly development. The 10% reduction allowed for by this section shall be available only if uses which rely solely on auto trips, such as gas stations, car washes, storage facilities, and motels are prohibited;

(b) Local governments shall use detailed or local information about the trip reduction benefits of mixed-use, pedestrian-friendly development where such information is available and presented to the local government. Local governments may, based on such information, allow reductions greater than the 10% reduction required in (a);

(c) Where a local government assumes or estimates lower vehicle trip generation as provided in (a) or (b) above, it shall assure through conditions of approval, site plans, or approval standards that subsequent development approvals support the development of a mixed-use, pedestrian-friendly center or neighborhood and provide for on-site bike and pedestrian connectivity and access to transit as provided for in 0045(3) and (4). The provision of on-site bike and pedestrian connectivity and access to transit may be accomplished through application

of acknowledged ordinance provisions which comply with 0045(3) and (4) or through conditions of approval or findings adopted with the plan amendment that assure compliance with these rule requirements at the time of development approval; and

(d) The purpose of this section is to provide an incentive for the designation and implementation of pedestrian-friendly, mixed-use centers and neighborhoods by lowering the regulatory barriers to plan amendments which accomplish this type of development. The actual trip reduction benefits of mixed-use, pedestrian-friendly development will vary from case to case and may be somewhat higher or lower than presumed pursuant to (a) above. The Commission concludes that this assumption is warranted given general information about the expected effects of mixed-use, pedestrian-friendly development and its intent to encourage changes to plans and development patterns. Nothing in this section is intended to affect the application of provisions in local plans or ordinances which provide for the calculation or assessment of systems development charges or in preparing conformity determinations required under the federal Clean Air Act.

(7) Amendments to acknowledged comprehensive plans and land use regulations which meet all of the criteria listed in (a)-(c) below shall include an amendment to the comprehensive plan, transportation system plan the adoption of a local street plan, access management plan, future street plan or other binding local transportation plan to provide for on-site alignment of streets or accessways with existing and planned arterial, collector, and local streets surrounding the site as necessary to implement the requirements in Section 0020(2)(b) and Section 0045(3) of this division:

(a) The plan or land use regulation amendment results in designation of two or more acres of land for commercial use;

(b) The local government has not adopted a TSP or local street plan which complies with Section 0020(2)(b) or, in the Portland Metropolitan Area, has not complied with Metro's requirement for street connectivity as contained in Title 6, Section 3 of the Urban Growth Management Functional Plan; and

(c) The proposed amendment would significantly affect a transportation facility as provided in 0060(1).

(8) A "mixed-use, pedestrian-friendly center or neighborhood" for the purposes of this rule, means:

(a) Any one of the following:

(A) An existing central business district or downtown;

(B) An area designated as a central city, regional center, town center or main street in the Portland Metro 2040 Regional Growth Concept;

(C) An area designated in an acknowledged comprehensive plan as a transit oriented development or a pedestrian district; or

(D) An area designated as a special transportation area as provided for in the Oregon Highway Plan.

(b) An area other than those listed in (a) which includes or is planned to include the following characteristics:

(A) A concentration of a variety of land uses in a well-defined area, including the following:

(i) Medium to high density residential development (12 or more units per acre);

(ii) Offices or office buildings;

(iii) Retail stores and services;

(iv) Restaurants; and

(v) Public open space or private open space which is available for public use, such as a park or plaza.

(B) Generally include civic or cultural uses;

(C) A core commercial area where multi-story buildings are permitted;

(D) Buildings and building entrances oriented to streets;

(E) Street connections and crossings that make the center safe and conveniently accessible from adjacent areas;

(F) A network of streets and, where appropriate, accessways and major driveways that make it attractive and highly convenient for people to walk between uses within the center or neighborhood, including streets and major driveways within the center with wide sidewalks and other features, including pedestrian-oriented street crossings, street trees, pedestrian-scale lighting and on-street parking;

(G) One or more transit stops (in urban areas with fixed route transit service); and

(H) Limit or do not allow low-intensity or land extensive uses, such as most industrial uses, automobile sales and services, and drive-through services."

Narrative Response:

See Pages 23-24 of the submitted Narrative (Exhibit "B") and Pages 6-8 of the Supplemental Letter and Exhibits dated May 5, 2008 (Exhibit "C").

Staff Response:

Per the provisions of the proposed RC-ME zoning district and the City's Development Code, future full traffic impact analyses addressing all provisions of the Transportation Planning Rule will occur in conjunction with future Master Plans. Therefore, these criteria are satisfied by the proposed amendments.

3. The following Titles from METRO Chapter 3.07 (Urban Growth Management Functional Plan) are applicable to this request:

"Title 3 (Water Quality and Flood Management).

3.07.310 Intent

To protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding.

Narrative Response:

See Page 24 of the submitted Narrative (Exhibit "B").

Staff Response:

The potential for subsequent development applications that could follow the proposed implementation of the RC-ME zoning district would require conformance with the City's Development Code, which combined with the rules and regulations of it's service provider (CCSD#1) provide Title 3-compliant restrictions within Water Quality and Flood Management Areas. Therefore, this criterion is satisfied by the proposed amendments.

Title 4 (Industrial and Other Employment Areas)

3.07.410 Purpose and Intent

The Regional Framework Plan calls for a strong economic climate. To improve the region's economic climate, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant and Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" of those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of the types of employment in Centers, Employment Areas, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.
[...]
3.07.440 Protection of Employment Areas

A. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code Section 3.07.130, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.

B. Except as provided in subsections C, D and E, a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only transportation right-of-way.
[...]

Narrative Response:

See Page 24 of the submitted Narrative (Exhibit "B").

Staff Response:

The efforts afforded by the Damascus-Boring Concept Plan and the proposed Comprehensive Plan Text Amendment; Development Code Text Amendment; and legislative application of the RC-ME zoning district to the approximately 146-acre subject area equate to the provision of "Employment Area" per the Purpose and Intent section of Title 4. In addition, the proposed RC-ME zoning district contains specific language limiting commercial retail use per the provisions of Metro Functional Plan Section 3.07.440.B. Therefore, these criteria are satisfied by the proposed amendments.

Title 11 (Planning for New Urban Areas)

3.07.1105 Purpose and Intent

It is the purpose of Title 11 to require and guide planning for conversion from rural to urban use of areas brought into the UGB. It is the intent of Title 11 that development of areas brought into the UGB implement the Regional Framework Plan and 2040 Growth Concept.

Narrative Response:

Not addressed within the submitted Narrative.

Staff Response:

The purpose and intent of Title 11 have been met in that the proposed RC-ME district conforms with the requirements of Title 4 and implements the Damascus-Boring Concept Plan. Therefore, this criterion has been satisfied by the proposed amendments.

[...]
3.07.1120 Planning for Territory Added to the UGB

All territory added to the UGB as either a major amendment or a legislative amendment pursuant to Metro Code Chapter 3.01 shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular this Title 11. The comprehensive plan provisions shall be fully coordinated with all other applicable plans. The comprehensive plan provisions shall contain an urban growth plan diagram and policies that demonstrate compliance with the RUGGO, including the Metro Council adopted 2040 Growth Concept design types. Comprehensive plan amendments shall include:

A. Specific plan designation boundaries derived from the general boundaries of design type designations assigned by the Council in the ordinance adding the territory to the UGB.

Narrative Response:

See Page 34 of the submitted Narrative (Exhibit "B").

Staff Response:

The proposed specific plan designation boundaries are in keeping with the "Mixed Employment" general boundary for this design type, as illustrated within the excerpt of the Damascus-Boring Concept Plan (within Exhibit 2). Therefore, this criterion has been satisfied by the proposed amendments.

B. Provision for annexation of the district and to a city or any necessary service districts prior to urbanization of the territory or incorporation of a city or necessary service districts to provide all urban services.

Narrative Response:

See Page 34 of the submitted Narrative (Exhibit "B").

Staff Response:

As observed, 10 of the 15 subject properties have annexed within the City of Happy Valley, and prior to development approval, shall be required to annex to within any pertinent service provider boundaries. Urban zoning and services are not allowed per the auspices of the City's Comprehensive Plan and Development Code to any properties that are without the city limits. Therefore, this criterion has been satisfied by the proposed amendments.

[...]

F. Provision for sufficient commercial and industrial development for the needs of the area to be developed consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency.

Narrative Response:

See Page 35 of the submitted Narrative (Exhibit "B") and Pages 2-3 (including referenced Exhibit 2) of the Supplemental Letter and Exhibits dated May 5, 2008 (Exhibit "C").

Staff Response:

As observed, the application of the proposed RC-ME district to the greater subject area will implement the planned "Mixed Employment" designation of the Damascus-Boring Concept Plan, and thus, will aid in the provision of sufficient commercial and industrial development needs for this area. In addition, nearby commercial and industrial zoning exists along and near the Hwy. 212/224 corridor and is further planned to exist east and northeast of the greater subject area in the City's current planning effort known as the East Happy Valley Comprehensive Plan for a total of approximately 455 acres designated either "Employment Center" or "Industrial Campus" and projected to accommodate 8,383 potential employees. Therefore, this criterion has been satisfied by the proposed amendments.

G. A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan, and that is also consistent with the protection of natural resources, either identified and acknowledged comprehensive plan inventories or as required by Title 3 of the Urban Growth Management Functional Plan. The Plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.

Narrative Response:

See Page 35 of the submitted Narrative (Exhibit "B") and Pages 3-5 (including referenced Exhibit 3) of the Supplemental Letter and Exhibits dated May 5, 2008 (Exhibit "C").

Staff Response:

A conceptual transportation plan that is based on the City's adopted Transportation System Plan (TSP) is included within Exhibit "C". The City's TSP is consistent with applicable provisions of the Regional Transportation Plan (RTP); Title 6 of the Urban Growth Management Functional Plan; is required by the City's Development Code to conform with Title 3 natural resource

restrictions and protective regulations; and, provides preliminary cost estimates and funding strategies and approaches for the greater TSP area in conjunction with the City's Joint Capital Improvement Plan (CIP) shared with Clackamas County. Therefore, this criterion has been satisfied by the proposed amendments.

H. *Identification and mapping of areas to be protected from development due to Fish and Wildlife Habitat Protection, Water Quality Enhancement and Mitigation, and Natural Hazards Mitigation, including without limitation, all Habit Conservation Areas, Water Quality Resource Areas, and Flood Management Areas. A natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas, and natural hazard areas shall be completed as part of the Comprehensive Plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The Plan shall include zoning strategies to avoid and minimize the conflicts between planned future development and the protection of habitat conservation areas, water quality resource areas, flood management areas, and other natural hazard areas. The Plan shall also include a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, and easement dedication to ensure that all significant natural resources are protected.*

Narrative Response:

See Page 36 of the submitted Narrative (Exhibit "B").

Staff Response:

All natural resource and hazard areas are protected "prior to urban development" by the provisions of the City's Comprehensive Plan and Development Code married to the provisions of the proposed RC-ME district. Currently, said provisions include protection of hazard areas including floodplains, and Title-3 compliant protection of wetlands and riparian corridors. In addition, the provisions of the proposed RC-ME zoning district provide for Concept Master Plan and Detailed Phasing Plan requirements (and for areas less than 10 acres in size, Design Review provisions) that in turn require compliance with the City's natural resource and hazard protection regulations, which are in turn tied to all pertinent protective regulations of Clackamas County WES; Oregon Division of State Lands; U.S. Army Corps of Engineers; NOAA's National Marine Fisheries Service, etc. Therefore, this criterion has been satisfied by the proposed amendments.

I. *A conceptual public facilities and services plan for the provision of sanitary sewer, water, storm drainage, transportation, parks and police and fire protection. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.*

Narrative Response:

See Page 36 of the submitted Narrative (Exhibit "B").

Staff Response:

Public facilities and service plans exist in the form of Master Plans; rules and regulations; and, implementing ordinances, administered and adopted by the City's service providers (i.e. Sewer Master Plan, Water Master Plan, Parks Master Plan, etc.) These plans and regulatory provisions provide the basic premises upon which future development applications within the greater subject area shall be evaluated, along with all costs, funding strategies, etc. Therefore, this criterion has been satisfied by the proposed amendments.

[...]

K. An urban growth diagram for the designated planning area showing at least, the following, when applicable.

1. *General locations of arterial, collector and essential local streets and connections and necessary public facilities such as sanitary sewer, storm sewer and water to demonstrate that the area can be served;*
2. *Location of steep slopes and unbuildable lands including but not limited to wetlands, floodplains and riparian areas;*
3. *Location of Habitat Conservation Areas:*
4. *General locations for mixed use areas, commercial and industrial land;*
5. *General locations for single and multi-family housing;*
6. *General locations for public open space, plazas, and neighborhood centers; and*
7. *General locations or alternative locations for any needed school, park or fire hall sites.*

Narrative Response:

See Page 37 of the submitted Narrative (Exhibit "B").

Staff Response:

The applicable mapping/diagramming is found within three key illustrations: the illustration demonstrating the total number of properties to be encumbered with the proposed RC-ME zoning district; the Damascus-Boring Concept Plan excerpt (which includes "transition" and "conservation" areas); and, the submitted Transportation System Assessment illustrations (see Exhibits 2 and 3A). Therefore, this criterion has been satisfied by the proposed amendments.

[...]

M. The plan amendments shall be coordinated among the city, county, school district and other service districts."

Narrative Response:

See Page 37 of the submitted Narrative (Exhibit "B").

Staff Response:

The proposed plan amendments shall be coordinated with all applicable service providers. Therefore, this criterion has been satisfied by the proposed amendments.

4. The following Goals and Policies from the City of Happy Valley Comprehensive Plan are applicable to this request:

NOTE: Providence has submitted a Narrative (Exhibit "B") that addresses the Objectives and numerous Policies from the City's Comprehensive Plan. However, a number of these Policies have been slightly amended or re-organized and are incorrectly quoted within the submitted Narrative. Staff has included a proposed list of applicable Comprehensive Plan Policies, below.

"Goal #14 – To provide for an orderly and efficient transition from rural to urban land use.

[...]

Policy 4: To insure orderly development in the City of Happy Valley through formulation of growth management policies and guidelines which will determine that development can occur only when adequate levels of services and facilities are or will be available.

Policy 5: To encourage controlled development while maintaining and enhancing the physical resources which make Happy Valley a desirable place to live.

Narrative Response:

See Page 25 of the submitted Narrative (Exhibit "B").

Staff Response:

The City of Happy Valley ensures that "orderly and controlled development" occurs through the continuous and ongoing development of growth management policies and guidelines, primarily through the auspices of the City's Comprehensive Plan Policies and Development Code

regulations. In regard to this application, a new Comprehensive Plan Policy (No. 55A) and implementing zoning district (RC-ME) are proposed, which will further facilitate "orderly and controlled development" while providing opportunities to maintain and enhance the physical resources of the City. Said regulations, combined with the requirements of the City's urban service providers (Clackamas County DTD, CCFD#1, CCSD#1, Sunrise Water, etc.) ensure that development must provide adequate levels of service and facilities prior to development, which are further implemented within the Concept Master Plan and subsequent Phasing Plans found within the proposed RC-ME zoning district (or alternatively, individual Design Review applications). Therefore, these criteria are satisfied by the proposed amendments.

[...]
Goal 7 – To protect life and property from natural disasters and hazards.
[...]
Policy 10. *Prohibit development in identified natural drainage-ways, floodplains and wetlands. Development in these areas will be limited to open space, recreation or other appropriate uses which minimize the potential loss of life or other property. Ordinances will be written to comply with federal and state regulations.*

Narrative Response:

See Page 25 of the submitted Narrative (Exhibit "B").

Staff Response:

The proposed development and application of the RC-ME zoning district will facilitate eventual development applications within the approximately 146-acre subject area that will be required by existing Development Code regulations to comply with current restrictions on development affecting drainageways, floodplains and wetlands. Therefore, this criterion is satisfied by the proposed amendments.

[...]
Policy 13: *Development which increases runoff and erosion, or which has the potential for undermining downhill development through significant increases in runoff will be restricted.*

[...]
Policy 15. *Engineering studies by private developers, the City and other government agencies for sites proposed for development within areas of suspected or known hazards and compliance with appropriate chapters of the adopted Uniform Building Code and applicable sections of the Happy Valley Land Development Ordinance, are required.*

Narrative Response:

See Pages 25-26 of the submitted Narrative (Exhibit "B").

Staff Response:

The proposed development and application of the RC-ME zoning district will facilitate eventual development applications within the approximately 146-acre subject area that will be required by existing Development Code regulations to comply with current restrictions on development affecting runoff and erosion, including applicable service provider requirements, including those of CCSD#1 and Oregon DEQ. In addition, no known hazard areas exist within the greater subject area. Therefore, these criteria are satisfied by the proposed amendments.

Goal 5: *To conserve and protect natural and scenic resources.*

[...]

Policy 21: *Maintain relationship of open space to permitted development in order to preserve the character of the natural setting and to provide for recreation and visual relief from development.*

[...]

Policy 28: *Conserve the area's unique natural resources through their inclusion in the overall Land Use Plan in a manner which considers surrounding uses and provides a continuity of open space character and natural features, throughout the City.*

[...]

Policy 35: *Maintain riparian vegetation and avoid degradation of natural features adjacent to drainage channels and conservation easements to minimize runoff and erosion affecting water quality.*

Narrative Response:

See Page 26 of the submitted Narrative (Exhibit "B").

Staff Response:

The proposed development and application of the RC-ME zoning district will facilitate eventual development applications within the approximately 146-acre subject area that will be required by existing Development Code regulations to comply with current restrictions on development affecting natural resources, runoff and erosion, including applicable service provider requirements, including those of CCSD#1 and Oregon DEQ. In addition, the provisions of the proposed RC-ME zoning district include minimum landscape/open space requirements providing

for the maintenance of natural areas in regard to development, as well as providing recreation and visual relief from the future development. Therefore, these criteria are satisfied by the proposed amendments.

[...]
Goal #2 – To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

[...]
Policy 48: *The Land Development Ordinance will be revised to comply with the Comprehensive Plan to allow for changes over time as the City goals and policies change.*

Narrative Response:

See Page 27 of the submitted Narrative (Exhibit "B").

Staff Response:

The subject request demonstrates the implementation of this Policy. A new Comprehensive Plan Policy (No. 55A) is proposed to reflect the RC-ME Comprehensive Plan, and is in turn implemented by the proposed changes to the Development Code. Therefore, this criterion is satisfied by the proposed amendments.

[...]
Policy 50: *To locate land uses so as to take advantage of existing systems and physical features, to minimize development cost and to achieve compatibility and to avoid conflicts between adjoining uses.*

Narrative Response:

See Page 27 of the submitted Narrative (Exhibit "B") – listed as Policy No. 47.

Staff Response:

The proposed RC-ME zoning district, if applied to the approximately 146-acre subject area, will take advantage of existing systems such as the transportation system provided by Hwy. 212 and the improvement of 162nd Avenue, coupled with the planned construction of Rock Creek Blvd. connecting to 172nd Avenue. In addition, the separation and buffering provided by Rock Creek to the west, the un-named tributary of Rock Creek to the north, and these significant rights-of-

way provide compatibility and avoid conflicts between adjoining uses and planned employment, parks and school uses. Therefore, this criterion is satisfied by the proposed amendments.

[...]
Goal #9 – To diversify and improve the economy of the state.
[...]
Policy 55: *To improve the economy of Happy Valley by providing a range of land use types including variety of commercial and employment districts [...]*

Policy 60: *To encourage compatible residential, commercial and light industrial development in Happy Valley that will provide jobs. The City supports the development of commercial and employment uses in Rock Creek (including the Rock Creek Employment Area) and in other areas, subject to design standards.*

Narrative Response:

Not addressed within the submitted Narrative (Exhibit "B").

Staff Response:

The proposed RC-ME zoning district, if applied to the approximately 146-acre subject area, will improve the economy of Happy Valley by providing for a land use type that allows commercial and employment development, thereby providing jobs, tax revenue, etc. Therefore, these criteria are satisfied by the proposed amendments.

[...]
Goal #11 *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for the planned growth and ultimately for full urban development of the City.*
[...]
Policy 74: *To require new developments to provide Level 1 public facilities and services which are consistent with the Leveled Growth Management section of this Plan and are required by City Ordinances.*

Narrative Response:

See Pages 27-28 of the submitted Narrative (Exhibit "B").

Staff Response:

Although the subject request does not propose "new development" it will provide the opportunity for submittal of future land use development applications. Level 1 public facilities

and services include water, sanitary sewer, storm drainage, fire protection, and streets. All Level 1 public facilities and services are either available to serve the greater subject area, or will be required to be extended to serve development within the subject area. Water service will be provided by the Sunrise Water Authority; sanitary sewer and storm drainage service will be provided by CCSD#1; fire protection will be provided by CCFD#1; and, the streets will be public and will be designed to either City of Happy Valley or ODOT Design Standards. Therefore, this criterion is satisfied by the proposed amendments.

[...]

Policy 85: *To require new developments to limit storm drainage runoff outside project boundaries or provide a storm drainage and collection system within the project in compliance with the City's Storm Drainage Ordinance.*

Policy 86: *Until the City's Facilities Plan is completed and the economic analysis and assessment policies are formulated by Clackamas County Service District #1, the City shall evaluate on a case by case basis those P.U.D's ., subdivisions, land partitions or building permit applications which can be provided with sewer service from existing sewer lines adjacent to the City. Their approval during this interim period shall be based on the provisions of the City's Land Development Ordinance, Growth Management Policies, and agreements for the payment of anticipated public facilities assessments.*

Narrative Response:

See Page 28 of the submitted Narrative (Exhibit "B").

Staff Response:

Although the subject request does not propose "new development" it will provide the opportunity for submittal of future land use development applications. Said applications will require storm drainage runoff and sewer service to be compliant City regulations, including CCSD#1 requirements. Therefore, these criteria are satisfied by the proposed amendments.

[...]

Policy 99: *Any and all development within the city shall be subject to participation in the provision of Level 2 facilities and services which are essential to the development of the City as a whole, and shall include:*

- *schools*
- *police protection*
- *parks and recreation*
- *public transit*

- *vector control*
- *city administrative services*

However, per the requirements of ORS 195.110(11) - notwithstanding any other provision of state or local law, school capacity shall not be the sole basis for the approval or denial of any residential development application, unless the application involves changes to the local government comprehensive plan or land use regulations.

Narrative Response:

See Pages 28-29 of the submitted Narrative (Exhibit "B").

Staff Response:

Although the subject request does not propose "new development" it will provide the opportunity for submittal of future land use development applications. Said applications will require the provision of Level 2 facilities. Therefore, this criterion is satisfied by the proposed amendments.

Policy 100: *The funding of improvements, extension of construction Level 1 facilities and services within the incorporated limits of the city shall be the responsibility of those whose land use activities caused such improvement, extension or construction to become necessary. Funding sources may include but are not limited to creation of a local improvement district (LID); outside funding or grants in aid; direct source payment with or without agreement for future reimbursement by other property owners who may utilize the facility or service; other sources as may be identified.*

Narrative Response:

See Page 29 of the submitted Narrative (Exhibit "B").

Staff Response:

As observed, Level 1 facilities and services either exist adjacent to the subject area frontage or will be provided by future development applications. Said future improvements are required to be designed by a licensed engineer, constructed by a licensed contractor, and paid for by a developer. The improvements are required to be in substantial conformance with the information provided within the Concept Master Plan and/or per future Design Review applications. Therefore, this criterion is satisfied by the proposed amendments.

[...]

Policy 102: *When, as the coordinator of land use activities and service provision to development areas, the City must make determinations regarding fulfillment of the Growth Management Policies and Procedures, the City shall consider recommendations provided by service providers and other affected agencies, including but not limited to the following:*

Clackamas County Service District No. 1 (CCSD#1)
Sunrise Water Authority
Clackamas County Fire District No. 1 (CCFD#1)
Clackamas County, Department of Transportation and Development
North Clackamas School District No. 12
North Clackamas Parks & Recreation District
Tri-Met
City of Portland
City of Gresham
City of Damascus

Any determination shall be within the parameters of the providers' or agency's own standards, criteria, requirements or plans. The service providers' decision shall be treated as a rebuttable presumption as to the ability of that provider to provide an acceptable level of service. However, the evidence that can rebut said decision must be compelling evidence based upon objective data and the agencies' standards-criteria-requirement or plans in order to controvert the determination of the service provided.

Narrative Response:

See Pages 29-30 of the submitted Narrative (Exhibit "B").

Staff Response:

All service providers have been contacted and coordinated with by the City of Happy Valley, this list of which has been augmented to include the Oregon Department of Land Conservation and Development (DLCD) and the METRO, and the requirements of these service providers are incorporated within the record. Therefore, this criterion is satisfied by the proposed amendments.

Policy 103: *No development of any properties shall be permitted which will interfere or prevent the extension of any Level 1 facilities or services."*

Narrative Response:

See Page 30 of the submitted Narrative (Exhibit "B").

Staff Response:

As observed, although the subject request does not propose "new development" it will provide the opportunity for submittal of future land use development applications. Said applications are not anticipated to prevent the extension of any Level 1 facilities. Therefore, this criterion is satisfied by the proposed amendments.

5. The following sections of Title 16 of the Happy Valley Municipal Code (DEVELOPMENT CODE) are applicable to this request:

"Chapter 16.40 AMENDMENTS TO THE COMPREHENSIVE PLAN, LAND USE MAP AND LAND DEVELOPMENT TITLE OF THIS CODE

[...]
16.40.020 Initiation of a plan amendment.

Any change in the text, map, or implementing ordinance of the adopted Happy Valley Comprehensive Plan may be initiated by the City, any resident of the City, property owners or authorized agent. [...]

Narrative Response:

See Page 31 of the submitted Narrative (Exhibit "B").

Staff Response:

The Comprehensive Plan Policy Amendment; Development Code Text Amendment; and, Comprehensive Plan Map Amendment/Zone Map Amendment have been posed by the City of Happy Valley in conjunction with a property owner that owns approximately 70 of the affected 146-acre subject site, with authorization by the City Council to proceed with said public-private partnership. Therefore, this criterion has been satisfied by the proposed amendments.

[...]
16.40.040 Public hearing and notice.
A. Any proposed change to the adopted Happy Valley land use regulations shall follow the stated scheduling, notification and procedure.
1. Process. The first evidentiary hearing shall occur before the planning commission, who may make a recommendation to the city council to approve, approve with

conditions, or deny subject requests. The city council shall be the final local review authority, and shall decide to approve, approve with conditions, or deny subject requests.

2. Notice.

a. All affected governmental agencies shall be notified by mail. Failure to receive such notices shall not invalidate the application, public hearing or other proceedings.

b. Continued hearings may be held on any application without giving further notice as outlined above, provided that the date and time of additional or continued hearings are given during the first public hearing or subsequent hearing on the subject preceding the additional or continued hearing.

c. Notice of all non-site-specific proposed plan text, map or implementing ordinance amendments shall be provided pursuant to the city charter and applicable state statutes.

B. Any proposed annexation to the city via an expedited process shall follow the stated scheduling, notification and procedure.

1. Process. Expedited annexations shall be processed as an ordinance per chapter eight of the city's Charter, effective January 1, 2001. The final decision shall occur before the city council. The city council shall be the only local review authority, and shall decide to approve, approve with conditions, or deny subject requests.

2. Notice.

a. All interested and necessary parties, as defined by the Metro Code Section 3.09.020, shall be notified by mail. Failure to receive such notices shall not invalidate the application, final decision or other proceedings.

b. Continued hearings may be held on any application without giving further notice as outlined above, provided that the date and time of additional or continued hearings are given during the first public hearing or subsequent hearing on the subject preceding the additional or continued hearing.

Narrative Response:

See Page 34 of the submitted Narrative (Exhibit "B").

Staff Response:

The processes and notice described within this section have been followed by the City, including the provision of Measure 56-compliant notice. Therefore, these criteria are satisfied by the proposed amendments.

Section 16.40.041 Review criteria.

A. The proposed amendment is consistent with and promotes applicable Goals and Policies of the Comprehensive Plan of the city;

Narrative Response:

See Pages 31-32 of the submitted Narrative (Exhibit "B").

Staff Response:

See the staff response to the applicable Goals and Policies of the Comprehensive Plan, above. As addressed within the record, this criterion is satisfied by the proposed amendments.

B. There is a demonstrated public need for a change of the specific type proposed;

Narrative Response:

See Pages 32-33 of the submitted Narrative (Exhibit "B").

Staff Response:

The need for a Metro Title 4-compliant "Employment" zoning district was established during the Damascus-Boring Concept Plan process, in which population and employment projections were applied to the greater approximately 2,500-acre planning area to determine the amount, type and location of various zoning districts to meet the projected needs analysis. The proposed Rock Creek Mixed Employment Comprehensive Plan provides a legislative land use means to implement the Damascus-Boring Concept Plan designation of "Mixed Employment." Therefore, this criterion is satisfied by the proposed amendments.

C. That need will be best served by the amendment as proposed as compared with other alternatives;

Narrative Response:

See Page 33 of the submitted Narrative (Exhibit "B").

Staff Response:

Staff interprets the language "other alternatives" in this criterion to mean that the alternatives would be to analyze other zones besides one that might implement the "Mixed Employment" designation explored in the Damascus-Boring Concept Plan. The potential for future development within the subject area requires replacing the existing County zoning (EFU) with an "Employment" zone. The proposed RC-ME zoning district will result in a range of commercial and employment uses that will facilitate employment opportunity in this geographic region, conducive with the Damascus-Boring Concept Plan and per the Title 4 requirements of the Functional Plan.

Not permitting the Comprehensive Plan Amendment/Zone Change to occur (or providing a non-employment zone) would limit the development potential of the property, would not meet employment and urbanization goals and policies adopted in the greater Happy Valley Comprehensive Plan, and would not be consistent with Metro's Regional Framework Plan and Urban Growth Management Plan for this geographic region. Therefore, this criterion is satisfied by the proposed amendments.

D. The proposed amendment is consistent with the use and implementation of growth management mechanisms and capital improvement programs of the city,

Narrative Response:

See Page 33 of the submitted Narrative (Exhibit "B").

Staff Response:

The City of Happy Valley Comprehensive Plan establishes goals and policies to guide the quantity, type, costs, timing, and quality of development within the city. The applicable growth management mechanism policies related to the proposed project include those addressed above.

Policy 97 states that the "City shall permit development on vacant buildable lands when all Level 1 facilities and services are available [including] sanitary sewer, water supply, storm drainage, fire protection, and streets and roads." Policy 99 is similar to Policy 97, although it refers to having adequate provisions for providing Level 2 services that include schools, police protection, parks and recreation, public transit, vector control, and city administrative services. Policy 102 requires city coordination with local service providers to ensure adequate services are available. Policy 102 states that the "city shall rely on a determination provided by the service providers and other affected agencies...Any determination shall be within the parameters of the providers' or agency's own standards, criteria, requirements or plans." The availability of services and impact to Level 2 service providers has been discussed within this report, and will be further addressed within future land development applications.

Generally, the greater subject area would remain within service areas currently serving the area. This includes the Sunrise Water Authority, CCFD #1, Metro, Tri-met, etc. However, annexation into both the city limits and Clackamas County Service District #1 (CCSD #1), which is the sanitary sewer and surface water management district, will be required for all properties seeking urban development. The subject area is within an area that is included in an urban service provider agreement between CCSD #1 and the City of Happy Valley that stipulates that CCSD #1 will provide service to the territory once it is annexed into the City. Any future land use applications will be required to submit an application for annexation to CCSD #1. Preliminary discussions with CCSD #1 indicate that there is capacity to provide sanitary sewer and storm water services to the project site. Similarly, the site is presently not within a street lighting

district. Therefore, any future land use applications will be required to annex into Clackamas County Service District #5, which will provide street lighting for the area.

Parcels outside of the city are currently without the North Clackamas Park District #2; when annexed, the parcels would become part of the Parks District, and are required to "de-annex" from the County Enhanced Law Enforcement District. Upon development/building permit issuance, parcels within the subject area would participate in park funding through payment of the City's Park System Development Charge (SDC).

The most likely impacts on Level 1 service providers would be providing adequate water supply, storm water, and wastewater collection and treatment. Discussions with local service providers and review of existing available utilities indicate that they would have adequate capacity to service potential commercial and employment development if the parcels are rezoned and remaining un-annexed properties annexed into the City. Finally, streets within the greater subject area are governed by the City's Transportation System Plan and Joint CIP with Clackamas County, including design standards, SDC payments, and any eligible SDC credits. If the subject requests are approved, future commercial development would meet local development standards set forth by the City and local service providers. Therefore, this criterion is satisfied by the proposed amendments.

E. The proposed amendment can be implemented by this land development title and all other appropriate codes, ordinances and regulations. The applicant bears the entire burden of proof of establishing to the planning commission that the proposed amendment meets the above requirements. This burden of proof shall also apply to the city if it initiates a proposed amendment.

Narrative Response:

See Page 33 of the submitted Narrative (Exhibit "B").

Staff Response:

As observed, the proposed RC-ME zoning district plan will require future land development application approvals, which will require conformance with all applicable requirements of the codes, ordinances and regulations of the City of Happy Valley. In addition, the City has initiated the proposed Comprehensive Plan Map Amendment/Zone Change, and though in a public-private partnership with Providence, has met the burden of proof of establishing to the Planning Commission that the proposed amendments meet all applicable criteria. Therefore, this criterion is satisfied by the proposed amendments.

G.[1] When an application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. If a Master Plan that requires a full traffic impact analysis is required for a comprehensive plan map amendment/zone change area, a subsequent Master Plan may satisfy this provision, as determined by the City of Happy Valley community development director or designee."
Narrative Response:

See Page 33 of the submitted Narrative (Exhibit "B").

Staff Response:

The proposed provisions within the RC-ME zoning district require subsequent Master Plan(s) that are required to satisfy this provision. Therefore, this criterion is satisfied by the proposed amendments.

[...]
16.40.090 Amendments to the land development code.

An amendment to any chapter or section of this title for the purpose of adding or deleting words or subjects, broadening or narrowing scope, providing direction, clarification or improvement of the development code may be initiated by any person or persons, including the city itself. The procedure for such action and the criteria for approval or denial of such action shall be in accordance with Sections 16.40.030, 16.40.040, 16.40.050 and 16.40.060 of this chapter."

Narrative Response:

Not addressed within the submitted Narrative (Exhibit "B").

Staff Response:

The amendments to the City's Development Code have been proposed by the City of Happy Valley in conjunction with a public-private partnership with Providence and satisfy the listed approval criteria. Therefore, this criterion is satisfied by the proposed amendments.

[1] A codification error exists within the City's Development Code, which has resulted in the incorrect lettering from this section. As quoted, Letter "G" should correctly be labeled as Letter "F". Staff is in the process of correcting this oversight.

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February 22, 2008

VIA MESSENGER

Mr. Jason A. Tuck
Economic and Community Development Director
City of Happy Valley
12915 S.E. King Road
Happy Valley, OR 97236-6298

Re: Implementation of Damascus-Boring Concept Plan for Rock Creek Mixed Employment Area

Dear Mr. Tuck:

This office represents the applicant, Providence Health System-Oregon. Please find enclosed the following:

- A completed City of Happy Valley Land Use Application form. The form is signed by the applicant.
- Twenty (20) 11" x 17" copies and one (1) 8-1/2" x 11" copy of the conceptual development plan.
- Twenty (20) 11" x 17" copies and one (1) 8-1/2" x 11" copy of the site plan.
- Four (4) hard copies of the application narrative addressing the applicable approval criteria, including applicable Statewide Planning Goals, applicable City of Happy Valley Comprehensive Plan Policies, applicable Happy Valley Development Code regulations, applicable Oregon Administrate Rules and applicable Metro Functional Plan provisions. I have also enclosed a disc for your use. I will provide additional copies once the City deems the application complete.

EXHIBIT # 11 B"

- A traffic impact analysis ("TIA") is not included pursuant to Happy Valley Land Development Ordinance 16.40.041(G). The application does include a June 5, 2006 "Transportation System Assessment" from Todd Mobley of Lancaster Engineering.

- A vicinity map.

- Notice map and notice labels for a 300' radius from the area boundary.

- A check made payable to the City of Happy Valley in the amount of $7,300 as the applicable fee has been received by the City.

Please provide copies of all notices of public hearings, staff reports and official City correspondence and correspondence received by the City concerning this application to me at the above address.

We look forward to working with you on this application.

Very truly yours,

Michael C. Robinson

MCR:lt

Enclosures

cc: Ms. Dana White (w/encls.) (via email)
Ms. Beverly Bookin (w/encls.) (via email)
Mr. Todd Mobley (w/encls.) (via email)

BEFORE THE CITY OF HAPPY VALLEY, OREGON
PLANNING COMMISSION AND CITY COUNCIL

In the Matter of The Implementation of the Damascus-Boring Concept Plan on 145 Acres Designated "Employment" on the Concept Plan (the "Rock Creek Employment Area") and Located North of Oregon Highway 212 and West of SE 162nd Avenue	))))))	**FINDINGS OF FACT AND CONCLUSIONS OF LAW ADDRESSING APPLICABLE APPROVAL CRITERIA**

I. SUMMARY OF PROPOSAL.

1. Overview.

This legislative application proposes text amendments to the City of Happy Valley (the "City") Comprehensive Plan (the "Plan") and the Happy Valley Land Development Ordinance ("LDO") to establish the Rock Creek Mixed Employment ("RC-ME") zoning district (the "District") and an amendment to the City's acknowledged combined Plan and zoning map to implement the District and designations in the Rock Creek Riparian Area. The purpose of the District is to provide for a mix of land uses that provide stable, family-wage employment within the City. Permitted uses include offices, creative arts, small-scale manufacturing, research and development and medical centers. Commercial uses are limited to those serving the primary uses in the District.

The District is intended to be applied only to the Rock Creek Employment Area (the "Area") which is located west of SE 162nd Avenue, north of Highway 212 and generally east of Rock Creek. This geographical area consists of 17 tax lots on 145 acres. **(Exhibit 1)** This area was included in the Damascus/Boring Concept Plan (the "Concept Plan"). **(Exhibit 2)**. The Metro Council accepted the Concept Plan on March 16, 2006. Metro's acceptance of the Plan acknowledges that it meets the intent of Metro's Title 11 planning requirements, enabling the City to proceed with Plan and land use regulation implementation for the Area. The Area is adjacent to Rock Creek. **(Exhibit 3)**.

2. Applicable Approval Criteria.

This application is subject to the following applicable review criteria:

A. Oregon Statewide Planning Goals (the "Goals") 1, 2, 5, 6, 9, 11, 12 and 13.
B. Oregon Administrative Rules ("OAR"), Chapter 660, Divisions 9, 11 and 12 (implementing Goals 9, 11 and 12, respectively).
C. Metropolitan Service District Urban Growth Management Functional Plan, Chapter 3.07, Titles 3 and 4.
D. City of Happy Valley Comprehensive Plan, Applicable Goals and Policies.

E. City of Happy Valley Land Development Ordinance Chapter 16.40, "Amendments to the Comprehensive Plan, Land Use Map and Land Development Title."

3. Background.

The creation of the District has been the subject of two major previous planning processes as summarized below.

a. Damascus-Boring Concept Plan, November 29, 2005.

The subject area for which the District is developed was included in the Damascus/Boring Concept Plan area. The Concept Plan mapped the area as "Mixed Employment" in addition to protecting the natural resources such as Rock Creek that will continue to be protected under this zoning designation. The Concept Plan also removed the Regionally Significant Industrial Area ("RSIA") designation from the portion of the Area west of 162nd Avenue, allowing for a broader mix of employment uses. The range of uses proposed for the District is consistent with this Mixed Employment designation.

b. Report on the Rock Creek Employment Area Study, Clackamas County Department of Transportation and Development, September 2004. This report contains a number of studies and findings that supported the creation of family-wage jobs in the area.

II. PROPOSALS.

1. Proposed Comprehensive Plan Text Amendment Language.

The following text is proposed to be added to the City of Happy Valley Comprehensive Plan. The purpose of the amendment is to establish the basis for the District. ORS 197.175(2)(a) and (b).

"Rock Creek Employment District.

The Rock Creek Employment District is an approximately 145-acre area located generally northwest of the intersection of Oregon Highway 224 and SE 162nd Avenue. The Area has historically been zoned Exclusive Farm Use ("EFU") pursuant to Clackamas County's acknowledged comprehensive plan and land use regulations while it was outside of the Portland Metropolitan Urban Growth Boundary ("UGB"). This area is subject to the Damascus-Boring Concept Plan required by the site's 2002 inclusion within the UGB. The Concept Plan, approved by Metro and the Happy Valley City Council, established that this area will be an Employment Area implementing Metro Functional Plan Title 4, "Industrial and Other Employment Areas." The site is not, however, subject to the Industrial restrictions contained in Title 4 nor the Regionally Significant Industrial Area restrictions.

In order to implement the Concept Plan vision for this site, the City shall establish a Rock Creek Mixed Employment ("RC-ME") zoning district consistent with applicable provisions of the Happy Valley Comprehensive Plan and the Metro

Functional Plan providing for a variety of employment-generating uses. The City shall implement the District by designating the area with a Rock Creek Mixed Employment comprehensive plan map and zoning map designation.

The City acknowledges that the area's transportation infrastructure must be improved to accommodate the proposed uses. Accordingly, the implementing zoning ordinance text and map amendments shall include requirements that the area not be developed until there are adequate transportation facilities for proposed uses as determined by the requirements of the Oregon Transportation Planning Rule found in OAR 660-012-0060(1)-(3) and Statewide Planning Goal 12, 'Transportation" and consistent with Happy Valley Land Development Ordinance 16.40.041.G."

2. Proposed LDO Text Amendment Language.

The language on the following pages under the heading "Proposed Regulations for the RC-ME Zoning District" is proposed to be added to the Land Development Ordinance ("LDO").

PROPOSED REGULATIONS FOR THE RC-ME ZONING DISTRICT

"Section 16.XX.010 Purpose. The Rock Creek Mixed Employment (RC-ME) district permits land uses with high job densities that provide stable, family-wage employment within the City. This zone provides a mix of uses that are compatible with nearby residential uses and provide a buffer between residential and industrial areas. Permitted uses in the Rock Creek Mixed Employment Zone include office, creative arts, small-scale manufacturing, research and development, and medical centers. Commercial uses are limited to those serving the primary uses of the district. This purpose statement is not an approval criterion.

Section 16.XX.020 Uses.

A. **Permitted Uses. The following uses[1] are permitted in the RC-ME district subject to Master Plan provisions in Section 16.XX.100.**
   1. **Basic Utilities**
   2. **Colleges[A]**
   3. **Day Care**
   4. **Medical Centers**
   5. **Trails**
   6. **Postal Service[B]**
   7. **Eating/Drinking Establishments[C]**
   8. **Retail — Sales Oriented**
   9. **Retail — Personal Services[D]**
   10. **General Office**
   11. **Medical Office**

[1] Definitions of these uses are set forth in Appendix A.

12. Light Industrial[E]
13. Research and Development
14. Energy Recovery Systems
15. Rail Lines/Utility Corridors

[A] Use limited to public and non-profit institutions providing technology, health sciences or creative arts education and job training. No dormitories permitted.

[B] No fleet parking or mail processing center permitted; limited to direct-consumer services.

[C] No drive-through facilities permitted.

[D] Maximum building size of 20,000 gsf.

[E] No outdoor storage or outdoor fleet parking permitted.

B. Conditional Uses. The following uses are permitted conditionally in the RC-ME district subject to Master Plan provisions in Section 16.XX.100 and subject to concurrent conditional use review according to the process and approval criteria set forth in Chapter 16.16.220.

1. Emergency Services
2. Heliports
3. Wireless Communication Facilities[F]

[F] Subject to the requirements of Chapter 16.59, Wireless Communications Facilities.

Section 16.XX.030 Accessory Structures.

A. Accessory Structures. Accessory structures are permitted providing that the site is still in compliance with all development standards, including but not limited to setbacks, height and landscaping requirements of this zone. All accessory structures shall comply with all requirements of the Oregon Residential Specialty Code. All accessory structures except those less than 200 square feet in size and less than 10 feet in height as measured from the finished floor to the average height of the roof structure require a building permit.

B. Wireless Communication Facilities. All freestanding and detached towers, antennas, wind-generating devices and TV receiving dishes, except as otherwise regulated by Wireless Communication Facilities (Chapter 16.59) shall have setbacks equal to or greater than the height of the proposed structure. Suitable anti-climb fencing and a landscaped planting screen, in accordance with Section 16.20.110, Fencing and Screening, shall be provided and maintained around these structures and accessory attachments.

Section 16.XX.040 Master Plan Required. Within the RC-ME district, the City seeks to achieve a mix of uses that will provide high densities of employment in the area. This district encourages creative development patterns that achieve these densities in a well-planned, urban environment. Development on sites of ten acres or larger shall require preparation of a master plan pursuant to Section 16.XX.100 of this Chapter. On sites smaller than ten acres, the preparation of a master plan pursuant to Section 16.XX.100

shall be optional. However, should a master plan pursuant to Section 16.XX.100 not be prepared, the development shall be subject to Design Review pursuant to Chapter 16.16.32. As part of the Design Review application, the applicant shall provide a traffic impact analysis (TIA) as required by the City Engineer. The traffic impact analysis also shall be consistent with the requirements of OAR 660-012-0060(1)-(3). No development shall be allowed prior to this analysis.

Section 16.XX.050 Development Standards.

A. Compliance Required. All of the applicable development standards contained in the underlying zoning district, except where the applicant has obtained variances pursuant to Chapter 16.28, Variances, or adjustments in accordance with the RC-ME Master Plan process described below in Section 16.XX.150 (A)(1)(c).

B. Development Standards. Development in the RC-ME district shall comply with all of the development standards in the table below and all other applicable standards in this title, except as modified through the RC-ME Master Plan provisions below in Section 16.XX.100.

TABLE 1: RC-ME DEVELOPMENT STANDARDS

STANDARD	RC-ME ZONE
Minimum lot size	1 Acre[A]
Minimum lot width	100'
Minimum lot depth	100'
Minimum/Maximum FAR	Maximum of 2.0 unless increased through a Master Plan
Minimum Setbacks	
• Abutting Rock Creek	Minimum setback subject to requirements of Section 16.16.450, Water Quality Resource Areas, as supplemented by CCSD#1 regulations.
• Front and Side facing street on corner and through lots	No minimum setback except for 50 ft. from SE 162nd Avenue and Highway 212.
• Side/Rear yard	No minimum setback shall be required, subject to applicable building codes, except 50 ft when the zone abuts a residential zoning district.
Maximum height	Establish through Master Plan except for a maximum height of 70' within 100' of an abutting residential district.
Minimum Landscape/Open Space or Open Space	15% of net site area shall be landscaped. Up to 1 /3 of the required landscaped area may be used for active or passive recreational use or pedestrians. Examples include walkways, play areas, plazas, picnic areas, water quality facilities, open

	recreational facilities and natural existing landscaping.

A **Legal lots of record of less than one acre created prior to the adoption of these regulations shall be conforming for purposes of development.**

SECTION 16.XX.100 RC-ME MASTER PLAN

Section 16.XX.110[2] Purpose. The purpose of the Master Plan is to provide the vehicle for large-scale, multi-phased developments to obtain approval of several projects at one time. The Master Plan allows the City to evaluate the cumulative impacts associated with the full-build out of larger developments, ensure that the impacts of such development are mitigated to the extent practicable and coordinate the provision of future infrastructure.
Section 16.XX.120 Applicability. These provisions shall apply to all development on parcels ten acres in size or larger within the RC-ME district and may be used voluntarily for parcels smaller than ten acres.
Section 16.XX.130 Components of Master Plans.

A. Concept Master Plan. A proposed plan for development of the site at full build-out of the concept plan that contains the approximate building envelopes by use within a conceptual framework including pedestrian, bicycle and vehicular circulation, open space/natural resource and on-site utility plans. The concept plan also includes minimum and maximum development standards; architectural, landscaping and pedestrian design standards; building and landscaping materials lists; and other information that will illustrate planned development. The plan also shall include a phasing plan and proposed schedule of development. For each phase of development and at full build-out, the applicant shall identify the total square footage by type of use; development density; parking and traffic generation; on-site utility requirements; and required off-site capital improvements for roads and other public infrastructure. A detailed traffic impact analysis (TIA) detailing traffic volumes at each phase of development and at full build-out also shall be required.

B. Detailed Phasing Plans. At the time of development of each project or phase of development, the applicant shall then present a detailed development plan including but not limited to the maximum size, location and use of specific buildings; size and location of parking facilities; building and parking structure elevations; location and design of on-site pedestrian, bicycle and vehicle circulation; design and location of open space and natural resource protection; and detailed utility plan. The applicant also shall confirm traffic impacts for the phase originally identified in the overall TIA required at the time of the concept plan approval. The proposed development shall substantially conform to the architectural and site design standards approved in the Concept Master Plan.

[2] Numbering is simply as place-holder. Last three digits, e.g., 010, are for internal cross-references only.

Section 16.XX.140 Approval Process.

A. Initial approval. The initial approval of a Concept Master Plan shall be reviewed as a quasi-judicial action at a public hearing before the Planning Commission [Type III], pursuant to the requirements of Section 16.XX.XXX, using the approval criteria contained in Section 16.XX.150 (A) below. The request also may include a request for a use that is permitted conditionally in Section 16.XX.020 (B) subject to the requirements in Section 16.16.220. As part of the approval process for the Concept Master Plan, the Review Authority shall adopt alternative design standards for institutional development in the Rock Creek Mixed Employment area in lieu of the "Happy Valley Style" design standards that govern the design of development elsewhere in the City.

B. Detailed Phasing Plans. Prior to construction of one or more projects within a phase of development approved in the Concept Master Plan, the applicant shall submit a Detailed Development Plan that contains all of the information listed in Section 16.XXX.060(C) below, for review and approval as a quasi-judicial action by the Community Development Director [Type II], using the approval criteria in Section 16.XXX.150 (B). This review shall be undertaken in lieu of Design Review per 16.XX.XXX.

C. Concurrent review. An applicant may submit applications for initial review of the Concept Master Plan and review of the first and subsequent Detailed Phasing Plan(s) concurrently. In this case, the Detailed Phasing Plan for one or more phases of development shall be reviewed and approved at the public hearing before the Planning Commission [Type III] at which the Concept Master Plan is reviewed. The Detailed Phasing Plan shall require no further review, providing the phase is built out in a manner that is substantially consistent with that which was approved.

Section 16.XX.150 Approval Criteria.

A. Approval Criteria.

1. Concept Master Plan. To obtain an approval of a Concept Master Plan, the applicant must demonstrate compliance with all of the following approval criteria:

a. Content. The Concept Master Plan contains all of the components required in Section 16.XX.160 (A-B).

b. Compliance with all applicable standards. The proposed development and uses comply with all applicable standards of this Title, except where modifications are being approved as part of the Concept Master Plan.

c. Traffic system capacity. There is either sufficient capacity in the transportation system to support safely the development proposed in all future phases, or there will be adequate capacity by the time each phase of development is completed.

d. Availability of public services. There is either sufficient capacity within public services such as water supply, police and fire services, and sanitary waste and storm water disposal, to support adequately the development proposed in all future phases, or there will be adequate capacity available by the time each phase of development is completed.

e. Protection of designated resources. City-designated resources such as historic landmarks, significant trees and sensitive natural resources as identified on the City's Goal 5 inventories are protected and enhanced in compliance with the regulations in this and other Titles of the Municipal Code.

f. Internal design compatibility with adjacent uses. The Concept Master Plan contains building design, landscaping, parking and circulation elements that minimize conflict with adjacent uses to the greatest extent practicable.

g. Mitigation of off-site impacts. All potential off-site impacts including litter, noise, shading and glare shall be identified and mitigated to the greatest extent practicable.

2. Detailed Phasing Plans. To obtain an approval of one or more subsequent phases of development, the applicant shall demonstrate compliance with all of the following approval criteria:

a. Consistency. The proposed Detailed Phasing Plan shall be substantially consistent with the phase as approved in the Concept Master Plan.

b. Content. The proposed Detailed Phasing Plan shall contain all of the information required in Section 16.XXX.160.C below.

c. Numerical development standards. The proposed Detailed Phasing Plan shall adhere to all of the numerical development standards approved in the Concept Master Plan. However, as part of the review of a Detailed Phasing Plan, the applicant may introduce modifications necessary for a specific project or projects subject to the approval criteria contained in Section 16.XX.150.A above without the requirement for a concurrent variance, pursuant to Chapter 16.28, if the proposed modification is up to a 20% increase or decrease in the numerical standard. If the proposed modification involves a change in a numerical standard of greater than 20%, the review of the Detailed Phasing Plan shall be accompanied by a concurrent variance, pursuant to Chapter 16.28.

d. Design and non-numerical development standards. The proposed Detailed Phasing Plan shall adhere to all of the design and non-

numerical development standards approved in the Concept Master Plan. However, as part of the review of a Detailed Phasing Plan, the applicant may introduce any modifications necessary to a specific project or projects subject to the approval criteria contained in Section 16.XX.150.A.

B. Conditions of approval. In approving the initial Concept Master Plan and subsequent Detailed Phasing Plans, the appropriate Review Authority shall have the authority to impose any conditions of approval necessary to mitigate potentially adverse impacts on surrounding properties to the greatest extent practicable.

Section 16.XX.160 Concept Master Plan Components.

A. Existing Conditions. A Concept Master Plan shall provide the following information:

1. Mission statement that identifies the purposes and scope of services provided by the primary use.

2. List of proposed primary, conditional and accessory activities associated with the use.

3. Legal description of all parcels on the proposed site within the applicant's ownership or control.

4. Vicinity map that identifies abutting uses; for the purposes of these regulations, "abutting" means those properties sharing one or more property lines with the subject site.

5. Zoning map that identifies base and overlay zoning designations for the proposed site and abutting properties.

6. Site description for all property in the applicant's ownership and control including the following information provided in narrative, tabular and/or graphic formats:

a. Topography and natural resources including 100-year flood plain; drainage patterns and courses; wetlands, rivers, springs and other water bodies; significant stands of trees and individual trees with a caliper greater than 6" as measured 4' above grade; significant fish and wildlife habitat, and natural hazards such as steep slopes greater than 15% and unstable, impermeable or weak soils. The application must include a site plan with no greater than 2'-contours for slopes of 0–10% and no greater than 5'-contours for slopes greater than 10%.

b. Inventory of Goal 5 resources, including natural, cultural, historic and/or archeological resources on the site, if any.

c. **Existing building inventory including use, location and size, noting whether any existing buildings will be retained and incorporated into the final build-out of the site.**

d. **Location and size of all public and private utilities on and immediately abutting the site including water, sanitary sewer, storm water retention/treatment facilities, and electrical, telephone and data transmission lines.**

e. **Location of all public and private easements.**

7. **Detailed description of the existing roadway system within and adjacent to the site including:**

a. **Street classification of all internal and adjacent streets.**

b. **Transit service availability.**

c. **Baseline traffic impact study within the vicinity of the site prepared by a licensed civil engineer to include information as required by the City's Engineer.**

8. **Description and evaluation of capacity of existing infrastructure on and in the vicinity of the site.**

B. **Proposed Concept Master Plan.**

1. **A proposed plan for development of the site at full build-out at the conceptual level including:**

a. **Master plan boundary.**

b. **Approximate location and building envelopes by use.**

c. **Pedestrian, bicycle and vehicular circulation plan.**

d. **Open space/natural resource plan.**

e. **On-site utility plan.**

2. **Phasing plan and tentative schedule that establishes the likely order in which the site will develop. Such a phasing plan is presented with the understanding that phases may be developed out of order and that timing is approximate, for purposes of estimating roadway and public utility capacity.**

3. **Calculations for each phase and at total build-out of the following:**

a. **Gross and net acreage, with the latter including deductions for public streets, natural resource corridors and other non-private development activities.**

b. **Maximum number of employees and anticipated number of patient and related visits on typical weekday.**

c. **Maximum development area, as expressed in gross square feet.**

d. **Maximum total floor-to-area (FAR) ratio.**

e. **Maximum building coverage, as expressed in percentage of total net site area.**

f. **Minimum open space, as expressed in percentage of total net site area.**

g. **Total number of employee and visitor parking spaces required.**

4. **Minimum and maximum development standards, including but not limited to and as appropriate:**

a. **Minimum and maximum lot size.**

b. **Minimum and maximum setbacks.**

c. **Maximum height, which may vary throughout the site.**

d. **Maximum FAR at full build-out.**

e. **Maximum building coverage at full build-out.**

g. **Minimum open space requirements at full build-out.**

h. **Minimum and maximum vehicular and bicycle parking ratios by use.**

i. **Minimum number of loading bays.**

5. **Design standards including but not limited to:**

a. **Architectural design standards, including design illustrations and building materials board.**

b. **Landscaping, including design standards and standardized plant list. Native plant materials are preferred where practicable.**

c. **Pedestrian facilities, including development standards, materials and street furniture.**

d. **Bicycle parking facilities, including specifications.**

e. **Signage plan including prototypical examples, color palette and materials board.**

6. **Graphic illustrations of proposed development at full build-out including but not limited to:**

   a. **Density "block" and other three-dimensional concept studies.**

   b. **Illustrative color "typical" street perspectives that portray the proposed architectural style and urban design elements to be used throughout the development, in recognition that these are still conceptual in nature.**

7. **Goal 5 resource protection plan, if needed.**

8. **Public utility capacity analyses/infrastructure plans for each phase and total build-out, as required by the City Engineer.**

9. **Traffic impact analysis (TIA) for each phase and total build-out, as required by the City Engineer. The traffic impact analysis also shall be consistent with the requirements of OAR 660-012-0060(1)-(3) and no development shall be allowed prior to this analysis. The traffic impacts will be consistent with the function, capacity and performance standards of affected transportation facilities.**

C. **Detailed Phasing Plan of subsequent phases. The following information shall be required for each Detailed Phasing Plan:**

1. **Schedule for initiating and completing construction of phase.**

2. **Anticipated utilization at completion of the phase, including the total number of employees, daily visitors and other indicators of full utilization of the structure(s) within the phase.**

3. **Detailed description of all proposed development presented in narrative, tabular and/or graphic formats as follows:**

   a. **Description of new buildings anticipated, including size, location, approximate footprint and use.**

   b. **All other site improvements including new surface and structured parking facilities; bicycle parking facilities; on-site pedestrian, bicycle and vehicular circulation; transit stops; pedestrian/transit amenities; and open space and landscaped areas.**

   c. **The location of new and/or expanded existing public and private infrastructure including water, sanitary sewer, storm water**

retention/treatment facilities, and electrical, telephone and data transmission lines.

d. Landscaping plan.

e. Goal 5 resource protection plan, if required.

f. Sign plan.

g. Lighting plan.

h. Grading and erosion control plans.

4. Building elevations.

5. Summary of development intensity at completion of the phase including average FAR and lot coverage for the development area and for the site as a whole.

6. Calculation of minimum vehicular and bicycle parking spaces based on parking ratios established in the Concept Master Plan.

7. Reconfirmation of traffic impacts associated with completion of the phase first described in the TIA prepared for the Concept Master Plan.

8. Neighborhood communication and coordination plan to ensure that the applicant implements an on on-going process for communicating and problem resolution with neighbors.

9. Narrative that demonstrates how the Detailed Phasing Plan for the specific project or groups of projects within a phase are consistent with the phase as conceptually approved in the Concept Master Plan. If there is some aspect of the phase that does not comply, the applicant may request a Concept Master Plan modification as described in Section 16.XX.160 (A)(2)(c) and (d).

Section 16.XX.170 Vesting.

A. Applicability. A Concept Master Plan shall be reviewed under this Chapter and the zoning, development and other land use ordinances contained in the Happy Valley Municipal Code and any un-codified ordinances modifying the same, in effect on the date a Concept Master Plan is submitted. For the purposes of this section, a vested Concept Master Plan application shall mean that the applicant is entitled to implement the master plan by means of Detailed Phasing Plans of subsequent phases of development under the zoning, development and land use ordinances applied by the City in its review of the Concept Master Plan, if these phases are implemented in substantial compliance with the Concept Development Plan. An application shall be vested for the term of the Concept Master Plan as governed by 16.XX.180.

B. Vesting of infrastructure capacity. As part of the approval of the Concept Master Plan, the applicant shall agree to a list of on-site and off-site transportation and other public infrastructure needed to support each proposed phase of development and agree to pay all system development charges and other appropriate fees. In return, the City shall guarantee that it will reserve capacity on the roadway system and other public infrastructure for each proposed phase of development as of the time of approval of the Concept Master Plan and shall not impose additional infrastructure requirements or fees unless Subsection (C) below, applies.

C. Loss of vesting. The applicant shall lose its vesting for a specific Detailed Phasing Plan if it must seek changes to the proposed phase of development after its approval per Section 16.XXX.140.B of sufficient magnitude to require a quasi-judicial review by either the Community Development Director [Type II] or Planning Commission [Type III], per the requirements of post-approval modifications, pursuant to Section 16.XXX.190.D and E, respectively, but then for only the affected phase of development. In this case, the applicant will be obligated to comply with any new land use regulations in place at the time that the [Type II or Type III] post-approval modification is sought. Minor post-approval modifications that require only a minor review [Type I] pursuant to Section 16.XXX.190.C below do not result in the loss of vesting. If subsequent phases are constructed in substantial compliance with the Concept Master Plan, vested rights shall be maintained for these phases as provided in Subsection B above.

Section 16.XX.180 Term.

A. General. The term of a Concept Master Plan shall not exceed more than twenty (20) years. Extensions may be granted in accordance with the criteria and procedures provided in Subsection (B) below.

B. Extension. If not all the phases of development in the approved Concept Master Plan have been built out within the approved term, the applicant may request an extension by means of an application to the Community Development Director [Type II], using procedures contained in Section 16.XX.XXX. Two one (1)-year extension requests may be reviewed in accordance with the following criteria:

1. The applicant has pursued in good faith completing the build-out of the approved Concept Master Plan.

2. There have been no changes to the comprehensive plan, zoning ordinance, development standards or other applicable codes which are inconsistent with the approved Concept Master Plan.

3. There are no other significant changed conditions which would render the extension of the Concept Master Plan contrary to the public health, safety or general welfare.

4. **An extension request shall be filed in writing with the Community Development Director at least sixty (60) days prior to the expiration of the initial 20-year period or any subsequently approved extensions.**

Section 16.XX.190 Post-Approval Modification of a Detailed Phasing Plan.

A. **Purpose. [It is possible that the applicant may not be able to construct a phase of development exactly as it was approved in the Detailed Phasing Plan approval.] This section permits the applicant to seek post-Concept Master Plan approval changes using a review process that is determined by the magnitude of the proposed change or changes. As noted in Section 16.XXX.170C), Vesting, post-approval modifications that require a quasi-judicial review by either the Community Development Director [Type II] or Planning Commission [Type III], procedure result in a loss of vesting for that specific phase of development.**

B. **Modifications allowed by right. The following modifications are permitted by right and are allowed upon issuance of a building permit, if required:**

1. **Interior improvements.**

2. **Exterior improvements associated with existing buildings that do not involve an expansion of floor area, subject to all applicable base zone development and design standards, as modified in the approved Concept Master Plan, and relevant conditions of approval thereto.**

3. **Installation of new or modification of existing mechanical or electrical equipment, subject to all applicable base zone development and design standards, as modified in the approved Concept Master Plan, and relevant conditions of approval thereto.**

4. **Maintenance of existing facilities, when a building permit is required.**

C. **Minor decision [Type I]. The following modifications shall be reviewed by the Community Development Director, pursuant to Section 16.XX.XXX:**

1. **Modification of the location of an approved building or building addition, providing the modification complies with the development and design standards, as approved in the Concept Master Plan as modified in the applicable Detailed Phasing Plan, and all relevant conditions of approval thereto.**

2. **Modification of use or design and development standards including architecture, landscape architecture, pedestrian and bicycle facilities; signs and/or lighting elements approved in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval, and all relevant conditions of approval thereto.**

3. **A new building of any size in any location that replaces a building approved but not constructed, providing there is: 1) no net increase in total building coverage, and 2) compliance with the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval, and all relevant conditions of approval thereto.**

4. **New buildings or building additions up to 10,000 gross square feet (gsf) not anticipated and, therefore, not contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval. Under this provision, new construction of such unanticipated buildings or building additions shall not exceed 10,000 gsf in any one year, and shall not exceed 30,000 gsf in any four years. As part of this minor [Type I] review, the applicant shall provide information on the amount of floor area built to date for the year in which the application is submitted, and the amount of floor area built within the four-year period preceding the request.**

5. **Adjusting the sequence of buildings within a phase of development provided that there is no net increase in traffic impacts.**

D. **Quasi-judicial review by the Community Development Director [Type II]. The following modifications shall be reviewed by the Community Development Director, pursuant to Section 16.XX.XXX.**

1. **A change in the approved site boundary resulting in the exchange of properties where the total amount of land in the approved boundary remains the same or is decreased.**

2. **A new building or building addition exceeding 10,000 gsf but less than 50,000 gsf, not anticipated and, therefore, not contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval. For new buildings or building additions exceeding 25,000 gsf under this provision, the applicant shall provide traffic and parking analyses of the proposal as part of the application.**

3. **An increase or decrease of up to 10% in the total number of parking spaces approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval. The applicant shall provide a parking analysis related to the proposal as part of the application.**

E. **Quasi-judicial review by the Planning Commission [Type III]. The following modifications shall be reviewed in a public hearing before the Planning Commission, pursuant to Section 16.XX.XXX.**

1. **Expansion of the master plan boundary beyond that contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval.**

2. **New building or building additions of 50,000 gsf or more, not anticipated and, therefore, not contained in the initial Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.**

3. **Proposals that result in an increase of 10% or more of site-generated vehicular trips approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.**

4. **An increase or decrease greater than 10% in the total number of parking spaces approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.**

5. **A proposed use or development that was denied in the approved Concept Master Plan.**

APPENDIX

DEFINITIONS OF USE CLASSIFICATIONS

Basic Utilities. Community infrastructure, including water and sewer systems, telephone exchanges, power substations and transit stations.

Colleges. Institutions of higher education.

Day Care. As defined by Oregon Revised Statutes; includes Family, Group and Institutional.

Emergency Services. Public safety facilities including police and fire stations, emergency communications and ambulance services.

Medical Centers. An inpatient hospital and supporting emergency, outpatient and related ancillary services to the sick and infirm. Usually developed in campus setting. Accessory uses may include diagnostic and treatment facilities, laboratories, surgical suites, kitchen/food service facilities; laundry, housekeeping and maintenance facilities; short-term lodging for patients and families; administrative offices and parking. Medical centers may also include free-standing offices for hospital-based and/or private-practice physicians and other allied health care professionals.

Trails. Publicly accessible walking, jogging or bike trails that extend beyond the boundaries of a single subdivision or development project. Accessory uses may include signage/maps; interpretive centers; viewpoints; and trailhead facility, restrooms, and parking. Does not include trails or portions of trails created as part of Neighborhood, Community and Regional Parks.

Postal Service. Refers to postal services traditionally operated by the U.S. Postal Service, United Parcel Service or other similar entities.

Eating/Drinking Establishments. Establishments which sell prepared food and beverages for consumption on site or take-away including restaurants, delicatessens, bars, taverns, brew pubs and espresso bars.

Retail -- Sales-Oriented. Establishments which provide consumer-oriented sales, leasing and rental of consumer, home and business goods including art; art supplies; bicycles; clothing; dry goods; electronic equipment; fabric; gifts; groceries; hardware; household products; jewelry; pets and pet products; pharmaceuticals; plant; printed materials; stationery and videos. Excludes large-scale consumer products and those sold primarily outdoors.

Retail --Personal Services. Establishments which provide consumer services such as banks and credit unions; barber and beauty shops; pet grooming; laundromats and dry cleaners; copy centers; photographic studios.

General Office. Government, business and professional offices. Examples include local, regional, state and federal offices and agencies; medical, dental and veterinary clinics and laboratories; blood collection centers; offices for attorneys, architects, accountants, engineers, stockbrokers, real estate agents, mortgage bankers, insurance brokers and other consultants; headquarters offices; sales offices; and radio and television studios. Also includes painting, landscaping, building and janitorial contractors where the indoor storage of materials and equipment are incidental to the office use. This storage may not exceed 50% of occupied space. Offices that are part of and are located within a firm in another use category are considered accessory to the firm's primary activity.

General Medical. Offices for physicians, dentists, chiropractors, and allied health care professionals; free-standing outpatient health care facilities; urgency clinics; naturopathic, and homeopathic facilities; and home health organizations that provide on-site services to patients and that generally operate during typical peak weekday hours.

Light Industrial. Includes production, processing, assembling, packaging or treatment of finished products from previously prepared materials or components. All activities and storage is contained within buildings. Examples include the manufacturing and assembly of small-scale machinery, appliances, computers and other electronic equipment; pharmaceuticals; scientific and musical instruments; art work, toys and other precision goods; sign-making; and catering facilities.

Research and Development. Facility featuring a mix of uses including office, research laboratories and prototype manufacturing. If no manufacturing component, considered Office use.

Energy Recovery Systems. Systems or infrastructure designed to capture, reuse and/or distribute energy to or from uses in the Rock Creek Employment Area. Examples include co-generation and heat recovery systems. Does not include recycling/garbage transfer stations, composting, landfills, or sewage treatment plants.

Heliports. Public or private facilities designed for the landing, departure, storage and fueling of helicopters.

Rail Lines/Utility Corridors. Corridors in public or private ownership dedicated for use by rail lines; above-grade or underground power or communication lines; water, sewer and storm sewer lines; or similar services.

Wireless Communication Facilities. Includes publicly- and privately-owned towers and related transmitting equipment for television, FM/AM radio, cellular and two-way radio and microwave transmission and related ancillary equipment buildings. Does not include radio/television transmission facilities which are part of the public safety network; see Basic Services. Does not include amateur (ham) radio antennas or towers.

3. Proposed Combined Plan and LDO Map Amendment.

This application proposes that this Area be mapped "RC-ME" to implement the Plan for the Rock Creek Employment District and the RC-ME zoning district. The map amendment

should also include the designations for the Rock Creek Riparian Area shown in the proposed East Happy Valley Comprehensive Plan.

III. RESPONSE TO APPLICABLE APPROVAL CRITERIA.

1. Applicable Oregon Statewide Planning Goals (the "Goals").

A. Goal 1, "Citizen Involvement."

Goal 1 provides as follows: **"To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process."**

Response: The City can find that this Goal is satisfied for three (3) reasons. First, the process for a legislative amendment such as this follows the applicable requirements for legislative amendments in the City. This includes Measure 56 notice (ORS 227.186) to affected property owners. The affected property owners for purposes of a Measure 56 notice are only those property owners within the area to be designated RC-ME. Second, the LDO is acknowledged as consistent with the Statewide Planning Goals, including Goal 1 for citizen participation. Third, Providence Health System — Oregon will have held two neighborhood meetings prior to the initial evidentiary hearing before the Planning Commission. The first meeting occurred on May 8, 2006. Providence sponsored the latest meeting on February 25, 2008.

B. Goal 2, "Land Use Planning."

Goal 2 provides as follows: **"To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to ensure an adequate factual base for such decisions and actions."**

Response: The City can find that Goal 2 is satisfied for three (3) reasons. First, this application includes an amendment to the acknowledged Plan that provides the basis for the RC-ME district. Second, this application is coordinated, as that term is defined in ORS 197.015(5), with affected governmental entities including but not limited to Metro, the Oregon Department of Land Conservation and Development ("DLCD") (because this is a post-acknowledgement amendment to the Plan and to the LDO pursuant to ORS 197.610(1) and OAR Chapter 660, Division 18), the Oregon Department of Transportation ("ODOT"), the City of Damascus ("Damascus"), Clackamas County (the "County"), the North Clackamas Park and Recreation District ("Park District"), the Clackamas County Water Environment Services District ("WES"), and the Sunrise Water Authority ("Sunrise"). As required for all coordination, the City will provide adequate notice of the application prior to the initial evidentiary hearing before the Happy Valley Planning Commission, will consider all comments submitted by affected governmental entities and will incorporate, to the greatest extent practicable, those comments. Third, this application demonstrates that the amendments to the acknowledged Plan and LDO are based on adequate factual information implementing the Concept Plan and consistent with other provisions of the acknowledged Plan and LDO.

C. Goal 5, "Natural Resources, Scenic and Historic Areas, and Open Spaces."

Goal 5 provides as follows: **"To provide natural resources and conserve scenic and historic areas and open spaces."**

Response: This Area does not contain any significant wetlands, federal wild and scenic rivers, state scenic waterways, approved Oregon recreation trails, wilderness areas, mineral and aggregate resources, energy sources or cultural areas. However, the Area does contain some riparian area that could be consistent with the Goal 5 designation and with AMA required compliance with Metro's Title 3 requirements. For this reason, the City can find that while this application can be approved, future discretionary action will require a demonstration of compliance with any applicable Goal 5 resources and Metro Title 3 requirements. As set forth in the February 22, 2006, letter from Natural Resource Planning Services, Inc. to Providence Health System-Oregon, this compliance can be determined as transportation and site planning alternatives are refined and design elements are identified. **(Exhibit 4)**. The Oregon Court of Appeals has held in *Gould v. Deschutes County* that compliance with approval criteria can be deferred to another discretionary stage, provided notice and opportunity for a public hearing are provided.

D. Goal 6, "Air, Water and Land Resources Quality."

Goal 6 provides: **"To maintain and improve the quality of the air, water and land resources of the state."**

Response: The City can find that this Goal will be satisfied through the applicant's coordination with WES at the next discretionary stage. Goal 6 is concerned with waste process discharges from development and their negative effects on air, water and land resources. Through appropriate stormwater collection and treatment, the City can assure itself that Goal 6 will be satisfied.

E. Goal 9, "Economic Development."

Goal 9 provides as follows: **"To provide adequate opportunities throughout the state for a variety of economic activities liable to the health, welfare, and prosperity of Oregon's citizens."**

Response: The City can find that this application satisfies Goal 9. The Plan and LDO amendments provide an additional area suitable for increased economic growth and activity, especially related to medical services. The Plan and LDO amendment implement the Damascus-Boring Concept Plan which designated this area for Employment and employment uses. The proposed Plan and LDO amendments provide for a suitable supply of sites for these proposed uses and limit uses on the sites that are incompatible with the primary uses.

The City can find that this is an appropriate site for implementation of the Damascus-Boring Concept Plan Employment designation for several reasons. First, it is large enough to accommodate foreseeable growth for these uses for the next twenty (20) years. Second, it is adjacent to Oregon Highways 212 and 224. ODOT plans to improve Oregon Highways 212 and 224 to provide enhanced access to Interstate Highway 205. Third, the site is adjacent to a variety

of housing types and prices, thus providing an opportunity for housing for the employees in this area.

F. Goal 11, "Public Facilities and Services."

Goal 11 provides as follows: **"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."**

Response: The City can find that this Goal is satisfied for the following reasons. First, the site is entirely within the City of Happy Valley. The City has the ability, consistent with its adopted and acknowledged Public Facilities Plan, to provide public, urban services to this site. Second, the site is within the service area of the Sunrise Water Authority. Sunrise will provide domestic water to the site. Third, the site is within the jurisdiction of WES. WES will provide sanitary sewer and storm sewer services to the site. As explained in the section addressing applicable Plan Goals and Policies and in the May 24, 2006, memorandum from Matt Dolan at KPFF **(Exhibit 5)**, the City can find that there will be adequate public facilities and services no later than the approval of the first discretionary stage for development of the site.

G. Goal 12, "Transportation."

Goal 12 provides as follows: **"To provide and encourage a safe, convenient and economic transportation system."**

Response: The City can find that Goal 12 is satisfied for two reasons. First, as explained in the section addressing the Oregon Transportation Planning Rule, and consistent with LDO 16.40.041, no development will occur until the subsequent master plan approval demonstrates adequate transportation facilities for the proposed uses. That demonstration will occur following a public hearing with an opportunity for comment by surrounding property owners. Furthermore, as discussed in the June 5, 2006, memo from Todd Mobley, PE, PTOE at Lancaster Engineering **(Exhibit 6)**, a safe and efficient transportation system is being planned and can feasibly be constructed to serve the area, consistent with Goal 12. A copy of the proposed Transportation Concept Plan for the District is also attached. **(Exhibit 7)**.

H. Goal 13, "Energy Conservation."

Goal 13 provides: **"To conserve energy."**

Response: This application implements Goal 13 because it provides for additional employment development within the UGB and adjacent to surrounding housing opportunities.

The City can find that Goal 13 is satisfied.

I. Conclusion.

The City can find that Goal 3, "Agricultural Land," Goal 4, "Forest Land," Goal 7, "Areas Subject to Natural Disasters and Hazards," Goal 8, "Recreational Needs," Goal 10, "Housing," and Goals 14-19 are inapplicable. Goals 3 and 4 are resource goals and are inapplicable because

the site is now within the Portland Metropolitan Urban Growth Boundary. Goal 7 is inapplicable because this site contains no identified natural hazard areas. Goal 8 is inapplicable because this application does not provide for recreational facilities. Goal 10 is inapplicable because this application does not affect housing supply. Goal 14 is inapplicable because the site is within the UGB. Goals 15 through 19 are locational goals not applicable to the site.

2. Relevant Oregon Administrative Rules.

A. OAR Chapter 660, Division 9, "Economic Development."

Response: The purpose of this administrative rule is to implement Goal 9 and to achieve the purposes of ORS 197.712(1) and ORS 197.717(2). The Goal is applicable pursuant to OAR 660-009-0010(1) which applies to comprehensive plans within urban growth boundaries. The administrative rule also applies to post-acknowledgement plan amendments that change a plan designation in excess of two acres within an existing UGB from an industrial use designation to a non-industrial use designation, or any other employment use designation to any other use designation. The City can find that this administrative rule does not apply in this case because the existing designation on this property is resource EFU zoning adopted by Clackamas County. Further, the City can find that OAR 660-009-0015, "Economic Opportunities Analysis," is inapplicable. This administrative rule provision does not apply to post-acknowledgement amendments such as this.

For this reason, the City can find that this administrative rule is not applicable.

B. OAR Chapter 660, Division 11, "Public Facilities Planning."

Response: This administrative rule implements Goal 11. It is principally concerned with implementation and adoption of a public facilities plan. No other provision of the administrative rule is relevant to a post-acknowledgement amendment such as this because the City's acknowledged Plan otherwise implements Goal 11 and this administrative rule.

For this reason, the City can find that this administrative rule is satisfied.

C. OAR Chapter 660, Division 12, "Transportation Planning."

Response: The relevant provision of this rule is OAR 660-012-0060(1)-(3). This administrative rule requires a two-step analysis for the determination of significant affect in OAR 660-012-0060(1) and (2):

- Does a post-acknowledgement amendment such as this have a "significant affect" on a transportation facility? Significant affect is defined in OAR 660-012-0060(1)(a)-(c).

- If there is a significant affect, the rule provides for mitigation of the significant affect as provided for in OAR 660-012-0060(2)(a)-(e).

This application will have a significant effect on affected transportation facilities because very little of the infrastructure necessary for future urban development is in place or planned for.

Nevertheless, the City can find that this administrative rule requirement is satisfied for two (2) reasons. First, OAR 660-012-0060(2)(e) is satisfied. This subsection provides that other measures such as a condition of approval can be provided to mitigate significant effects. In this case, the City can find that urban development in this area will not be allowed until a master plan is approved which, consistent with LDO 16.40.041(G), requires demonstration of compliance with this administrative rule. Second, the City can find that the Damascus-Boring Concept Plan includes a transportation plan that will provide for an urban road system to serve this use and others.

OAR 660-012-0060(3) requires coordination with affected transportation providers. The City can meet this requirement by meeting the coordination requirements in Goal 2 and ORS 197.015(6).

For this reason, the City can find that this administrative rule is satisfied.

3. Metropolitan Service District ("Metro") Urban Growth Management Functional Plan.

Metro Urban Growth Management Functional Plan ("Functional Plan") applies to amendments to acknowledged comprehensive plans. In this case, Title 3, "Water Quality and Flood Management" and Title 4, "Industrial and Other Employment Areas", apply to this application.

A. Title 3, "Water Quality and Flood Management".

Response: Functional Plan 3.07.320 provides that Title 3 applies to development in water quality resource and flood management areas and development which may cause temporary or permanent erosion to any property within the Metro Boundary. The City can find that this application does not create either circumstance. First, the City can find that no development is proposed with this application, as that term is defined in ORS 227.215(1) and no development will be allowed until the master plan is approved. Therefore, at such time as a master plan is approved, the City can determine that no water quality resource and flood management area is impacted.

B. Title 4, "Industrial and Other Employment Areas."

Response: This section applies to areas designed industrial and employment on Metro's 2040 Growth Concept Map. Metro Functional Plan 3.07.440 is entitled "Protection of Employment Areas." This requires the City to limit new and expanded retail uses to those appropriate in type and size to serve businesses, employees and residents of the employment area. The City can find that the proposed land use regulation amendments meet this requirement by providing limited opportunities for retail and housing uses expressly related to the medical uses proposed in this area.

C. Conclusion.

The City can find that the applicable Metro Functional Plan Policies are satisfied.

4. Applicable City of Happy Valley Comprehensive Plan Policies and Objectives.

The Happy Valley Comprehensive Plan (the "Plan") is the City's acknowledged Comprehensive Plan. Relevant Plan policies are an applicable approval criteria for this post-acknowledgment amendment. ORS 197.175(2)(d).

The Happy Valley City Council has determined that Plan Policies 13, 15, 74, 85, 86, 99, 100, 101, 102 and 103 are applicable to land use applications. This section of the application addresses these policies, as well as other relevant Plan policies, and explains why the City can find that they are satisfied.

A. Policy 4: "To insure orderly development in the City of Happy Valley through formulation of growth management policies and guidelines which will determine that development can occur only when adequate levels of services and facilities are or will be available."

Response: All development on sites of five (5) acres or larger in the RC-ME district will be required to submit a master plan to demonstrate that there is adequate capacity in the transportation system and that public services are available. On sites less than five (5) acres, a master plan is voluntary. However, in these cases, the development will be subject to Design Review, in which documentation of the adequacy of public services and facilities will be also required.

B. Policy 5: "To encourage controlled development while maintaining and enhancing the physical resources which make Happy Valley a desirable place to live."

Response: The RC-ME district requires that development be subject to either Design Review of Master Plan approval at which time the City will review special development proposals. Development proposals must demonstrate that City-designated resources will be protected, that the design is compatible with adjacent uses and that off-site impacts are mitigated.

C. Policy 10: "Prohibit development in identified natural drainage-ways, floodplains and wetlands. Development in these areas will be limited to open space, recreation or other appropriate uses which minimize the potential loss of life or other property."

Response: The development standards in the RC-ME district dictate that the minimum setbacks from Rock Creek meet the requirements of the City's existing LDO Section 16.16.450, Water Quality Resource Areas, as supplemented by CCSD #1 regulations.

D. Policy 13: "Development which increases run-off and erosion, or which has the potential for undermining downhill development through significant increases in run-off will be restricted."

Response: The City can find that this Policy can be satisfied by providing appropriate employment development while maintaining the riparian areas in their undeveloped state. Moreover, through coordination with WES, the Applicant can provide for appropriate storm

water detention and treatment thereby preventing erosion or increased run-off on adjacent properties.

E. Policy 15: "Engineering studies by private developers, the City and other government agencies for sites proposed for development within areas of suspected or known hazards and compliance with appropriate chapters of the adopted Uniform Building Code and section of the Happy Valley Land Development Ordinance, are required."

Response: The site contains no known or suspected land hazards. Nevertheless, the applicant will apply appropriate sections of the LDO in all future permit applications to demonstrate appropriate development techniques.

F. Policy 17: "The City will encourage preservation of wetlands encountered in Happy Valley and will require compliance with State and Federal Wetland regulations. In addition, the City will comply with Goal 5 – Wetlands for the preservation and protection of wetlands."

Response: The RC-ME zone requires that all development demonstrate that City-designated resources, such as sensitive natural resources as identified in the City's Goal 5 inventories, are protected and enhanced in compliance with the regulations of the RC-ME zone and other titles of the City's Municipal Code.

G. Policy 21: "Maintain relationship of open space to permitted development in order to preserve the character of the natural setting and to provide for recreation and visual relief from development."

Response: The RC-ME district establishes a minimum landscape/open space requirement of 15% of the net site area. Additionally, development must meet minimum setbacks from Rock Creek per the existing LDO Section 16.16.450, Water Quality Resource Areas, as supplemented by CCSD #1 regulations.

H. Policy 28: "Conserve the area's unique natural resources through their inclusion in the overall Land Use Plan in a manner, which considers surrounding uses, and provides a continuity of open space character and natural features, throughout the City.

Response: The RC-ME district includes provisions for the protection of natural resources and establishes a minimum landscape/open space requirement to be applied to all development within this district.

I. Policy 35: "Maintain riparian vegetation and avoid degradation of natural features adjacent to drainage channels and conservation easements to minimize runoff and erosion affecting water quality."

Response: The development standards in the RC-ME district dictate that the minimum setbacks required by LDO Section 16.16.450 be met. Future development proposals will be subject to further review regarding such impacts as part of the master plan or design review process and development permitting.

J. Policy 45: "To insure orderly development in the City of Happy Valley."

Response: The RC-ME district establishes a range of compatible land uses for this area that are subject to development standards and review processes by the City that will insure orderly development.

K. Policy 46: "To provide for a clean environment and encourage preservation of a quality environment."

Response: The RC-ME district establishes land uses that provide stable, family-wage employment with minimal off-site impacts. These uses include offices, medical centers, research and development, light industrial and limited retail uses. A "clean" environment is provided through restrictions on these uses that prohibit outdoor storage, outdoor fleet parking and drive-through facilities. Additionally, the approval criteria require compatibility with adjacent uses and mitigation of off-site impacts.

L. Policy 47: "To locate land uses so as to take advantage of existing systems and physical features, to minimize development cost and to achieve compatibility and to avoid conflicts between adjoining uses."

Response: The RC-ME district is to be applied to the Rock Creek Employment area which has immediate access to Highway 212 and SE 162nd Avenue. Future transportation improvements are planned for the area as documented in the City's Transportation System Plan and discussed Appendix A of this application. The RC-ME district provides a transition between residential uses to the north and industrial uses planned for the area east of SE 162nd Avenue. Compatibility will be achieved through master plan or design review at which time proposed development must demonstrate that the proposal is compatible with adjacent uses and that off-site impacts are mitigated to the extent practicable.

M. Policy 48: "The Land Development Ordinance will be revised to comply with the Comprehensive Plan."

Response: This application creates a new Comprehensive Plan designation that will also be added to the Land Development Ordinance.

N. Policy 55: "To Encourage a moderate rate of growth and a mixed population of varying age groups, incomes and lifestyles."

The City can find that the policy is satisfied because it provides for employment opportunities within the City. This, in turn, will encourage the satisfaction of Policy 55 by attracting new residents with employment inside the City.

O. Policy 74: "To require new developments to provide Level 1 public facilities and services which are consistent with the Leveled Growth Management section of this Plan and are required by City Ordinances."

Response: Policy 97 defines Level 1 facility and services as those which are critical to site development proposals and include the following: sanitary sewer, water supply, storm drainage,

fire protection and streets and roads. The City can find that this policy can be implemented through the Master Plan approval process.

The applicant will coordinate with WES regarding sanitary sewer and storm drainage. The applicant will coordinate with Sunrise Water District and will determine that there is an adequate supply of water for the area.

The site is within Happy Valley Rural Fire Protection District #65. The Fire Protection District has adequate capacity to serve this site. Additionally, as the Plan notes at page 91, the District has a mutual assistance agreement with nearby fire districts and receives additional assistance immediately for all structural fires.

Finally, the applicant will prepare a TIA at the next discretionary stage demonstrating that there will be adequate street capacity.

The City can find that Level 1 public facilities and services will be provided at the appropriate time when development is proposed.

P. Policy 85: "To require new developments to limit storm drainage run-off outside project boundaries or provide a storm drainage and collection system within the project in compliance with the City's storm drainage ordinance."

Response: The City will meet this Policy by providing an appropriate storm drainage and collection system within the site.

The City can find that this policy is satisfied.

Q. Policy 86: "Until the City's Facilities Plan is completed and the economic analysis and assessment policies are formulated by Clackamas County Service District #1, the City shall evaluate on a case-by-case basis those PUD, subdivision, land partition or building permit application, which can be provided with sewer service from existing sewer lines adjacent to the City. Their approval during this interim period shall be based on the provision of the City's Land Development Ordinance, Growth Management Policies, and agreement for the payment of anticipated public facilities assessments."

Response: The applicant will coordinate with WES to assure adequate sanitary sewer service for the development.

The City can find that this policy is satisfied.

R. Policy 99: "Any and all development within the City shall be subject to participation in the provision of Level 2 facilities and services, which are essential to the development of the City as a whole, and shall include:

- schools;
- police protection;
-- parks and recreation;
- public transit;

- vector control;
- City administrative services."

Response: The applicant's payment of real property taxes provides for the provision of schools, police protection, public transit, vector control and City administrative services.

The City can find that Policy 99 is satisfied.

S. Policy 100: "The funding of improvement, extension or construction of Level 1 facilities and service within the incorporated limits of the City shall be the responsibility of those whose land use activities caused such improvement, extension or construction to become necessary. The funding sources may include, but are not limited to, creation of a Local Improvement District ("LID"); outside funding or grants-in-aid; direct source payment with or without agreement for future reimbursement by other property owners who may utilize the facility or service; other sources as may be identified."

Response: The applicant intends to construct those Level 1 facilities required to provide service to its site (sanitary sewer, water supply and storm drainage, and streets and roads). This response does not preclude applicant's use of the funding methods in this policy. Fire protection is already provided to the site.

The City can find that this policy is satisfied.

T. Policy 101: "Waivers of remonstrance for all future improvements of Level 1 facilities and services shall be required for all approved minor partitions, major partitions, subdivisions and PUDs. The City shall retain these waivers for use when necessary."

Response: The applicant will comply with this policy.

U. Policy 102: "When, as the coordinator of land use activities and service provision to development areas, the City must make determinations regarding fulfillment of the growth management policies and procedures, the City shall rely on a determination provided by the service providers and other affected agencies, including, but not limited to, the following:

- **Clackamas County Service District No. 1**
- **Sunrise Scott Water District**
- **Happy Valley Rural Fire District No. 65;**
- **Clackamas County, Department of Transportation and Land Use for Roads;**
- **North Clackamas School District No. 12;**
- **Tri-Met;**
- **City of Portland.**

Any determination shall be within the parameters of the providers' or agencies' own standards, criteria, requirements or plans. The service providers' decision shall be treated as a rebutable presumption as to the ability of that provider to provide an acceptable level of service. However, the evidence that can rebut said decision must be compelling evidence

based upon objective data and the agencies' standards-criteria-requirement or plans in order to controvert the determination of the service provided."

Response: The applicant will coordinate with the various service providers. WES and the Sunrise Service District can provide adequate sanitary sewer and water service, respectively, to the site. The Happy Valley Rural Fire District can provide fire and emergency service to the site. This application will not affect the North Clackamas School District.

Tri-Met provides no service to this area.

V. Policy 103: "No development of any properties shall be permitted which will interfere or prevent the extension of any Level 1 facilities or services."

Response: This application will not interfere with the extension or provision of such services.

W. Planning Process Policy 2: "Old plan and all developments in implementing documents shall be open for amendments that consider compliance with the goals, objectives and plans in the Metropolitan Service District. This procedure shall occur every two years and may be so amended or revised annually if deemed necessary by the City Counsel. Amendment and revision for compliance and regional goals, objectives and plans should be consistent with the schedule for opening of local plans which has been approved by the Land Conservation and Development Commission ("LCDC")."

Response: This policy requires the City to evaluate the following criteria:

- Conformance with the comprehensive plan;
- Public need for the change;
- Public need as best satisfied by the proposed change; and
- The change will not adversely affect the health, safety and welfare of the community.

The City can find that these criteria are satisfied. First, as addressed elsewhere in this application, this application satisfies applicable Plan goals, policies and objectives. Second, the public need is satisfied. Public need is fulfilled by implementation of the Damascus-Boring concept plan designation for this property. Third, the public need is best satisfied by this application. The public need is best satisfied in this case because this application fully implements the Concept Plan recommendation for this property. Fourth, the application does not adversely affect the health, safety and welfare of the community because it is both consistent with the applicable plan and with other applicable approval criteria. Consistency with these approval criteria demonstrates a benefit to the public and a lack of adverse impact on the public.

The City can find that this policy is satisfied.

X. City of Happy Valley Comprehensive Plan Objectives: "1. To preserve the character of the Valley; 2. To improve the quality of education and existing and future

development areas; and 3. To provide a coordinated direction and conservation and development of the Valley."

Response:

This application meets the objectives for the following reasons.

First, this application preserves the character of the Valley. This application is able to do so because it provides for employment development in an appropriate area.

Second, this application improves the quality of existing and future development areas. The quality of existing development areas is improved in two ways. First, the collector road will provide additional transportation options for this area of the City. Second, this application provides the opportunity to buffer near-by single family homes.

The application improves the quality of future development areas for several reasons. First, it will allow the preservation of riparian areas.

Finally, this application provides a coordinated direction to the conservation and development of the Valley. The application is consistent with the City of Happy Valley Comprehensive Plan. This document guides the future of the Valley. Because the application is consistent with these two documents, it necessarily provides a coordinated direction to the conservation and development of the Valley.

For these reasons, the City can find that the three (3) Plan Objectives are satisfied.

W. Conclusion.

The City can find that the applicable Plan policies and objectives are met.

5. Compliance with Land Development Ordinance Chapter 16.40, Amendments to The Comprehensive Plan, Land Use Map And The Land Development Ordinance.

A. LDO 16.40.020, "Initiation of a Plan Amendment."
Any change in text, map or implementing ordinance of the adopted Happy Valley Comprehensive Plan may be initiated by the City, any resident of the City, property owners or authorized agent."

Response: The text amendments to the Plan and LDO and the map amendment are proposed by Providence Health System-Oregon as a property owner in the Area. The Happy Valley City Council authorized Providence to proceed with this implementation application. Therefore, the City can find that the application satisfies this criterion.

B. LDO 16.40.041, Review Criteria."

"A. The proposed amendment is consistent with and promotes the objectives of the Plan of the City."

Response: The Comprehensive Plan provides for three (3) objectives for the City as follows:

(i) "To preserve the character of the valley."

Response: The proposed map amendment implements the District that allows a mix of employment uses in the City. Providing such employment does not detract from the character of the valley and can enhance the quality of life for City residents by providing family-wage jobs in close proximity to housing.

The development and review requirements of the RC-ME district contribute to the continued preservation of the "character of the valley" within the context of an urbanizing area. The RC-ME district limits development adjacent to Rock Creek through its requirement that setbacks from the creek be consistent with the City's existing requirement 16.16.450, "Water Quality Resource Areas," as supplemented by CCSD #1 regulations. The proposed District also requires that all development be subject to Design Review or Master Plan review by the Planning Commission at which time an applicant must demonstrate that the proposed development complies with all approval criteria, including:

- Adequate traffic system capacity
- Availability of public services
- Protection of designated resources
- Design compatibility with adjacent uses
- Mitigation of off-site impacts

(ii) "To improve the quality of existing and future development areas."

Response: Mapping the District allows for a mix of employment uses that generate high densities of family-wage jobs that enhances the City of Happy Valley's economic vitality. Additionally, as noted above, the mandatory design review or Master Plan review processes provide for the City's continued ability to ensure quality development in this area and mitigate any off-site impacts.

(iii) "To provide a coordinated direction to the conservation and development of the valley."

Response: The proposed District implements the Mixed Employment design type of the Damascus/Boring Concept Plan, a coordinated, multi-jurisdictional plan that complies with Metro's Title 11 requirements for planning of areas brought into the UGB. Representatives from the City of Happy Valley participated on the Advisory Committee that oversaw and approved the Concept Plan for the area in general and the Mixed Employment design type for the subject area in particular.

"B. There is a demonstrated public need for a change of the specific type proposed."

Response: The need for a Mixed Employment zoning district is documented in the Damascus/Boring Concept Plan in which population and employment projections were applied to the planning area to determine the amount, type and location of land of various types to meet

these needs. The City is now required to amend its Plan and LDO to implement the Damascus/Boring Concept Plan. Accordingly, this text amendment provides a Mixed Employment zone for the subject area consistent with the design type of the Concept Plan.

> **"C. That need will be best served by the amendment as proposed as compared with other alternatives."**

Response: The City must amend its Comprehensive Plan and Land Development Ordinance to implement the Damascus/Boring Concept Plan. This text amendment creates a new Mixed Employment district that specifically implements the Mixed Employment design type approved in the Concept Plan.

> **"D. The proposed amendment is consistent with the use and implementation of growth management mechanism and capital improvement programs of the City."**

Response: The proposed text will be applied to a newly-urbanized area that was brought into the UGB in 2002, much of which was annexed to the City in 2005. Future development of the site will be subject to demonstration of adequate public services and transportation.

> **"E. The proposed amendment can be implemented by this Land Development Ordinance and all other appropriate codes, ordinances and regulations."**

Response: The proposed text amendments can be implemented by the City's Comprehensive Plan and Land Development Ordinance.

> **"G. When an application includes a proposed comprehensive plan amendment or a land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. If a master plan that requires a full traffic impact analysis is required for a comprehensive plan map amendment/zone change area, a subsequent master plan may satisfy this provision, as determined by the City of Happy Valley Community development director or designee."**

Response: The City can find that this criterion is satisfied. This property cannot be developed without a subsequent Master Plan application. The Master Plan application will include a full traffic impact.

C. 16.40.030, "Application and Fee."

a. "Any proposed change in the plan shall be initiated through application to the City on the approved form for a plan amendment and shall be accompanied by the appropriate fee as set forth by the City. Any change in the plan which is initiated by the City shall be set forth on the approved application form, but the fee shall be waived."

Response: This application includes a City application form completely filled out and signed by a representative of Providence Health System-Oregon. Although the City has initiated this application but has authorized Providence to submit the application, Providence has submitted the required fee.

b. "The Application shall be accompanied by a list, in address label format, of all owners of property located within three hundred (300) feet of the property subject to the application, according to the most recent Clackamas County Assessor's records."

Response: This application includes the requisite mailing labels.

D. 16.40.040, "Public Hearing and Notice"

Response: This application is a legislative amendment pursuant to the requirements of *Strawberry 4 Hill Wheelers v. Benton County* because it is not bound to result in a decision, does not involve a discrete set of circumstances or facts and adopts new policies and code provisions. The initial evidentiary hearing will be before the Happy Valley Planning Commission, followed by a Planning Commission recommendation to the City Council. The City Council hearing is a *de novo* hearing, which means that any party can introduce additional argument and evidence. The City is required to give notice of the initial evidentiary hearing 45 days prior to that hearing date to the Oregon Department of Land Conservation and Development ("DLCD") pursuant to ORS 197.610(1). Finally, notwithstanding that this is a legislative, and not a quasi-judicial application, the City will provide requisite Measure 56 notice to affected property owners no less than 20 but no more than 40 days prior to the initial evidentiary hearing date, pursuant to ORS 227.186(4).

IV. COMPLIANCE WITH METRO FUNCTIONAL PLAN TITLE 11, "PLANNING FOR NEW URBAN AREAS"

Metro Ordinance 3.07.1105-.1140 requires planning for the conversion of rural uses to urban uses for areas brought into the UGB. Therefore, prior to urbanization (Metro Code 3.07.1110), the City must amend its comprehensive plan to implement these requirements. The applicable requirements for the amendment are found in Metro Code 3.07.1120, "Planning for Territory Added to the UGB." This section addresses the relevant approval criteria.

A. "A. Specific plan designation boundaries derived from the general boundaries of design type designations assigned by the Council in the ordinance adding the territory to the UGB."

Response: The Damascus-Boring Concept Plan provided for the appropriate design type designation consistent with this requirement. The proposed combined Plan and zoning map designation meets this requirement.

The City can find that this criterion is satisfied.

B. "B. Provision for annexation of the district and to a city or any necessary service districts prior to urbanization of the territory or incorporation of a city or necessary service districts to provide all urban services."

Response: This site is wholly within the City. The City and associated urban service districts will provide for all necessary urban services.

The City can find that this criterion is satisfied.

C. "C."

Response: This section is inapplicable as it applies only to residential developments.

D. "D."

Response: This section is inapplicable as it applies only to residential design types.

E. "E."

Response: This section is inapplicable as it applies only to residential developments.

F. "F. Provision for sufficient commercial and industrial development for the needs of the area to be developed consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency."

Response: This post-acknowledgement amendment implements the Damascus-Boring Concept Plan design type for this site. Nearby areas are also designated for industrial designations. This proposed amendment maintains design type consistency in this area.

The City can find that this criterion is satisfied.

G. "G. A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan, and that is also consistent with the protection of natural resources, either identified and acknowledged comprehensive plan inventories or as required by Title 3 of the Urban Growth Management Functional Plan. The Plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches."

Response: **Exhibit** 7 is a conceptual transportation system plan consistent with the transportation plan adopted in the Concept Plan which, in turn, is consistent with the Regional Transportation Plan. The Plan, consistent with OAR Chapter 660, Division 11, will be fully implemented with the City's amendments to its acknowledged Transportation System Plan, which includes preliminary cost estimates and funding strategies and likely financing approaches. The proposed transportation plan for this area demonstrates consistency with the Concept Plan-wide Transportation Plan, provides for an area for the Sunrise Corridor project and provides for a continuation of a proposed Major Arterial street outside of natural resource areas as required by Title 3.

The City can find that criterion is satisfied.

H. "H. Identification and mapping of areas to be protected from development due to Fish and Wildlife Habitat Protection, Water Quality Enhancement and Mitigation, and

Natural Hazards Mitigation, including without limitation, all Habit Conservation Areas, Water Quality Resource Areas, and Flood Management Areas. A natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas, and natural hazard areas shall be completed as part of the Comprehensive Plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The Plan shall include zoning strategies to avoid and minimize the conflicts between planned future development and the protection of habitat conservation areas, water quality resource areas, flood management areas, and other natural hazard areas. The Plan shall also include a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, and easement dedication to ensure that all significant natural resources are protected."

Response: The City can find that this section is satisfied for two (2) reasons. First, no urban development will occur on this site prior to master plan approval. These provisions can be deferred until the master plan stage at which time they will be incorporated in the master plan approval. The master plan approval is a discretionary permit application subject to notice and a public hearing. Second, the applicant proposes that the mapping of the site reflect the East Happy Valley plan proposal (dated June 20, 2007) for the areas adjacent to Rock Creek as shown on that plan. That plan shows conservation areas and transition areas along Rock Creek on its west side. The proposed mapping for this site should include these two (2) designations to fully implement the protections required by this provision.

I. "I. A conceptual public facilities and services plan for the provision of sanitary sewer, water, storm drainage, transportation, parks and police and fire protection. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches."

Response: The City can find, pursuant to coordination with the affected service providers as required by Metro Code 3.07.1120 that all of the public facilities and services listed in this criterion will be adequate to service this area. Preliminary cost estimates and funding strategies are reflected in the City's acknowledged Public Facilities Plan. To the extent site-driven facilities are necessary, the developer of the site will be responsible for its proportional share of those costs, will pay appropriate System Development Charges and Transportation Impact Fees and will otherwise participate in the development of the necessary public facilities.

J. "J."

Response: This section is inapplicable because it addresses school plans.

K. "K. An urban growth diagram for the designated planning area showing at least, the following, when applicable:

1. General locations of arterial, collector and essential local streets and connections and necessary public facilities such as sanitary sewer, storm sewer and water to demonstrate that the area can be served;

2. Location of steep slopes and unbuildable lands including but not limited to wetlands, floodplains and riparian areas;

3. **Location of Habitat Conservation Areas:**

4. **General locations for mixed use areas, commercial and industrial land;**

5. **General locations for single and multi-family housing;**

6. **General locations for public open space, plazas, and neighborhood centers; and**

7. **General locations or alternative locations for any needed school, park or fire hall sites."**

Response: The City can find that this criterion is satisfied for the following reasons. First, **Exhibit 7** shows the locations of arterial and collector streets. Further refinement of local streets and other public facilities will be determined at the master plan stage.

The City can find that Factor 2 is satisfied by the request that the area shown on the June 20, 2007 version of the East Happy Valley Comprehensive Plan be indicated on the mapping on this site.

Factor 3 is satisfied because that mapping can serve to provide for habitat conservation areas.

Factors 4-7 are inapplicable because this application provides for implementation of a single design type.

L. "L."

Response: This section is inapplicable because it addresses residential issues.

M. "M. The plan amendment shall be coordinated among the city, county, school district and other service districts."

Response: The city will coordinate the plan amendments as required by ORS 197.015(1), Goal 2 and applicable provisions of the Happy Valley Municipal Code.

N. Conclusion.

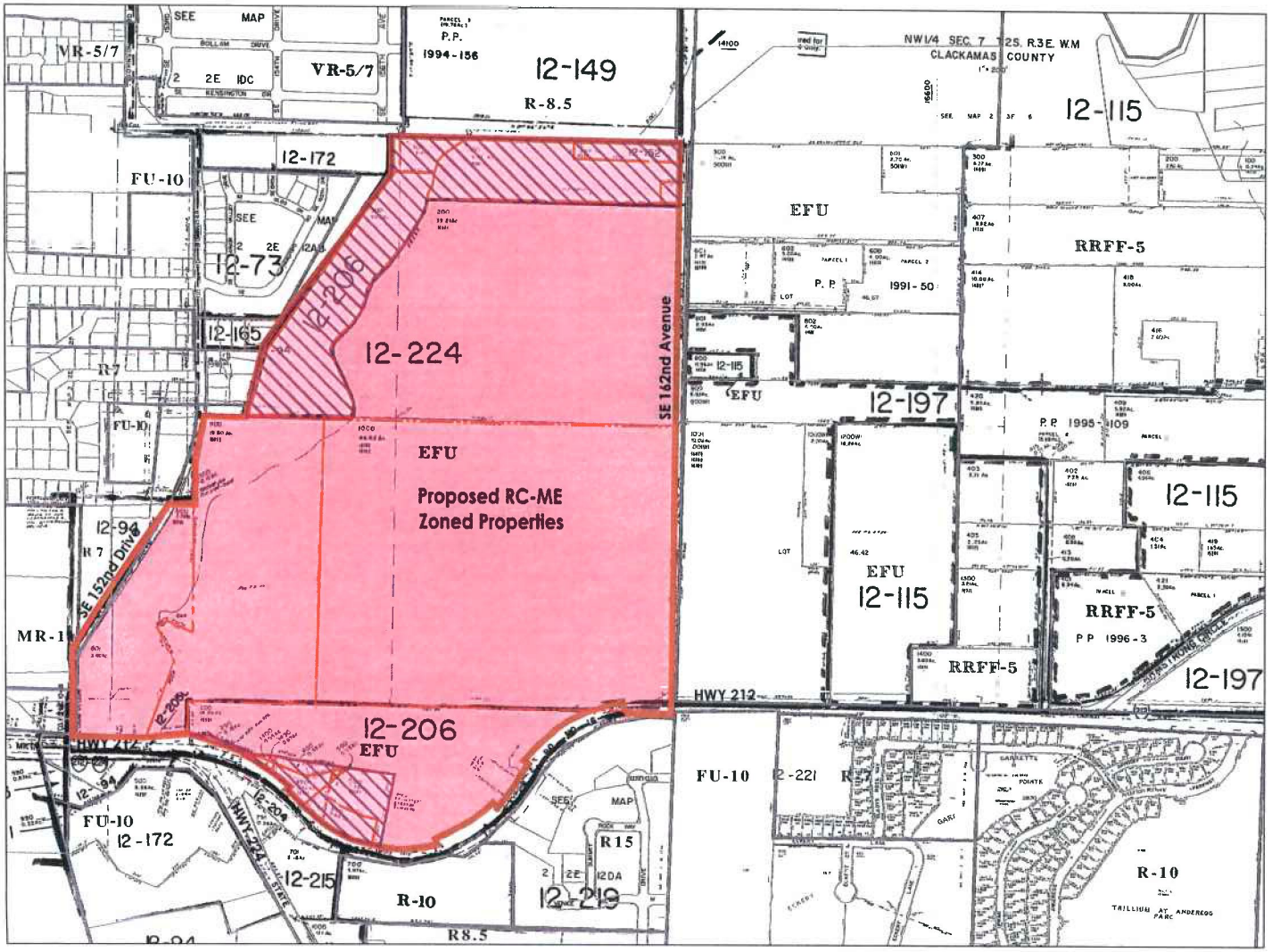
The City can find for the reasons described above that these requirements are satisfied.

V. CONCLUSION.

For the reasons contained herein, the City can find that the applicable requirements for implementation of the Damascus-Boring Concept Plan in the subject area are met. The applicant respectfully requests that the City approve the proposed mapping, text amendment to the Happy Valley Comprehensive Plan and text amendment to the Happy Valley Land Development Ordinance.

EXHIBITS

Exhibit 1	Vicinity Plan, Rock Creek Mixed Employment District
Exhibit 2	Damascus-Boring Concept Plan, Rock Creek Mixed Employment District
Exhibit 3	Site Plan, Rock Creek Mixed Employment District
Exhibit 4	February 22, 2006 Letter from Robert E. Dillinger and Nancy Olmsted of Natural Resource Planning Services, Inc.
Exhibit 5	May 24, 2006 Memorandum from Matt Dolan of KPFF Civil Engineers
Exhibit 6	June 5, 2006 Memorandum from Todd E. Mobley of Lancaster Engineering
Exhibit 7	Proposed Transportation Concept Plan, Rock Creek Mixed Employment District



KEY:

Proposed Comprehensive Plan and Zoning District

Areas not in the city of Happy Valley

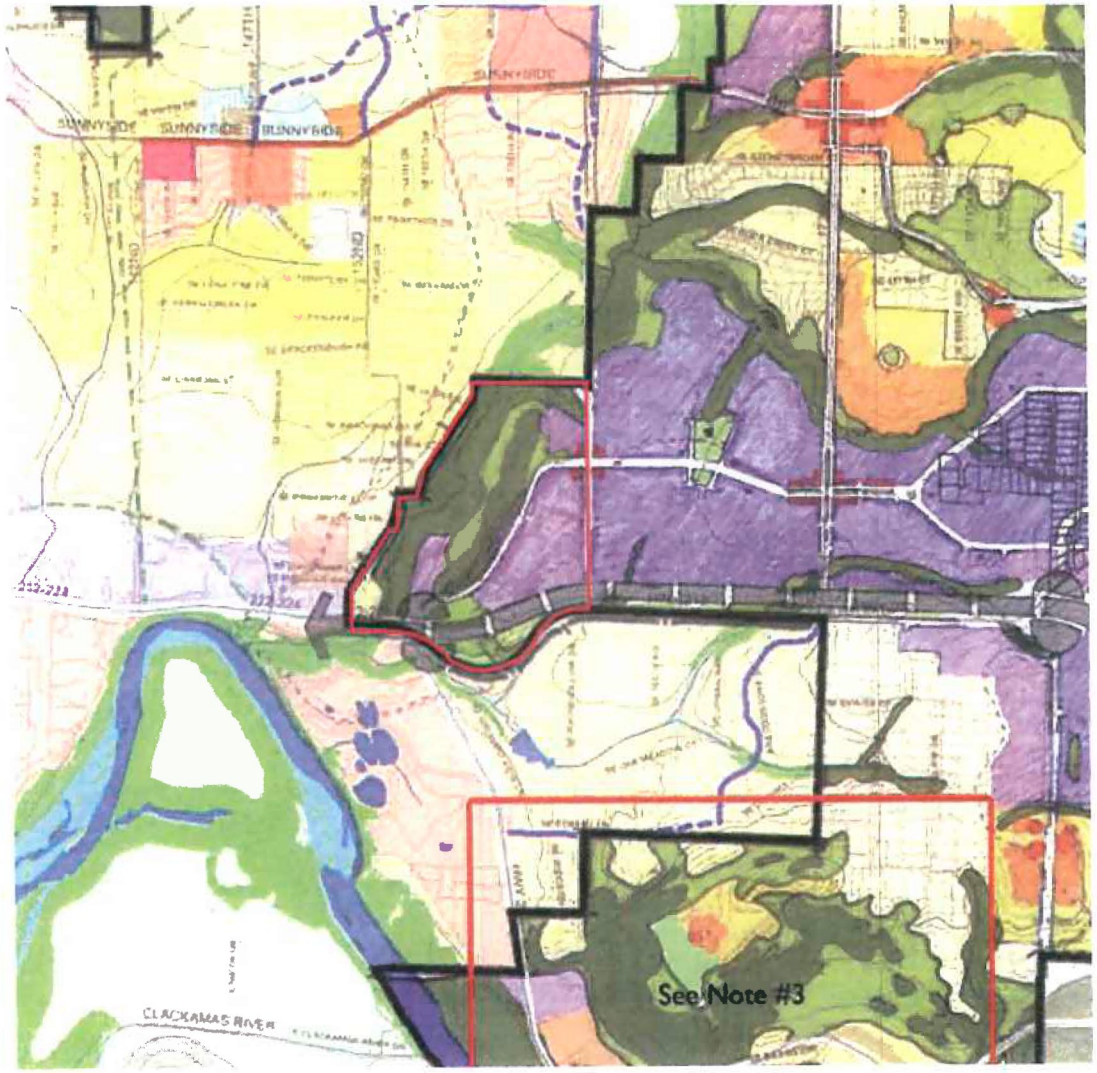
VICINITY PLAN

Rock Creek Mixed Employment District

0 150' 300' 600' 1200'

June 12, 2006

EXHIBIT 1



KEY:

Proposed Comprehensive Plan and Zoning District Boundary

Mixed Employment

Industrial

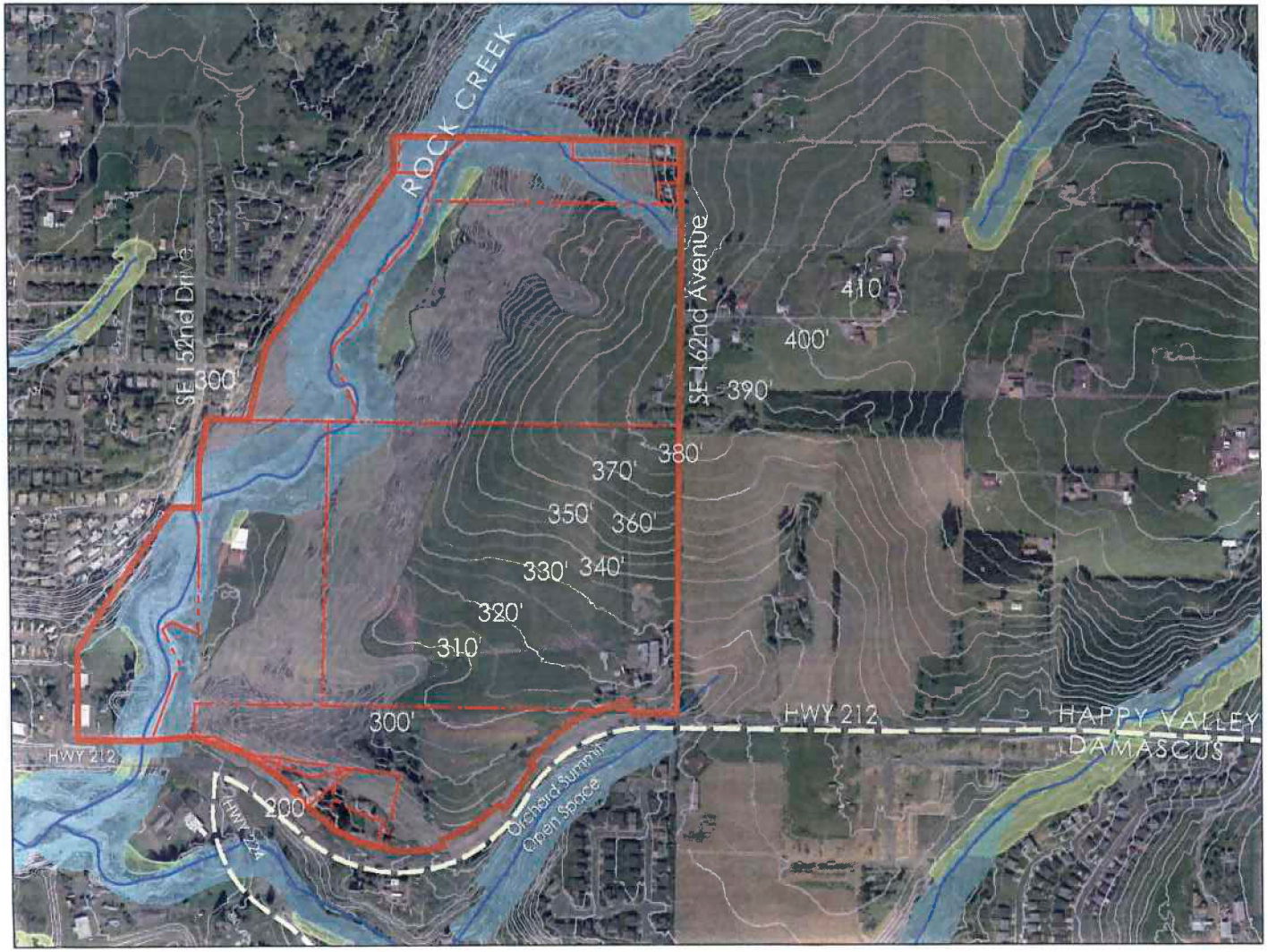
Damascus Boring Concept Plan

Rock Creek
Mixed Employment District

0 1000 2000 3000

April 4, 2006

EXHIBIT 2



KEY:

Stream

Wetland (none recorded within boundary)

Clackamas County Local Wetland Inventory 1996

Class I Riparian

Class II Riparian

Metro Riparian Corridors and Wildlife habitat Inventory (2002)

Proposed Comprehensive Plan and Zoning Boundary

20% Slope Areas

SITE PLAN

Rock Creek
Mixed Employment District

0 125' 250' 500' 1000'

June 12, 2006

EXHIBIT 3

NRPS

3030 SW Moody Avenue, Suite 105
Portland, Oregon 97201-4867
www.nrpsi.com

Phone: 503.222.5005
Fax: 503.222.6050
Email: info@nrpsi.com

natural resource planning services, inc.

February 22, 2006

Dana White, Regional Director
Providence Health System – Oregon
Regional Real Estate and Property Management
Portland OR 97213

Re: Providence Happy Valley Medical Center. ZGF Project No. P80580.01

Dear Ms. White:

This memorandum provides a context in which the stakeholders in the development of Providence Health System's (PHS) proposed Happy Valley Medical Center can understand the nature and extent of the significant natural resources on the site and the potential effects and enhancement opportunities in the lower Rock Creek watershed. The primary stakeholders, at this time, in addition to PHS include the City of Happy Valley, Clackamas County, and the Oregon Department of Transportation (ODOT), and in ~~a~~ the future, other landowners and tenants in the greater Rock Creek Employment Area. Natural Resource Planning Services, Inc. (NRPS) will work with the PHS planning team to provide the evaluations of the PHS/Happy Valley site's natural resource values throughout the development of the medical center's master plan and as other transportation and employment center development proposals unfold. This memorandum explores the existing natural resources values; compares the four alignment options for the Sunrise Corridor, Hwy 224 Connector; and identifies natural resource enhancement opportunities and constraints. We provide these observations in conjunction with sharing the environmental baseline document, maps, and wetland data sheets, compiled in 2005 to facilitate a better understanding of the site's natural resource values.

Summary of Findings

In early February 2006, NRPS toured the Providence Health System Rock Creek Property with Charles Kelley of Zimmer Gunsul Frasca (ZGF), and Jennifer Snyder Hoglund and Ethan Rosenthal of David Evans and Associates (DEA). Four natural resource zones were observed: upland forest; wetlands, waterways and wet meadows; riparian zone; and wildlife corridors Specifically, the waterways include a lower reach of Rock Creek (confluence with Clackamas River is off-site, downstream of the project area) and a small,

Program (Metro's Riparian Corridor and Wildlife Habitat Inventories, April 2005). This premier rating most likely results from the presence of a high-quality mixed closed canopy landcover on this part of the parcel and its connection to similar vegetation off-site, further to the north. Despite this classification, important opportunities still exist to enhance the quality of this area; e.g., removal and replacement of non-native invasive shrubs (Himalayan blackberry) with native shrubs flowering plants, ferns and grasses. This enhancement would provide high-quality understory for a number of wildlife species that would form a native plant association with the mixed conifer deciduous native tree species. It would also preserve a larger core area of upland environment. This is not inconsiderable, as the east side of Rock Creek represents a large part of the wildlife habitat in the watershed. This upland area would also connect well with the resource area of interest toward the west, the farmed, degraded wet meadow to the west, to provide a large continuous patch of habitat.

The environmental attributes are considerably higher in the western portion of the property that include Rock Creek, riparian and upland forest, and wetlands than in the eastern portion of Providence's landholdings. A small unnamed tributary of Rock Creek, on the south edge of the property, flows perennially and drains more than 100 acres into the Clackamas River. Rock Creek banks are steep, particularly along its east bank, which is a vertical cliff face approximately 75 feet high. Rock Creek, within the project area, flows perennially and drains more than 100 acres into the Clackamas River. Rock Creek banks are steep, particularly along its east bank, which is a vertical cliff face approximately 75 feet high. Rock Creek provides spawning and rearing habitat for the Lower Columbia River Evolutionary Significant Unit (ESU) of winter-run steelhead, a federally threatened species, and for Lower Columbia River/Southwest Washington coho salmon, a proposed threatened species.

The small tributary to Rock Creek occurs near the south property boundary in a steep wooded ravine (Photographs 2). It is approximately 3 feet wide and 750 feet long. A natural fish migration barrier of a 50-foot plus free-fall to Rock Creek exists at the mouth of the drainage. Habitat is negligible because the substrate is primarily mud (Photograph 3). The unnamed tributary connects to an extensive wet meadow located on the lower terrace, flows underneath a gravel roadway via culvert, and discharges over a cliff face to Rock Creek. Surface flows, seepage from the hillslope and tile drainwater are diverted into this tributary from nearby farms through a large drainage culvert; thus, its water quality is degraded by a variety of sources.

The wet meadow (Photographs 4 through 9) contains some forested wetland and occurs west of the toe of the terrace slope (10 - 15% gradient) from north to south across Providence's property. Historically, the area at the base of the slope likely comprised a wet meadow of considerable size, maintained by both surface sheet flow and groundwater seeps at various locations. The region-wide tiling and draining of the area wetlands by the

Alignment Comparison

The four proposed alignments for the Sunrise Corridor and Hwy 224 Connector Interchange were evaluated relative to the site's natural resources: North of the Knoll: SPUI, North of the Knoll: Modified Diamond, Through the Knoll: SPUI, Through the Knoll: Folded Diamond. The exhibits in this memorandum illustrate the four basic concepts that were compared in light of their potential effect on natural areas within the project vicinity. The four concept alignments were derived from the CETAS alternatives and from the ODOT's proposed study alternatives for the Sunrise Corridor/Hwy 224 Connector Interchange, they include: Through the Knoll: Folded Diamond, Through the Knoll: SPUI, North of the Knoll: SPUI, and North of the Knoll: Modified Diamond. Please note that no attempt was made to evaluate the site-specific impacts that could arise from design or construction features in the variable terrain of the study area; this evaluation is to prompt discussion on what the primary differences are among these alternates relative to the site's natural features.

The two interchange configurations that occur "North of the Knoll" essentially bisect the wet meadow. The wet meadow would be heavily impacted in this alignment by attempting to avoid passing through the unnamed tributary to Rock Creek. The two interchange configurations that occur "Through the Knoll" affect the unnamed tributary and surrounding riparian corridor for most of its length. By moving the freeway corridor south, the wet meadow (i.e. slope flat wetlands) is avoided; however, the small tributary would be filled and alternative drainage would need to be installed.

The extent of the impacts to the wet meadow and the small drainage to Rock Creek is related to the planned post construction configuration of the Sunrise Freeway through the Providence Health System Property. In this regard, more detailed design of each option would lay out these impacts so that habitat and water quality values can be compared and assessed; bringing the final design configuration into conformance with community goals for the area.

Next Steps

To summarize, there are tremendous opportunities at the Providence Rock Creek site to create, restore, enhance, and maintain wildlife habitat, as well as provide both connectivity and contiguity with areas to the north, west, and south. As the transportation and site planning alternatives are refined and the design elements are identified, NRPS will elucidate ways to further improvements to the Providence Health System property's environmental aspects. This information is intended to be supplemental to planning and design of public facilities around the Providence Property.



Photograph 1
Building site looking southwest toward I-205 / US 212 interchange.



Photograph 2
Unnamed tributary to Rock Creek (at feet of fieldworkers).



Photograph 3
Culvert conveying surface runoff to drainfield near mouth of unnamed tributary.



Photograph 4
Non-native invasive shrubs at edge of wet meadow.



Photograph 5
Unnamed tributary looking northwest toward wet meadow.



Photograph 6
Wet meadow to upland pasture condition.



Photograph 7
Ponded water in lower wet meadow (February 2006).



Photograph 8
Transition between wet meadow and western red cedar grove near Rock Creek.



Photograph 9
Surface drainage northwesterly between terrace wet meadow and Rock Creek riparian (February 2006).



Photograph 10
Riparian upland forest condition.



Photograph 11
Surveyors cut line through riparian forest.



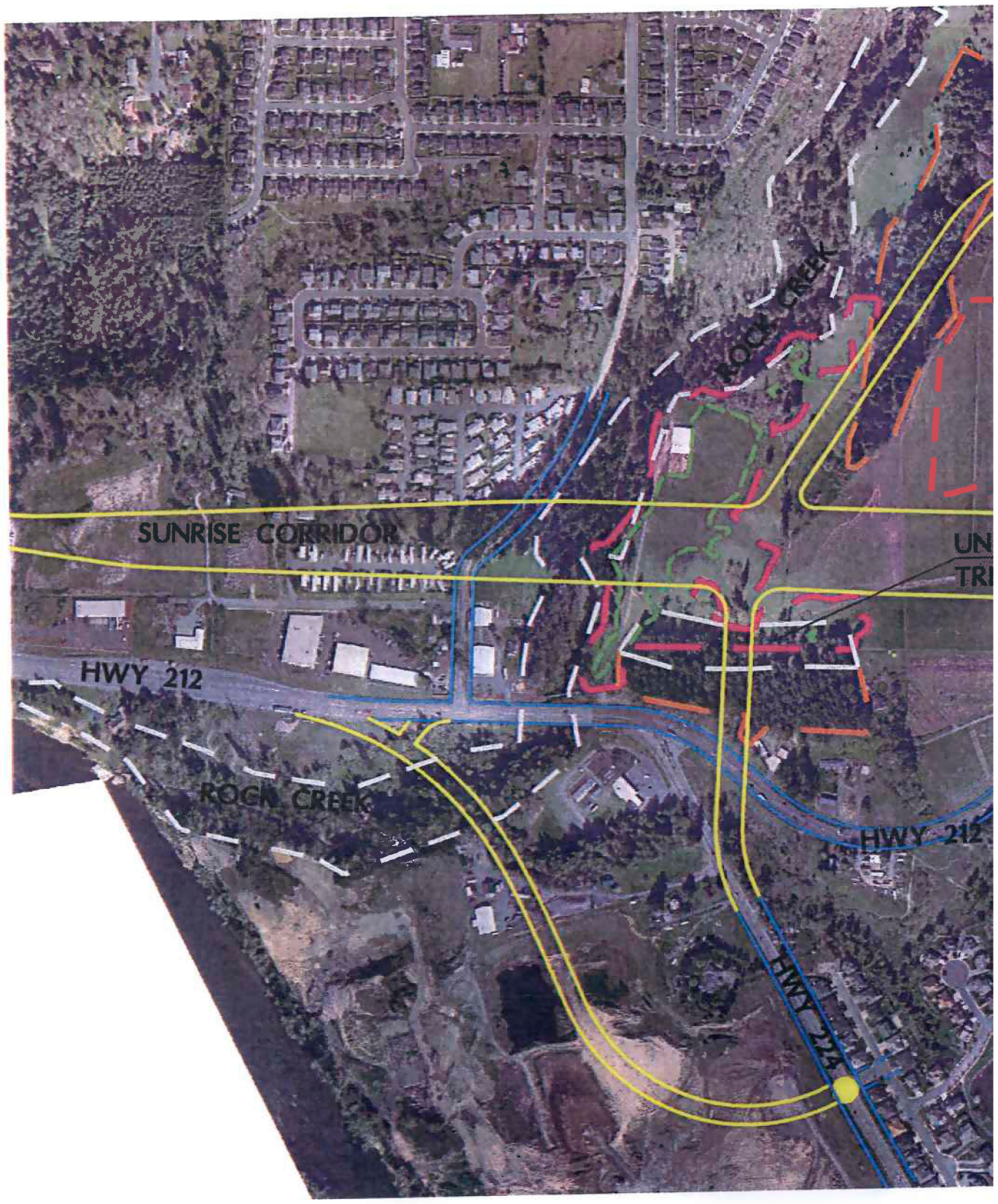
Photograph 12
Understory and conifer species in upland forest along surveyor cut line.

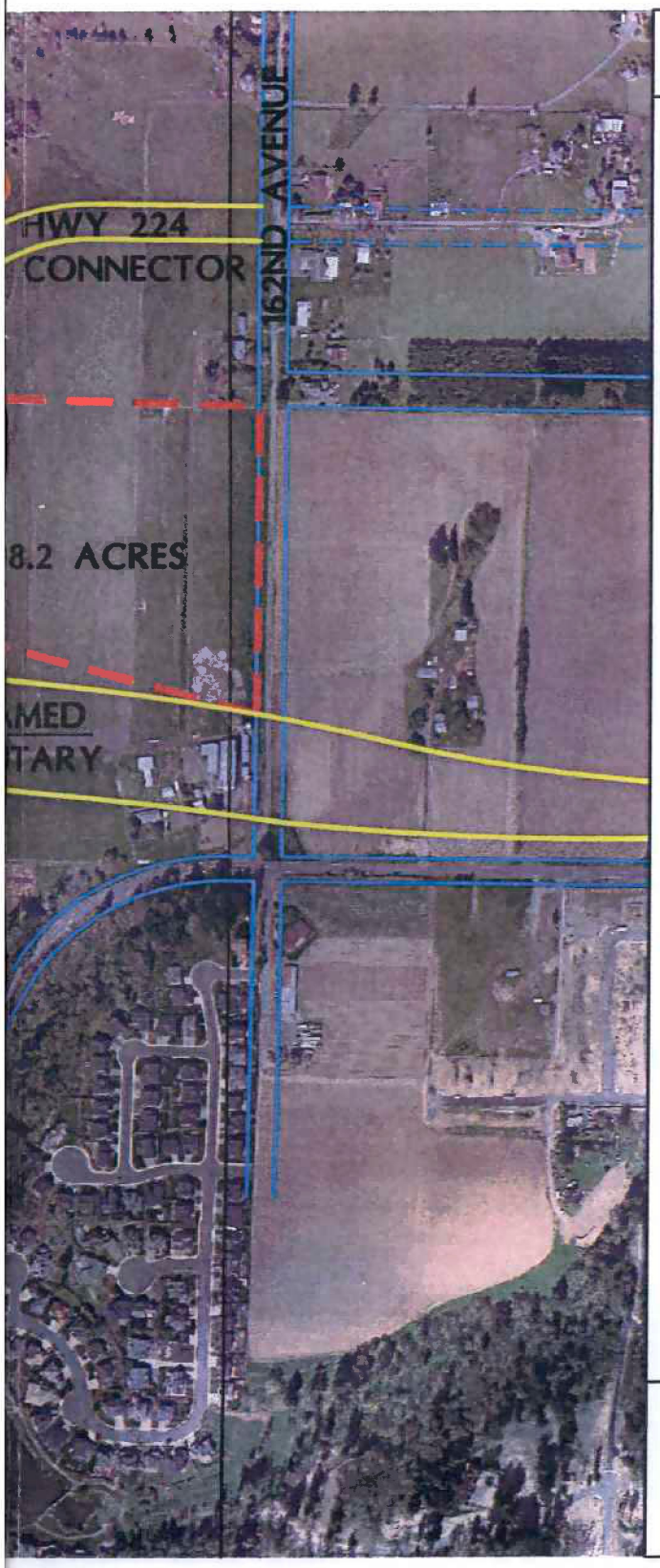


Photograph 13
Mature upland forest along Rock Creek.



Photograph 14
Exposed soil strata on west bank of Rock Creek at far northern end of Providence property.


SUNRISE CORRIDOR
ROCK CREEK
HWY 212
ROCK CREEK
HWY 212
HWY 224



Providence | Health System

HAPPY VALLEY **medical center**

L E G E N D

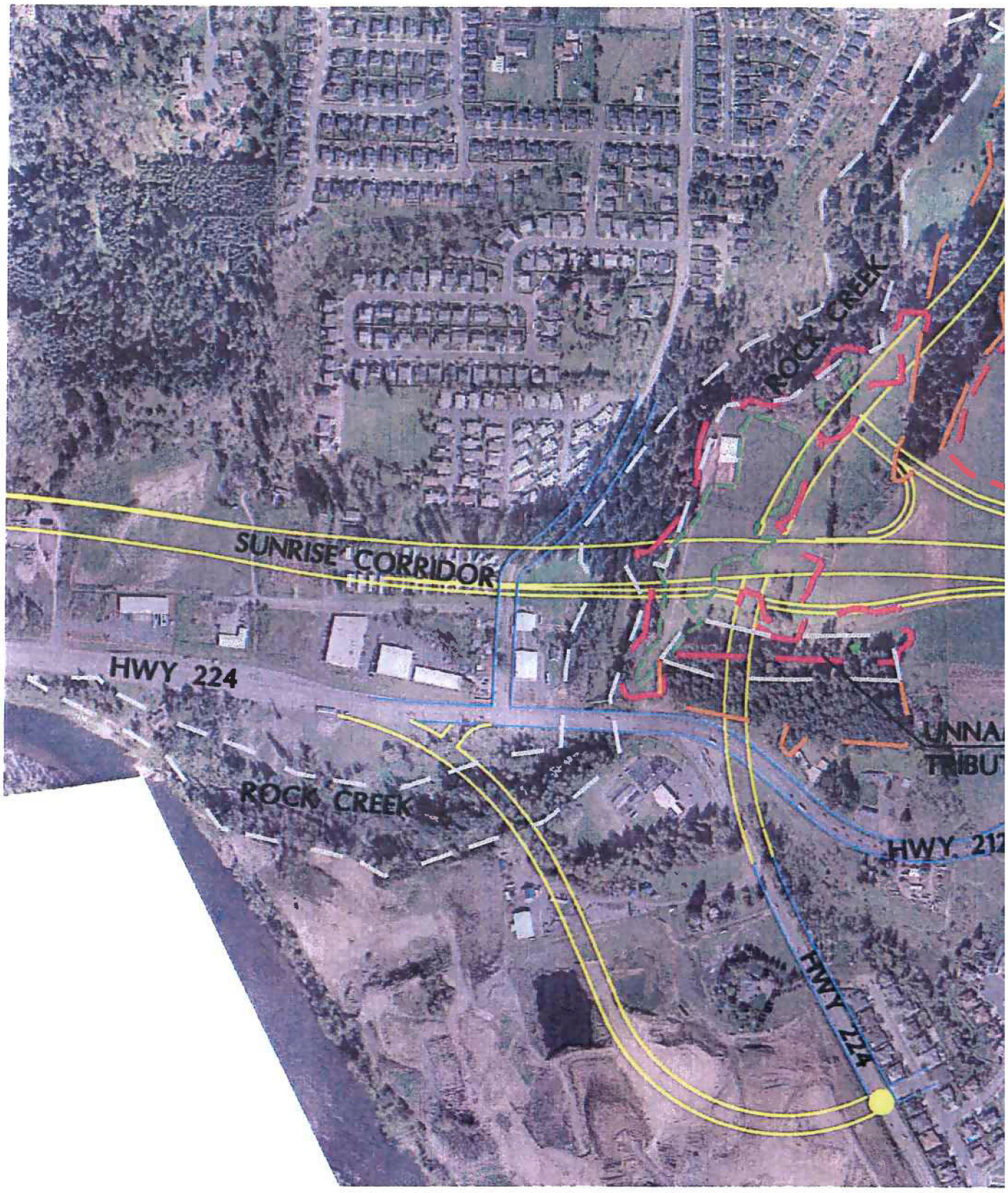
- Property Line
- Wetland
- Wetland Buffer
- Higway boundry
- Upland Forest
- Riparian Forest

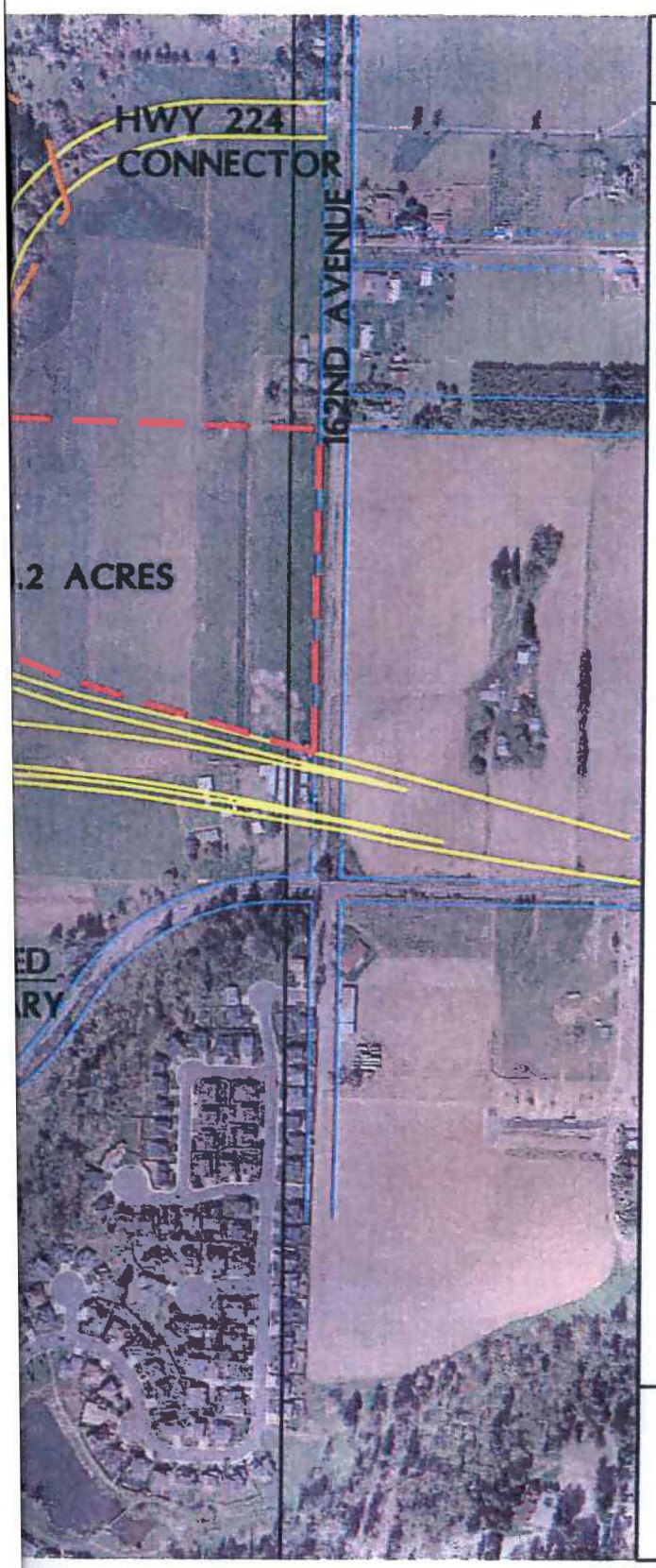
0 125' 250' 500' 1000'

ZIMMER GUNSUL FRASCA PARTNERSHIP

june 15, 2005

NORTH OF THE KNOLL: SPUI


SUNRISE CORRIDOR
ROCK CREEK
HWY 224
ROCK CREEK
HWY 224



HAPPY VALLEY **medical center**

Providence | Health System

L E G E N D

- Property Line
- Wetland
- Wetland Buffer
- Higway boundry
- Upland Forest
- Riparian Forest

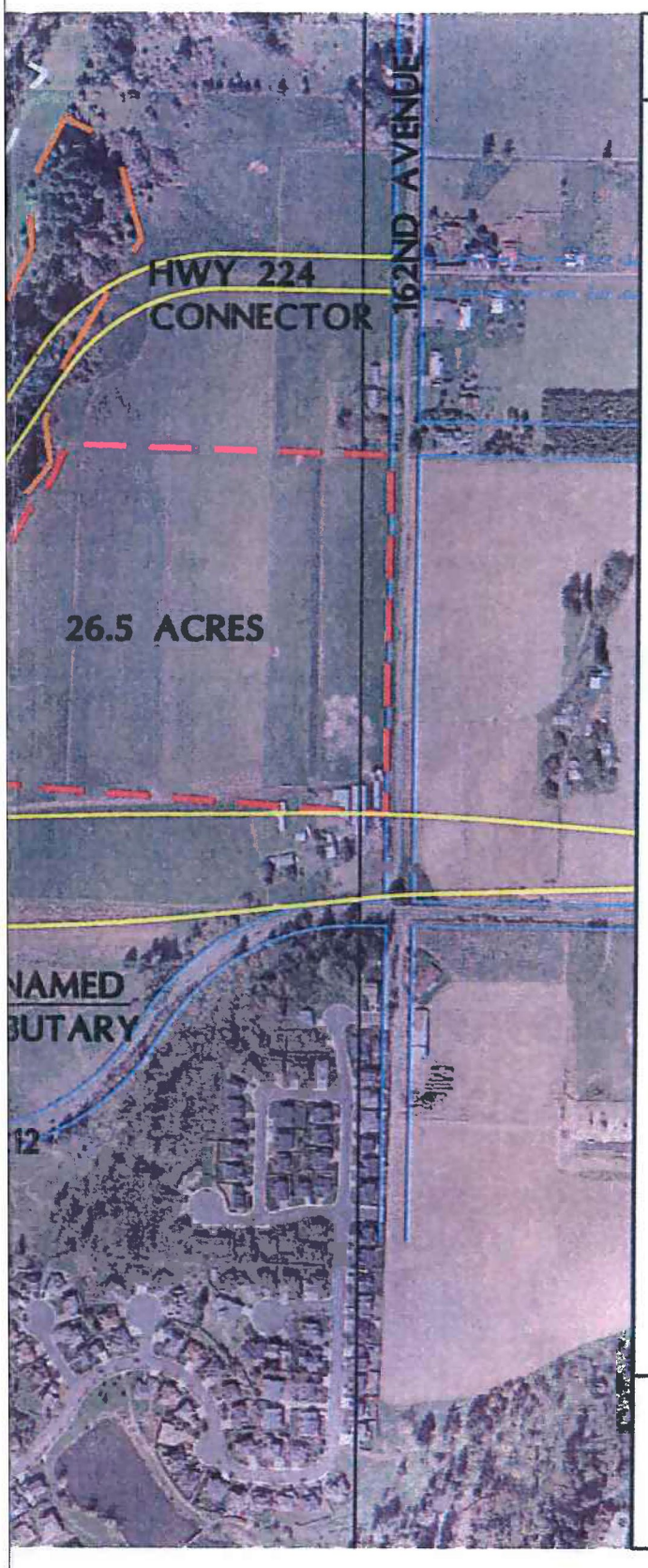
0 125' 250' 500' 1000'

ZIMMER GUNSUL FRASCA PARTNERSHIP

june 15, 2005

NORTH OF KNOLL:
MODIFIED DIAMOND


SUNRISE CORRIDOR
HWY 224
ROCK CREEK
ROCK CREEK
HWY
HWY 224



HAPPY VALLEY **medical center**

LEGEND

- Property Line
- Wetland
- Wetland Buffer
- Higway boundry
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- Riparian Forest

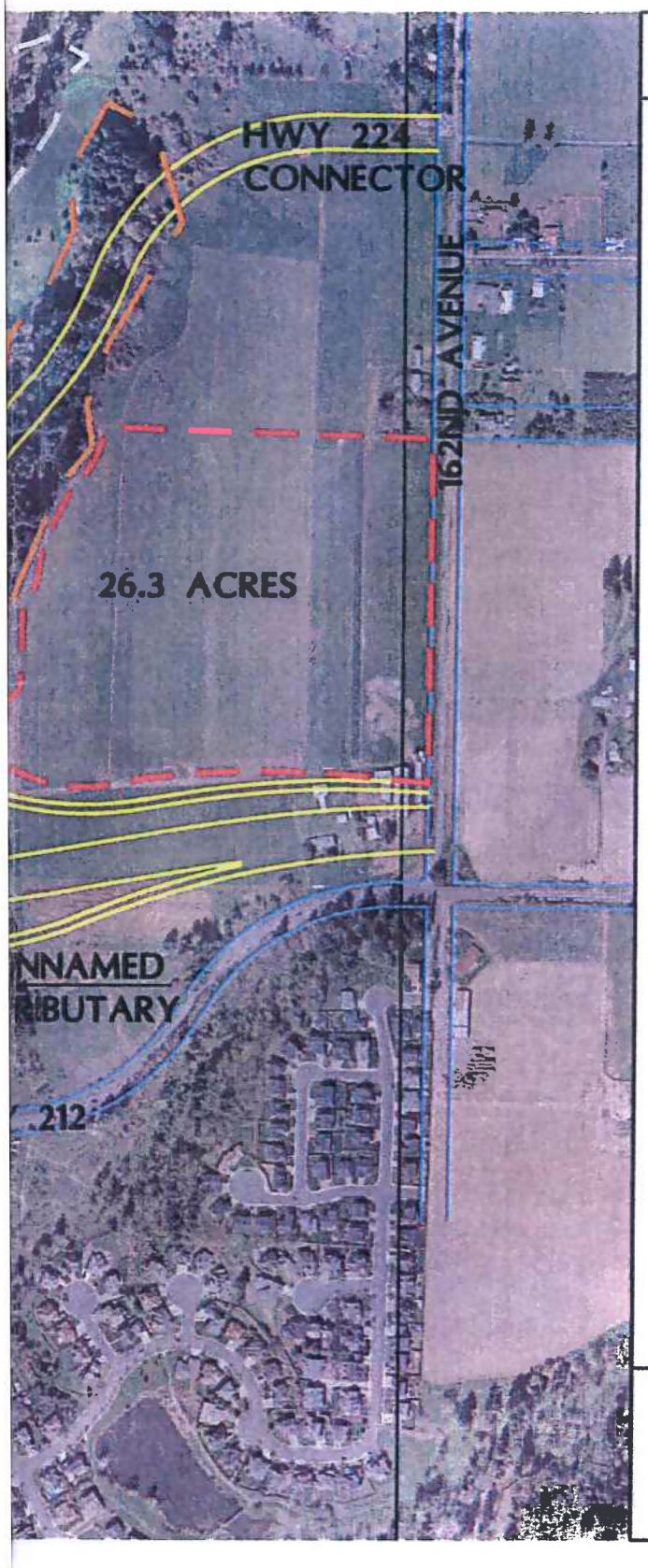
0 125' 250' 500' 1000'

ZIMMER GUNSUL FRASCA PARTNERSHIP

june 15, 2005

THROUGH THE KNOLL:SPUI


SUNRISE CORRIDOR
HWY 224
ROCK CREEK
ROCK CREEK
HWY 224



HAPPY VALLEY **medical center**

Providence | Health System

LEGEND

- Property Line
- Wetland
- Wetland Buffer
- Higway boundry
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- Riparian Forest

0 125' 250' 500' 1000'

ZIMMER GUNSUL FRASCA PARTNERSHIP

june 15, 2005

THROUGH THE KNOLL: FOLDED DIAMOND

kpff Consulting Engineers
U.S. Bancorp Tower, 111 SW 5th Avenue, Suite 2500
Portland, OR 97204 (503) 227-3251 FAX (503) 274-4681

M E M O R A N D U M

DATE: May 24, 2006

TO: Stefanie Slyman, Perkins Coie

CC: Charles Kelley, ZGF

FROM: Matt Dolan

RE: Rock Creek Employment Area - Utility Infrastructure Assessment

PROJECT NO.: 305033.00

The purpose of this narrative is to provide an assessment of the public facilities serving the Rock Creek Employment Area in the City of Happy Valley. This assessment is specifically targeted at utility infrastructure to serve the area that is the subject of the proposed comprehensive plan text and map amendments being prepared by Providence Health System (PHS). The subject property lies north of Highway 212, south of Sunnyside Road, and the approximate 140-acres is bound on the west and east by Rock Creek and 162nd Avenue, respectively. This assessment discusses the existing infrastructure, planned improvements, on-going planning efforts, and potential funding strategies for the improvements. In general, it should be noted that the infrastructure appurtenances necessary for development are typically associated with roadway improvements also needed to serve the development and it is anticipated that this will be the norm for this area as well.

Sanitary Sewer System

Existing

Clackamas County Water and Environmental Services (WES) Service District #1 (CCSD1) provides sanitary sewer service to the area. An existing 18" sewer main follows Highway 212/224 from the west and then south along 224. As well, there is a sanitary sewer system serving the subdivision south of Highway 212 at SE 162nd Avenue. This system ties into the 18" line at 212/224.

Planned

The County is currently in the final stages of design for Phase I of the Rock Creek Wastewater Conveyance Project. This includes 7,100 lineal feet of gravity interceptor sewer, 24 and 30-inches in diameter, beginning just south of Sunnyside Road and connecting into CCSD1 existing system at Highway 212/224. This is to be completed in 2007. This line traverses the western edge of the Employment Area. Secondary and branch services throughout the Employment Area will likely follow the road improvements and potential utility corridors.

 EXHIBIT 5

Water System

Existing

Sunrise Water Authority is the primary water provider in the area. A 12" line exists at the intersection of Highway 212 and SE 162nd Avenue. In addition,, three other large water mains are in the area. An 18" line exists at 152nd Avenue and Sedona Drive; an 18" line at 172nd; and a 24" main in Armstrong Circle. The expected water pressure in this area is considered good with a range from 60 to 100 psi. Additionally, the properties in the Employment Area also have water rights.

Planned

Sunrise Water Authority is currently in the process of evaluating the area and analyzing the impact of this Employment Area with other planning efforts in the region. The latest plan calls for a 42" transmission line placed in the Highway 212 alignment and a large diameter (18"-24") distribution line in SE 162nd Avenue. Secondary and branch distribution lines likely follow the road improvements and potential utility corridors.

Storm Drainage and Stormwater Management

Existing

The existing storm drainage system consists of swales/ditches along the roadsides and sheet flow. As the area is mostly farm land, the storm system is not a defined system. Ultimately, the storm drainage discharges into Rock Creek.

Planned

WES is currently working on rewriting its surface water management plan to create a program that incorporates best management practices available with scientific modeling. The Rock Creek Employment Area is expected to fall under the new guidelines. New storm lines will be routed within the new street network. Both water quality and water quantity/flow control design will be required. Because of the site topography, connection to a new public system with ultimate discharge to Rock Creek and the Clackamas River will not be difficult. As well, because of the area's location in relation to the surrounding areas, proposal of a regional water quality facility/feature is possible.

Franchise Utilities

In addition to the primary utilities, franchise utility services will also serve the Employment Area. Following is a brief description of the various private utilities and the current status.

- Gas – There is currently a 2" gas line in SE 162nd Avenue and a 12" high pressure line in Highway 212. Conversations with NW Natural noted they would be able to provide gas to the area within the current infrastructure framework and in the future. With the proposed Sunrise Freeway, NW Natural anticipates modifications to the existing system which will only enhance the services in the area.

- Power – Power is provided by PGE. The capacity of the existing system is not known, however, there are plans to add a new 28MVA transformer at the Carver substation to serve the growing demand in the area as noted in the report on Rock Creek Employment Study Area 2004 planning efforts.
- Telecommunications – Qwest, Comcast, and Verizon provide telecommunication services to the area. There are telecommunication services available in the Highway 212 alignment. It is also expected that improvements will be made to the current systems as development occurs, demands increase, and the proposed road improvements are constructed.

Public Facilities Planning Efforts

The Rock Creek Employment Area will require a significant amount of public and private infrastructure. The City of Happy Valley, Clackamas County, and Sunrise Water Authority continue to view the Rock Creek Employment Area holistically. Planning and construction of the Sunrise Corridor is an ongoing cooperative effort between Clackamas County, ODOT, and the City of Happy Valley. Providence Health Systems (PHS) has been actively involved in many of these planning efforts. Throughout the process, PHS, and other interested parties, have been involved to ensure future public systems will be adequate to serve the development of the Rock Creek Employment Area.

Funding Strategies

There are various funding strategies for the infrastructure improvements. As is the case with the WES interceptor sewer, some portions may be funded through the capital improvement programs of the various providers. Local Improvement Districts (LIDs) can be formed to fund the improvements. Often, the developer is conditioned to extend the public services throughout the development in accordance with the provisions of the Master Plan at the sole expense of the development. In addition, the System Development Charges (SDCs) collected by the various providers are used to fund improvement projects.

LANCASTER
engineering

DRAFT

ROCK CREEK EMPLOYMENT AREA

Transportation System Assessment

Date: June 5, 2006

From: Todd E. Mobley, PE, PTOE

This report is written to provide an assessment of the transportation system surrounding the Rock Creek Employment Area in the City of Happy Valley. This assessment is tailored to address the transportation system that will serve the area that is the subject of the proposed comprehensive plan text and map amendments being prepared by Providence Health System (PHS). This 140-acre area lies north of Highway 212, between Rock Creek and 162nd Avenue. An important aspect of the proposed text amendments includes deferral of a detailed traffic impact analysis addressing the Transportation Planning Rule (TPR) to the master plan stage of a specific development application, at which time impacts and improvements can be identified. This assessment discusses the existing transportation system, planned improvements to the system, and ways in which stakeholders can be assured that a safe an efficient transportation system is being planned and can feasibly be constructed, consistent with Statewide Planning Goal 12.

Current Transportation System

The western portion of the Rock Creek Employment Area is currently served only by 162nd Avenue. The intersection of 162nd Avenue and Highway 212 is a "T" shaped unsignalized intersection that has relatively low capacity for traffic on 162nd Avenue given the large volume of traffic on Highway 212. East of Highway 224, Highway 212 is a two-lane facility with a single travel lane in each direction.

Many projects are planned for the area that will provide increased capacity to the system, both for regional and local traffic. The following section discusses the planned transportation system.

Planned Transportation System

A total of 12 transportation projects are identified that will serve the subject area. These projects are contained within an area bound on the north by Sunnyside Road, the south by Highway 212, the east by 172nd Avenue, and the west by Rock Creek and Highway 224. A discussion of each project is provided below and a map showing the projects graphically is attached to this report.

EXHIBIT 6

Union Station, Suite 206 ▪ 800 NW 6th Avenue ▪ Portland, OR 97209 ▪ Phone 503.248.0313 ▪ Fax 503.248.9251

The projects of regional significance are included in Metro's Regional Transportation Plan (RTP). Improvements to the local transportation system such as the extension of 162nd Avenue across Rock Creek are not specifically identified on the RTP since the document primarily addresses the regional transportation system. The numbering below corresponds to the numbering system in the attached map.

1. Sunrise Corridor

   The Sunrise Corridor is a limited-access freeway connecting Interstate 205 with Highway 224 and the Rock Creek area. The first phase of the project, Unit 1, is planned to terminate between 162nd and 172nd Avenues, matching into existing Highway 212. The transportation system that is planned in the Damascus/Boring Concept Plan extends the Sunrise Corridor to the east as a limited access facility.

   The Draft Environmental Impact Statement (DEIS) for this project currently is being prepared. This document examines design alternatives for the facility that will eventually be narrowed to a single preferred alternative. This will then be used for the final design and construction of the freeway.

2. Rock Creek Interchange

   A full-access interchange is planned as part of Unit 1 of the Sunrise Corridor to serve both Highway 224 and the local street system. This interchange will serve Highway 224 as it turns south toward Carver, the existing Highway 212 as it continues east into Damascus Center, and a northerly extension of Highway 224 through the western portion of the Rock Creek Employment Area. Two interchange configurations currently are being considered as part of the Sunrise Corridor DEIS.

3. Highway 224 Extension/Damascus Boulevard

   The northward and eastward extension of Highway 224 to serve the Rock Creek Employment Area is an important component of the Rock Creek Interchange. The Damascus/Boring Concept Plan shows this facility as Damascus Boulevard, a five-lane arterial street. This facility is expected to have a full-movement intersection with 162nd Avenue as well as access to the PHS site west of 162nd Avenue.

4. Rock Creek Bridge, 162nd Avenue Extension

   162nd Avenue is planned as a collector roadway and will be constructed between Rock Creek and Sunnyside Road as part of Taralon, a predominantly residential mixed-use project in Happy Valley that is approved for development. A bridge over Rock Creek will be necessary to complete the extension of 162nd Avenue southward to its current alignment in the Rock Creek Employment Area. This link will be an important component to the Rock Creek Employment Area, offering another access alternative to an arterial street.

5. Traffic Signal at 162nd Avenue and Highway 212

   Signalization of the intersection of Highway 212 and 162nd Avenue is critical to provide needed capacity to the Rock Creek Employment Area. Signalization of the intersection also will include various geometric improvements to both Highway 212 and 162nd Avenue, since there are no turn lanes at the intersection currently. A traffic signal at this intersection is identified in the City of Happy Valley's Transportation System Plan (TSP).

6. 172nd Avenue Extension

   172nd Avenue currently terminates at its intersection with Armstrong Circle, north of Highway 212. To mitigate unsafe conditions at the intersection of Armstrong Circle and Highway 212, 172nd Avenue is planned to be extended south to form the fourth leg of the existing signalized intersection of Highway 212 and Anderegg Parkway. This project is funded and is expected to begin construction soon.

7. 172nd Avenue at Highway 212

   The 172nd Avenue extension project described above will only provide the necessary revisions at the Highway 212 intersection to facilitate the new fourth leg. Still, this intersection is expected to experience capacity deficiencies as growth in the area continues. Accordingly, a project is planned to add additional turn lanes and capacity enhancements at the intersection.

8. 172nd Avenue Widening

   Clackamas County currently is designing a project that will widen 172nd to a five-lane section between Sunnyside Road and Highway 212. This improvement is necessary to accommodate anticipated growth in the area.

9. Sunnyside Road Widening to 162nd Avenue

   An improvement project currently is under construction that will widen Sunnyside Road to a five-lane arterial street section from 122nd Avenue to 162nd Avenue. This project includes signalization of the intersections of 157th Avenue and 162nd Avenue with Sunnyside Road.

10. Sunnyside Road Widening to 172nd Avenue

    Following the aforementioned project, improvements to Sunnyside Road will be extended east to 172nd Avenue. This project is funded and construction is expected to follow closely behind the current project extending to 162nd Avenue.

11. 172nd Avenue at Sunnyside Road

    An intersection improvement project is planned at the intersection of 172nd Avenue and Sunnyside Road that will improve capacity by adding turn lanes and a traffic signal. This project is funded and is expected to begin construction soon.

12. Sunnyside Road Widening east of 172nd Avenue

    A major realignment and improvement project on Sunnyside Road between 172nd Avenue and Highway 212 is planned. This is the final phase of the Sunnyside Road improvements.

The local street system in the area is expected to be constructed as the area builds out. The attached map shows a schematic layout.

Transportation Planning Efforts

As shown in the previous section, a considerable amount of transportation infrastructure is planned in the area that will help serve development in the Rock Creek Employment Area. The projects that involve Sunnyside Road and 172nd Avenue are being planned and administered by Clackamas County. Other projects are planned but not yet included in a Capital Improvement Plan (CIP) or similar funding strategy. The Sunrise Corridor is the most significant project that is the result of a cooperative effort between ODOT, Clackamas County, the City of Happy Valley, and a number of other affected agencies and stakeholders.

Providence Health System (PHS) has followed the transportation planning processes of ODOT, the City of Happy Valley, and Clackamas County and assisted the jurisdictions by providing es-

timated employment levels and peak-hour trip generation that could be realized at area build out. This was done to assist in the planning of the transportation system and ensure facilities will be adequate in the future. The Sunrise Corridor DEIS is currently revising the transportation system model to increase forecasted employment levels in this area to be more consistent with expectations of the City of Happy Valley. As a result, the Rock Creek interchange and the northerly extension of Highway 224 will be properly designed to accommodate long-term growth in the area.

The Rock Creek Employment Area cannot be developed to its full potential in the short term. It is clear that the transportation infrastructure must develop to provide adequate services. For this reason, deferring detailed traffic impact analyses to a master plan process is a logical step. This way, it can be assured that each phase of development in the area has adequate facilities to serve it. As part of the impact analysis, specific thresholds can be identified and tied to various improvements to ensure that development will not out-pace the construction of the necessary transportation infrastructure. In this manner, the Transportation Planning Rule and Goal 12 will be addressed at this future time in more detail, ensuring an adequate, safe, and efficient transportation system throughout the planning horizon.

Funding Strategies

Funding has already been identified in the City of Happy Valley's TSP for many of the transportation projects listed on the previous pages, particularly those on Sunnyside Road and on 172nd Avenue. For other projects that are either partially funded or unfunded at this time, there are several possible funding strategies available. These strategies are also discussed in detail in the City's TSP, which was adopted in February of 2006.

A primary method of financing transportation improvements is through State fuel taxes and vehicle licensing fees. A portion of these monies are paid annually to public agencies on a per capita basis. A larger revenue source, particularly in recent years, is System Development Charges (SDCs). The City's TSP estimates a total of $113,270,000 will be collected in transportation SDCs over the next 20 years.

When warranted, transportation improvements can be constructed as mitigation of impacts from private development through conditions of approval. Such conditions can be considered at the time of master plan review for specific development projects. When the cost of planned transportation improvements such as those discussed in this assessment can be made SDC creditable, it is beneficial to both the City and the developer as an efficient means of constructing needed infrastructure. It is estimated that development within the Rock Creek Employment Area could generate over 14 million dollars in transportation SDCs based on current SDC rates.

Metro Title 11

Title 11 of Metro's Urban Growth Management Functional Plan requires a conceptual transportation plan that is consistent with the Regional Transportation Plan and other provisions. This assessment and other application materials serve as that transportation plan. All of the transportation improvements described here are consistent with transportation planning efforts of ODOT, Clackamas County, and the City of Happy Valley. This assessment is a supplement to the transportation planning documents from these jurisdictions, as preliminary cost estimates and funding strategies have been considered previously. Moreover, the Comprehensive Plan amendments will help to foster development in the Employment Area, which will contribute additional revenue to assist in designing and constructing critical transportation infrastructure.



KEY:

Proposed Comprehensive Plan and Zoning District Boundary

Functional Classification

existing	*future*	
n/a		Expressway
		Major Arterial
	n/a	Minor Arterial
		Collector
		Neighborhood
	n/a	Local

Interchange Access

Study Intersections

City Limits

Proposed Transportation

Rock Creek
Mixed Employment District

0 500 1000 1500

April 4, 2006

EXHIBIT 7

Perkins Coie

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

May 5, 2008

VIA E-MAIL

Mr. Michael D. Walter AICP
Current Planning Services Manager
City of Happy Valley
12915 S.E. King Road
Happy Valley, OR 97236-6298

Re: Legislative Application for Implementation of the Damascus-Boring Concept Plan on 145 Acres Designated "Employment" in the Rock Creek Employment Area

Dear Mr. Walter:

This office represents the applicant. This letter provides supplemental argument and evidence addressing three (3) issues:

- Public outreach efforts conducted by Providence Health System-Oregon with the surrounding property owners.
- Additional information addressing compliance with Metro Urban Growth Management Functional Plan ("Functional Plan") Section 3.07.1120.
- Supplemental information addressing applicable requirements of two (2) Oregon Administrative Rules:
    - Economic Development, Chapter 660, Division 9, and
    - Transportation Planning Rule, OAR 660-012-0060(1)-(2)

EXHIBIT # 11 C 11

1. Public outreach efforts.

Page 20 of the application contains information about the two (2) public meetings for surrounding property owners. Providence sponsored the two (2) meetings on May 31, 2006 and February 25, 2008. **Exhibit 1** is the mailing list used for the meetings and meeting notices and meeting minutes for both neighborhood meetings. Although the public outreach efforts are not a requirement of applicable Happy Valley Development Code ("HVDC") requirements, the efforts demonstrate an additional reason why the City can find that Statewide Planning Goal ("Goal") 1, "Citizen Involvement", has been satisfied.

2. Functional Plan, Section 3.070.1120.

Metro Functional Plan Title 11 requires that adopted comprehensive plan provisions be consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and, in particular, Title 11. Metro Urban Growth Management Functional Plan Section 3.07.1120.

This section provides supplemental information for certain of the provisions under Functional Plan Section 3.07.1120. As an initial matter, the City can find that this proposal is consistent with evidence demonstrating that the RC-ME zoning district will provide the highest level of employment. **Exhibit 2** is the "Report on the Rock Creek Employment Area Study" (the "Study") prepared by the Clackamas County Department of Transportation and Development, dated September 14, 2004. Land Use Alternative 2 at Study Page 19 shows that an estimated 5,328 jobs would be created at build-out. This compares to the Light Industrial Land Use Alternative that creates only 2,801 jobs.

A. Functional Plan Section 3.07.1120(F):

"Provision for sufficient commercial and industrial development for the needs of the area to be developed consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency."

RESPONSE:

This functional plan criterion is satisfied for two (2) reasons.

First, the "area" in this case is the Damascus-Boring Concept Plan area. The criterion requires that, with the adoption of the urban regulations for implementation of the Concept Plan in the Rock Creek area, there be provision for sufficient commercial and industrial development for the needs of the area consistent with 2040 Concept design types. In other words, this application, if approved, should leave the City in the position of being able to otherwise satisfy this requirement in the remainder of the area subject to the Damascus-Boring Concept Plan.

As noted above, the City can find that this application satisfies the Concept Plan requirement for employment needs in the Rock Creek area. As to the remainder of the Damascus-Boring Concept Plan inside the City of Happy Valley (known as the "East Happy Valley Area"), the City can make the same finding.

Second, the East Happy Valley Plan area (the portion of the Damascus-Boring Concept Plan within the city limits of Happy Valley) contains 455 acres designated for Employment and Industrial Campus. The Employment Center ("EC") designation contains 224 acres. The Industrial Campus ("IC") designation contains 231 acres. The IC designation implements the Regionally Significant Industrial Area ("RSIA") Design Type. The City projects that year 2025 total employment in these 455 acres will be 8,384 employees. These figures compare to approximately 100 acres of Employment designated land and 330 acres of Industrial designated land proposed in the Damascus-Boring Concept Plan. The RC-ME plan designation and zoning district implements the Damascus-Boring Concept Plan design type (Mixed Employment), which is consistent with Metro's Employment Design Type.

For these reasons, the City can find this criterion satisfied.

B. Functional Plan Section 3.07.1120(G):

"A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan, and that is also consistent with the protection of natural resources, either identified in acknowledged comprehensive plan inventories or as required by Title 3 of the Urban Growth Management Function Plan. The Plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches."

RESPONSE:

The applicant's initial response is found at Page 35 of the application. **Exhibit 3** is a memorandum dated April 14, 2008 from Lancaster Engineering addressing conceptual transportation plan and including a conceptual transportation map. The memorandum addresses this Functional Plan requirement.

OAR 660-011-0010 is entitled "The Public Facility Plan." OAR 660-011-0010(1) requires that public facility plans included certain items. As relevant to this functional plan requirement, OAR 660-011-0010(c) requires "rough cost estimates of each public facility project." OAR 660-011-0010(1)(g) requires " a discussion of the provider's existing funding mechanisms and the ability of these impossible new mechanisms to fund the development of each public facility project or system."

Consistent with this Functional Plan requirement, this application satisfies these requirements. The only public facility project is the connector from SE 162nd Avenue on the east to the future Sunrise Highway facility on the south. Known as Rock Creek Boulevard, the facility will be a Collector road on the City's Transportation System Plan ("TSP") map. The rough cost estimate depends on the ultimate alignment and design but could be anywhere from ten to twenty-five million dollars ($10,000,000 to $25,000,000). The City's existing funding mechanisms include the following:

- Developer construction with Traffic Impact Fee ("TIF") credit for those eligible portions of the public facility construction.
- The Local Improvement District ("LID") construction of the public facility.
- Full local funding of the public facility.
- Local funding with assistance from the State of Oregon State Transportation Improvement Program ("STIP") or other state and federal sources.

The City can find that one or more of these financing mechanisms can fund the development of this public facility when needed. The City can find that the need for the public facility arises only in the future when development requires the construction of the facility. Until that time, interim improvements on SE 162nd Avenue and Oregon Highway 224 will suffice.

For these reasons, the City can find that this criterion is satisfied.

3. Oregon Administrative Rules implementing Statewide Planning Goal 9, "Economic Development", and Statewide Planning Goal 12, "Transportation."

A. Division 9.

OAR Chapter 660, Division 9 implements Statewide Planning Goal 9. OAR 660-009-0010(4) applies only to certain post-acknowledgement amendments. The initial application addressed this administrative rule at Page 23. This section provides as follows:

"(4) For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

(a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or

(b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or

(c) Adopt a combination of the above, consistent with the requirements of this division."

RESPONSE:

The City can find that this administrative rule is inapplicable. It applies to changes to a Comprehensive Plan designation of land in excess of two (2) acres within an existing Urban Growth Boundary from an industrial use designation to a non-industrial use designation, or another employment use designation to any other use designation. In this case, the current Comprehensive Plan designation is Agricultural with an Exclusive Farm Use ("EFU") zoning designation. An Agricultural plan designation is neither an industrial designation nor is it another employment use designation. Therefore, this administrative rule is inapplicable.

B. OAR Chapter 660, Division 12, "Transportation Planning (the Transportation Planning Rule")."

The initial application addressed this administrative rule at Pages 23 and 24. OAR Chapter 660-012-0060(1)-(3) applies to post-acknowledgement amendments. These criteria provide:

"(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) As measured at the end of the planning period identified in the adopted transportation system plan:

(A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

(2) Where a local government determines that there would be a significant effect, compliance with section (1) shall be accomplished through one or a combination of the following:

(a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.

(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a

funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

(d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

(e) Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided."

RESPONSE:

As explained at Pages 23 and 24 of the initial application, the City can find that these criteria are satisfied because the proposed ordinance defers Transportation Planning Rule compliance until the Master Plan stage. As explained in the initial application, no development of this site can occur until demonstration of compliance with the Transportation Planning Rule. *Citizens for Protection of Neighborhoods , LLC v. City of Salem,* 47 Or LUBA 111 (2004) **(Exhibit 4)** involved a post-acknowledgement amendment application that adopted a new mixed use plan and zoning designation in a legislative proceeding. In response to an assignment of error by opponents to the City's action approving both the implementation of the text amendments, LUBA held that a condition deferring Transportation Planning Rule compliance to a Master Plan stage was consistent with OAR 660-012-0060(2)(e) "providing other measures as a condition of development...local government shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided."

Further, HVDC 16.40.041(G) applies in this instance. Subsection (G) is one of the six (6) review criteria for an amendment to the City's acknowledged Comprehensive Plan. This section provides: "When an application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. If a Master Plan that requires a full traffic impact analysis is required for a comprehensive plan amendment/zone change area, a

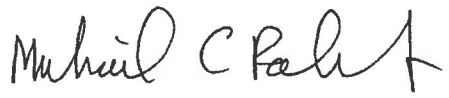
subsequent master plan may satisfy this provision, as determined by the city of Happy Valley community development director or designee."

This HVDC provision provides that until master plan approval, no urban development can occur on the property without a master plan approval subject to a full traffic impact analysis. The City can find that there would be a significant affect but pursuant to this condition of approval, the condition (the proposed master plan requirement) can mitigate the significant affect.

4. Conclusion.

For the reasons contained in this letter and those in the initial application, the City can find that the applicable approval criteria are satisfied.

Very truly yours,



Michael C. Robinson

MCR:cfr

Enclosures

cc: Ms. Dana White (w/encls.) (via email)
Ms. Bev Bookin (w/encls.) (via email)
Ms. Julia Kuhn (w/encls.) (via email)
Mr. Dan Seeman (w/encls.) (via email)
Mr. Todd Mobley (w/encls.) (via email)
Mr. Matt Randall (w/encls.) (via email)
Mr. Matt Dolan (w/encls.) (via email)
Mr. Charles Kelley (w/encls.) (via email)
Ms. Rebecca Woods (w/encls.) (via email)
Ms. Rene King (w/encls.) (via email)
Mr. Ray Valone (w/encls.) (via email)

EXHIBITS

Exhibit 1 Mailing List, Meeting Notices and Minutes from the two (2) Providence-sponsored public outreach meetings held on May 31, 2006 and February 25, 2008.

Exhibit 2 "Report on the Rock Creek Employment Area Study" prepared by the Clackamas County Department of Transportation and Development, dated September 15, 2004.

Exhibit 3 Transportation System Assessment Memorandum from Todd Mobley of Lancaster Engineering, dated April 14, 2008.

Exhibit 4 *Citizens for Protection of Neighborhoods, LLC v. City of Salem*, 47 Or LUBA 111 (2004).

Please Join Us!

Rock Creek Employment Area
Neighborhood Information Meeting

This notice is to announce the second Rock Creek Employment Area neighborhood information meeting. The purpose of this meeting is to review the zoning regulations that Providence Health System (PHS) is proposing for the area. PHS representatives will describe the proposed regulations with discussion to follow.
Light refreshments will be served.

Wednesday, May 31st, 2006
6:30 PM - 8:00 PM
At
City of Happy Valley - City Hall Annex
12915 SE King Road
Happy Valley, Oregon

We look forward to meeting with you.
If you have any questions or concerns,
please contact Stefanie Slyman at 503.727.2025.

EXHIBIT 1

ROCK CREEK EMPLOYMENT AREA NEIGHBORHOOD MEETING NOTES
5/08/06

Property Owners and Interested Parties in Attendance: *Doug Bollam, Julian Emmerson, George Faris, Tony Hanna, Frank Huckins, Sherry Huckins, Darin Oreste, Chris Rask.*

Providence Health System (PHS) Representatives: *Dana White (PHS) Renee King (PHS), Charles Kelley (Zimmer Gunsul Frasca Partnership) Mike Robinson (Perkins Coie, LLP), Stefanie Slyman (Perkins Coie, LLP), Rebecca Woods (The Bookin Group)*

Discussion. *Dana White of PHS opened the meeting and welcomed attendees; all participants introduced themselves. Mike Robinson of Perkins Coie explained the purpose of the meeting and elaborated on the City Council's permission to proceed with undertaking the Comprehensive Planning work for the Rock Creek Employment area. This area generally consists of those properties in the area bound by SE 162nd Avenue on the east, Highway 212 on the south and Rock Creek on the west and north. This area is subject to Metro's Title 11 Concept Planning requirements for new urban areas, which requires that the plan be consistent with the concept planning that was undertaken in the Damascus Boring Concept Plan. This Concept Plan designates this area as "Mixed Employment" which generally includes a mix of office, light industrial and medical uses. Stefanie Slyman reminded the participants of other planning work for the area led by Clackamas County as documented in the "Report on the Rock Creek Employment Study Area." That report, which predates the Concept Plan, includes the same types of uses included in the Concept Plan. The PHS team is in the process of drafting a Comprehensive Plan designation and zoning district consistent with both the Rock Creek Employment Study Area results and Damascus Boring Concept Plan designation. PHS plans to submit an application to Happy Valley for a Comprehensive Plan Map amendment and Land Development Ordinance text amendment in the near future.*

Following the discussion, the meeting was opened for questions and comments as summarized below:

Q.	*Has Metro "blessed" the Damascus/Boring Concept Plan?*
A.	*The Concept Plan has been accepted by Metro as the basis for future planning in the area. The City of Happy Valley must now adopt Comprehensive Plan and zoning amendments to implement the Concept Plan.*
Q.	*Does PHS have any designs or plans for the medical center or circulation at this point?*
A.	*Some preliminary site planning has been undertaken by Zimmer Gunsul Frasca, but nothing has yet been determined. The focus by PHS at this time is to ensure that the site will be planned and zoned by the City to implement the Mixed Employment district for the area.*
Q.	*Does PHS have any influence on how the roads are designed in the area?*
A.	*The City recently adopted its Transportation System Plan which guides the development of transportation facilities in the area. Other than informing policy makers about the number of trips that would be generated by employment uses in the area, PHS has played no role to date in influencing transportation policies and facilities in the area. Nonetheless, PHS will participate in on-going transportation planning efforts to ensure that transportation issues are addressed, which in turn can benefit other properties in the employment area.*
Q.	*What is the rush for the Comprehensive Plan amendment as PHS is not planning on developing the site right now?*
A.	*The purpose of moving ahead is to continue with the momentum of the Concept Plan and its predecessor, the Report on the Rock Creek Employment Study area. Policies can change and as a major property owner in the area, PHS' interest is in ensuring that the decisions that have been made to date are implemented according to this direction. Also, as a distinctly separate area in terms of geography and use from other areas in Happy Valley for which Comprehensive Planning will be undertaken, this area can be implemented on a separate schedule.*
Q.	*How will uses that are incompatible with Providence's vision be kept from developing in the area?*

A.	*PHS will be a participant in the planning work for surrounding areas as any other interested party will be. PHS also has trust in the City that planning for other areas will be compatible with the Mixed Employment district for the Rock Creek Employment Area.*
C.	*George Faris commented that he agrees with carrying out planning for the Rock Creek Employment Area on a faster schedule than other areas. He noted that waiting too long could result in changes in land use and the loss of the ability to implement plans for the area as currently envisioned. For example, he noted that this area was originally supposed to be brought into the City during the 1997 annexation, yet it did not happen for several years. He expressed his support in moving forward now, in PHS building a hospital here and the overall job growth that is anticipated for the area.*
Q.	*Is PHS submitting an application to the City of Happy Valley soon?*
A.	*PHS plans to submit a combined Comprehensive Plan amendment and text amendment application to the City in June. PHS will make the draft of the proposed "Rock Creek Mixed Employment" zoning district available to the meeting participants for review and comment.*
Q.	*Has anything been submitted to Metro regarding transportation modeling?*
A.	*The PHS team has been participating in the Sunrise Corridor Environmental Impact Statement (EIS) process in which the team has provided the County and ODOT with trip generation calculations associated with a Mixed Employment zoning designation for the area. This information has been forwarded to Metro for use in its EMME 2 model.*
C.	*Providence needs to be as exact as possible with the regards to traffic; it is a safety issue.*
ALL	*In conclusion, participants noted their support of the proposed amendments and timeline.*

Key:
C = Comment
Q = Question
A = Answer

Next Steps. A second meeting was scheduled for Wednesday, June 7th at 6:30 PM. However, as of the time of preparation of these meeting notes, the second meeting has been rescheduled to Wednesday, May 31st at 6:30 PM at the Happy Valley City Hall annex.

Stefanie Slyman noted that she would e-mail the draft of the proposed Rock Creek Mixed Employment zoning district to all meeting participants prior to the next meeting. A meeting notice will also be sent.

The meeting was adjourned at 8:00 PM.

MAILING LIST FOR 5/8/06 NEIGHBORHOOD MEETING FOR PHS/HAPPY VALLEY MEDICAL CENTER

Julian Emmerson
14591 SE 162nd Avenue
Clackamas, OR 97015

Randy & Nancy Weston
PO Box 292
Clackamas, OR 97015

Tony Hanna
15020 SE 162nd Avenue
Clackamas, OR 97015

Lorene S. Weston
14570 SE 152nd Avenue
Clackamas, OR 97015

George N. Faris
9300 SE Philips Place
Portland, OR 97266

Bradley Gilbert
15221 SE Highway 212
Clackamas, OR 97015

Chris Rask
14850 SE 162nd Avenue
Clackamas, OR 97015

Hanna Realty
6432 SE Foster Road
Portland, OR 97206

Darin Oreste
5705 SE Powell Blvd.
Portland, OR 97206

Willamette Dev 2 Llc.
2 Morningview Lane
Lake Oswego, OR 97035

Frank & Sherry Huckins
14401 SE 162nd Avenue
Clackamas, OR 97015

Dean Rupae
15687 SE Highway 212
Clackamas, OR 97015

Doug Bollam
PO Box 1944
97035

Irene Schoppert
PO Box 1655
Sandy, OR 97055

Randy Allen
19069 S Redland Road
Oregon City, OR 97045

Janet Pedersen
2857 SE Carlton Street
Portland, OR 97202

Fred & Donna Schoppert
14759 SE 132nd Avenue
Clackamas, OR 97015

PH&S/HVMC NEIGHBORHOOD MEETING (2/25/08)
MEETING NOTES

Neighbors: *Jason Bassili; Mike Bassili; Doug Bollam; Julian Emmerson; George Faris; Brad Gilbert; Jim Giles; Michael Lahti; Aaron O'neal; Fred Schaupert. (Sign-in sheet information is attached.)*

PH&S Staff: *Dana White; Beverly Bookin, Charles Kelley; Renee King; Mike Robinson.*

City Staff: *Jason Tuck*

Discussion: *The meeting was called to order at 6:35 PM. Mike Robinson made introductions and summarized the purpose of the meeting. He described the Comprehensive Plan/Zoning application, formally known as a Post-Acknowledgement Plan Amendment (PAPA), in terms of the purpose of the application, process by which it will be reviewed by the City and formal opportunities for neighbors' input. Charles Kelley then described the information on the various boards, including the extent of the 150-acre included in the PAPA, general topography and other features of note, and conceptual roadway system. Beverly Bookin described the purpose and intent of the zoning regulations including the history of the Rock Creek Employment Area and the City's/County's intent for this area to be a major employment area, a mix of institutional and light industrial uses with support office, retail and other service uses. She also described the purpose and process for approval of a master plan, required of properties larger than 10 acres.*

There were a few questions from the audience mostly regarding transportation access from SE 162nd Avenue before and after the hoped-for construction of the Sunrise Freeway. George Faris complimented the PH&S team for its transparency and outreach. Jason Tuck seconded the description of the purpose and process for the PAPA and invited neighbors to call him with any questions or concerns. The meeting adjourned at 7:05 PM. The team remained afterwards to meet informally with neighbors and answer their questions.

Meeting Notes prepared by Beverly Bookin

SIGN-IN INFORMATION
PH&S NEIGHBORHOOD MEETING (2/25/08)

Jason Bassili	*15395 SE Bollam Drive, Happy Valley 97068*	*jasonb@sweethomemortgage.com*
Mike Bassili	*15395 SE Bollam Drive, Happy Valley 97068*	*mike@sweethomemortgage.com*
Doug Bollam	*PO Box 1944, Clackamas 97035*	*503. 221.0505*
Julian Emmerson	*14591 SE 162nd Avenue, Happy Valley 97068*	*julian.emmerson@gmail*
George Faris	*9300 SE Philips Place, Happy Valley 97068*	
Brad Gilbert	*15221 SE Highway 212, Happy Valley 97068*	
Jim Giles	*14102 Arista Drive, 97268*	*jimlg@sweethomemortgage.com*
Michael Lahti	*5705 SE Pacific Boulevard, Portland 97206*	*mikelahti@iinet.com*
Aaron O'neal	*6120 SE Francis Street, Portland 97206*	*aaron@sweethomemortgage.com*
Fred Schaupert	*14759 SE 132nd Drive, Clackamas 97035*	

[Note to Glenda: To be formatted on PH&S Letterhead for Dana's signature.]

To: Neighbors of the Future Providence Happy Valley Medical Center

Re: 2/25/08 Neighborhood Meeting for Update of the Project and Related Zoning

I know that it has been some time since we last met, so the purpose of this letter is to update you on the future medical center. We have submitted our application to the City of Happy Valley for a Comprehensive Plan/Zoning Code Amendment for the 100-acres on the west side of SE 62nd Avenue, which encompasses some of your properties as well as our own. Assuming the City deems the application "complete" in a timely fashion, a hearing on the matter will be held before the Happy Valley Planning Commission as early as mid-March. As a nearby property owner, you will receive mailed notice of the hearing.

In preparation for this hearing, I cordially invite you to attend a neighborhood meeting on Monday, February 25, 2008, at 6:30 – 8:00 PM at the Happy Valley City Hall Annex, 12915 SE King Road, to discuss these matters more fully. In the meantime, do not hesitate to call me at 503.215.6575 if you have any questions or concerns. Thank you.

Sincerely,

REPORT ON THE ROCK CREEK EMPLOYMENT AREA STUDY

Clackamas County
Department of Transportation and Development
September 15, 2004

EXHIBIT 2

Organization of the
Report on the Rock Creek Employment Area Study

This Report on the Rock Creek Employment Area Study is divided into two sections. First is the 6-page, "Executive Summary" which provides an overview of the study goals, major findings, and explanations of the future actions which need to be taken to proceed with applying comprehensive plan and zoning changes to the Rock Creek area.

The second section is the report from the consultant about the analyses of impacts from potential development on the Rock Creek site. The consultant's report features the descriptions and main findings concerning existing conditions, the market study, community planning coordination, land use alternatives analyses, infrastructure conditions, existing and future traffic impacts, and implementation strategies.

The consultant report is followed by the appendices with the detailed technical memorandums and information supporting the analyses and findings.

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Executive Summary on the Rock Creek Employment Area Study

BACKGROUND

With the 2002 expansion of the Urban Growth Boundary, Metro also adopted a new land use design type, Regionally Significant Industrial Area (RSIA), and a map identifying these industrial lands. One RSIA locale within the Damascus/Boring urban growth expansion area is situated north of Highway 212 and east of Rock Creek along SE 172nd.[1]

Clackamas County Commissioners decided to advance the planning process on approximately 400 acres west of SE 172nd and initiated the Rock Creek industrial area study. One purpose of this effort was to position the area to become qualified for the State's "Industrial Site Certification Program," a special funding resource to pay for infrastructure needed to make key industrial sites ready to develop.[2] The Commissioners also intended that new industrial development would supply family-wage jobs in the county, thereby increasing the number of jobs available to county residents and reducing the number of residents who have to commute outside the county for employment.

In January 2004, county staff and the project consultant began work, including: meeting with property owners; analyzing existing conditions and potential development types; estimating the number of jobs by type of use; determining near-term and long-term traffic impacts; determining infrastructure availability, needs and costs; and recommending funding strategies.

FINDINGS

- Existing Conditions

  The net buildable land area ranges from 176 to 204 acres depending on the type of development allowed on moderate slopes and in some habitat areas.

  The 408-acre Rock Creek study area has constraints due to steep slopes (grades over 25%), moderate slopes (10% to 25% grades), protected areas for riparian and upland habitats, gas pipeline easements, and right-of-way needs for future collector roads. The net buildable land was further reduced because 11 acres in the northeast corner of the study area were recommended to remain as residential.

- Market Analysis

  Based on current market analysis studies, the consultant and county staff identified significant business "clusters" that would have above average tendencies to locate in the metropolitan region and, in particular, on the Rock Creek site. The initial analysis indicated a medium to high development potential for industrial clusters including bio-medical and biotech research and development; medical uses; corporate headquarters; electronic and instruments manufacturing; printing and publishing; computer software development; food and kindred products manufacturing; and industry services.

- Land use assumptions

  Two development scenarios were used to test the impacts and identify infrastructure needs of potential development. One alternative focused on light industrial uses, including high tech,

manufacturing, and research and development. This alternative had 176 acres of developable land, plus 16 acres in public roadway. A buildout scenario with light industrial and manufacturing uses would provide approximately 2,800 jobs, supporting an average of 7 jobs per gross acre.

The second alternative focused on more intense development, including a medical facility with associated research and development uses, as well as light industrial uses. The second alternative had 204 acres of developable land, plus 25 acres in public roadway. This more intense development supported approximately 5,300 jobs, providing 13 jobs per gross acre.

- Transportation Impacts

  Phase 1 Development: Additional traffic accommodated by the planned, year 2006 road network

  The traffic analysis of "Phase 1" determined how much additional traffic generated by development on the Rock Creek site could be accommodated on the road network planned to be completed by the year 2006, including the extension of 172nd to Hwy 212 and improvements at the Sunnyside Road/172nd intersection. For the overall road network, the capacity threshold during the PM peak hour was 1,000 site-generated trips. The capacity at the 172nd/Hwy 212 intersection would allow 475 additional vehicles for the southbound, right-turning movement, or 275 additional vehicles for the eastbound, left-turning movement.[3] Examples of the types and net acreage of development that might individually generate this amount of traffic include a 107-acre industrial park, a 59-acre business park, or a 42-acre hospital/medical development.

  However, it is important to note that in applying the "Transportation Planning Rule," (the TPR) the Oregon Department of Transportation (ODOT) requires that the forecasted, year 2020 traffic be considered in the traffic analysis. With the year 2020 background traffic, the overall road network in the PM peak hour could accommodate only 275 site-generated trips, just over 25% of the 1,000-trip capacity noted previously.[4] Given this limit, the developable acreage would drop to between 30 acres to 12 acres for the development types listed above.

  With the current interpretation of requirements to comply with TPR standards, proposed development on the Rock Creek site would be severely limited.

  Buildout Development: Additional traffic and needed road improvements in year 2020

  The traffic assessment for year 2020 used the higher employment buildout of the study area to evaluate a "worst case" situation. The assumed developments were forecasted to generate just over 3,100 trips during the PM peak hour, with about 2,000 of those trips exiting the site.

  Improvements required at buildout included a free-flow, right turn lane onto 172nd with an auxiliary, southbound lane on 172nd to Hwy 212; southbound double left-turn and double right-turn lanes on 172nd at Highway 212; and a 6- to 7-lane section of Highway 212 between 162nd and 172nd to accommodate needed turn lanes at both intersections.

  NOTE: The traffic analysis identified improvements that would be needed without a Sunrise Project between Carver Junction and 172nd. Because work on the Sunrise Project started after the Rock Creek traffic analysis, it was not possible to factor in changes to the road network that might be available with the Sunrise improvements. The Rock Creek traffic study noted that many of the transportation improvements needed to accommodate 2020 traffic volumes would be diminished or eliminated with a Sunrise project. The Sunrise Project location, type and connections to surface streets will be considered in the Damascus/ Boring Concept Plan.

- Sewer, water and storm drainage infrastructure

  Sewer service will be provided by Water Environment Services, WES, which plans to extend a new sewer trunk line to the north into the study area from the Hwy 212/224 junction. According to WES, they have the capacity at the Clackamas River treatment plant to handle the additional effluent that would be generated by development in the Rock Creek study area.

  Sunrise Water Authority, SWA, will serve the area using pressure lines that exist along 172nd Avenue and south of Hwy 212. An interim phase of development can be handled without expansion of water reservoirs, but a new reservoir in Happy Valley and upgrades to the 172nd waterline will need to be completed by SWA to handle full site buildout.

  Storm water runoff is expected to be handled primarily through a combination of on-site detention/treatment by individual property owners. In addition, the natural resource buffers for riparian habitat, with established setbacks from Rock Creek and other drainages, serve to mitigate storm water runoff.

PUBLIC OUTREACH

- Coordination with the Damascus/Boring community plan

  The Rock Creek employment area study first was presented to the public at "public forums" held for the Damascus/Boring Concept planning work on January 14 and January 24, 2004.

  At the March 10, 2004 meeting of the "Public Involvement Work Group" (with the Damascus/ Boring study), county staff presented a memo outlining the public outreach process for the Rock Creek study. The work group members reviewed the material and offered suggestions about including other stakeholders in the initial outreach.

  The Rock Creek study information was presented at the June 26, 2004 community forum held for the larger Damascus/Boring concept planning project.

  Workshops for the Damascus/Boring Concept study are being planned for mid-October. The reports and information on the Rock Creek study will be presented during these workshops.

- April 2004: Small group meetings

  The initial outreach for the Rock Creek study was a set of "small group discussions" with area property owners and stakeholders, including the CPOs and the Committee for the Future of Damascus. The purpose of the small group meetings was to discuss issues, concerns and expectations about the potential industrial development in the Rock Creek study area. Of the 51 ownerships within the study area, 27 residents or representatives attended. Another 19 residents from surrounding properties participated.

- May 2004: Public open house

  The Rock Creek study team held a workshop in May 2004 to present draft concepts for public review and comment. A meeting notice was mailed to study area property owners, stakeholders, agencies, CPOs and to property owners within 1,500 feet of the study area boundary. Approximately 40 people attended the workshop.

FUTURE NEEDS

The following issues and additional work tasks have been identified during the current work on the Rock Creek employment area study. In order to proceed with the next stage to propose and adopt comprehensive plan designations and zoning ordinance amendments, the following issues need to be addressed:

1. **Annexation of parcels into the City of Happy Valley**

   In June 2004, approximately 200 acres of the 400-acre Rock Creek study area were annexed into the City of Happy Valley. The change in jurisdiction means that any comprehensive plan and zone changes preferred within the city must be adopted by the City rather than the County. However, providing for compatible uses within the overall Rock Creek site will be important, so the County and City have been coordinating the preparation of model code language. The draft model code is in Appendix I.

   Clackamas County's Economic and Business Development Division has been working on a specific development strategy for part of the Rock Creek study area based on development interests from medical service providers. Currently the area, part of the Happy Valley annexed parcels, is under the Metro designations of "RSIA" and Industrial which would limit or prohibit the major health service facilities. The local jurisdictions will need to work with Metro on the change likely needed in the RSIA/Industrial boundary to move forward with the effort to support knowledge-based, health and science development.

2. **Coordination with the Sunrise Project**

   Work on the Sunrise Project[5] will develop potential project alignments between I-205 and the Carver Junction, and include an analysis of how to transition from the terminus at Carver Junction east to rejoin Hwy 212. Developing and analyzing alternatives will continue into winter 2005; the public hearing to select the preferred alternative is planned for spring 2006.

   The Oregon Department of Transportation, ODOT, has stated that the Rock Creek study must not preclude consideration of all potential alignments through the transition area. ODOT will require that the Damascus/Boring Concept Plan be concluded before decisions about the Sunrise Project alignments and improvements to Hwy 212 will be considered.

3. **Transportation Planning Rule (TPR) requirements**

   To attain comprehensive plan and zone changes, a local jurisdiction must respond to requirements of the Transportation Planning Rule. The TPR requires local governments to assess whether additional traffic, generated by development that would be allowed in the new plan and zone, would significantly affect planned transportation facilities. If the capacity is inadequate, then the local government must determine how to put planned land use and transportation in balance. For example, limits may need to be placed on allowed land uses, or the land use designation or densities may need to be altered to reduce demand for automobile travel. (TPR requirements are described in Appendix H)

   At present the interpretation and application of this rule is being debated. The current process for using this rule would be the greatest constraint to applying urban zoning to the Rock Creek site.

4. **Metro's Title 11 requirements**

   The local jurisdiction must complete "Title 11" requirements and submit them to Metro as part of the concept planning process. The elements of this title primarily are covered by the concept plan analyses, though a few items are beyond the scope of the tasks accomplished

for concept planning. For example, the title requires a "natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas and natural hazard areas," including preliminary cost estimates and funding strategies for options. However, because no actual development is proposed, it is not possible to determine impacts or calculate costs of potential actions that might ensure protection of natural resources.

Title 11 also requires information about plans and cost estimates for parks and trails in the study area. The Rock Creek study area has a regional trail noted along Rock Creek.[6] However, a master planning process for the regional trail system has not developed by Metro, so there is no reliable way to determine an alignment and cost for the Rock Creek regional trail.

5. **Need for an economic development strategy in response to recent opportunities**

The scope of the Rock Creek employment study did not initially envision outreach efforts to place development "on the ground." However, a short-term opportunity has developed to attract several knowledge-based users to 100 acres in the Rock Creek study area. The 100 acres, recently annexed by Happy Valley, are adjacent to Highway 212 and near the existing Clackamas Industrial Area. The ability to secure this site to a high density, knowledge-based employer is a critical link between the existing commercial and industrial base to the west and the future economic basin to the east.

The County's Economic and Business Development section is actively researching and developing a proposal for a knowledge-based, health and sciences recruitment/cluster for the Rock Creek area, based on two main findings: First, health care services and technologies related to an aging and growing population provide the opportunity to build on current health care and hospital facilities in the region. A special area of growth will be the design of integrated health care, housing, and community services for the aged based on the continuum of care. Second, a recent OTAK study (*Rock Creek Industrial Analyses* 2004) identified this 100-acre site as an ideal setting for hospitals, medical offices, laboratories, district offices, headquarters, aging services and extended care facilities.

Other industrial, traded sector health and science companies also could include: research, design and manufacturing; medical devices, tools and equipment and services; agricultural products and services to increase the health and well-being; renewal and natural resource product development; development and management of databases for the bioscience industry; and technology and software firms.

Other potential industries for Clackamas County and the Damascus/Boring area include agriculture, nurseries, natural resources and natural medicines that provide the opportunity to build on current strengths in the region and Clackamas County.

---

[1] During the 1990s, Metro and regional partners analyzed the needs for employment and industrial lands in the Metro region. In 1996, Metro adopted the "Employment and Industrial Areas Map" as part of Title 4 of the Functional Plan. Further work identified the need to protect industrial areas from incursion of commercial development, resulting in the 2002 decisions.

[2] In the State's "Industrial Site Certification Program," sites can be selected as "project-ready" for development after a comprehensive analysis about the site. "Project-ready" sites have completed necessary environmental, infrastructure, transportation and other investigations, though they may need additional capital investment or mitigation work before development can begin. The state program also will seek to direct some funding to pay for infrastructure needed to support development. A certified site is to be ready for construction within six months after being chosen for development.

[3] Although the overall transportation system could accommodate development of the site with up to 1,000 PM peak hour, site-generated trips, the maximum number of trips that could be generated will depend on the type and composition of land uses on the site. For example, a land use with 80% of trips entering the site during the PM peak hour would utilize the eastbound left-turn capacity sooner than that of a land use with 60% of trips entering during the peak hour. Information on the general types of land uses and development sizes that would correspond to the number of trips accommodated is found on page 8 of the "Traffic Capacity Assessment" (7/14/04) memo located in Appendix F of this report.

[4] From the 6/14/2004 interim report "Traffic Capacity Assessment" prepared by Kittelson & Associates, Inc.

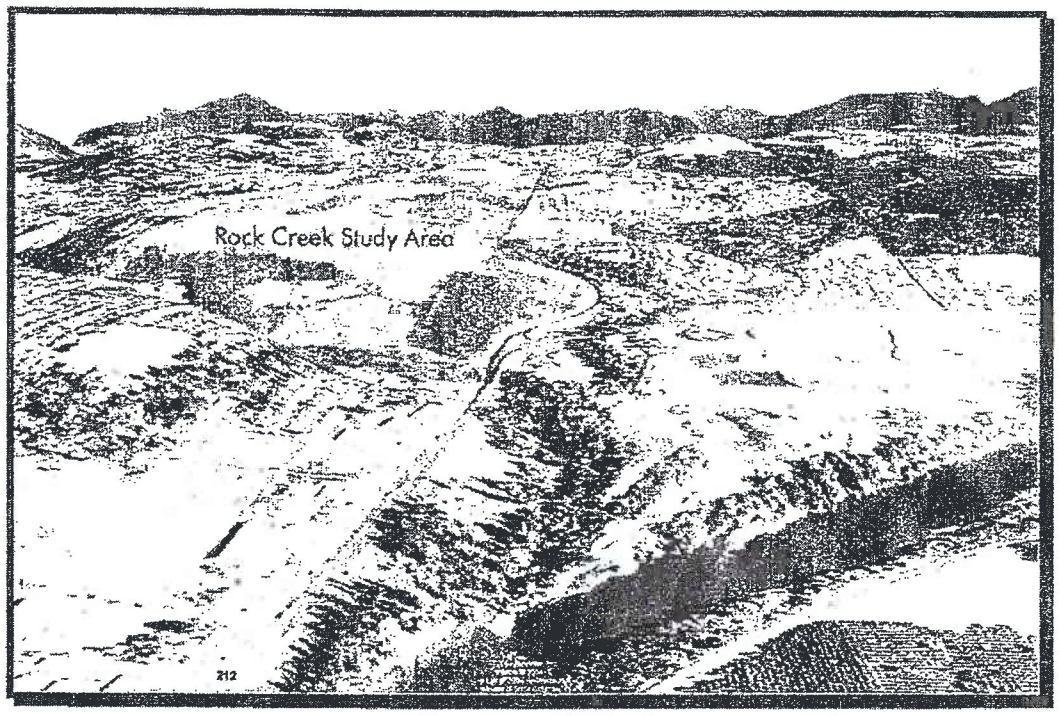
[5] The "Sunrise Project" is the name of the current study of a proposed, new, limited access highway between I-205 and the Carver Junction (the junction of Hwy 212 and Hwy 224). This study will produce a "Supplemental Draft Environmental Impact Statement" (EIS), building on a prior study, described in the next paragraph. The goal of the Sunrise Project is to select the preferred alignment in spring 2006.

The previous study, done in the early 1990's, was called the "Sunrise Corridor" study. The "corridor" referred to improvements that would connect I-205 (at the I-205/Expressway junction) to US Hwy 26. Two separate sections of the Sunrise Corridor were discussed: "Unit 1" was the term used for the section between I-205 and the Carver Junction; "Unit 2" was the name for the section from Carver Junction east through Damascus and Boring to US 26. This earlier study produced a "Draft Environmental Impact Statement" in 1993, but the Final Environmental Impact Statement and decision on an alignment were not completed.

[6] In the "Regional Transportation Plan," the RTP, a trail along Rock Creek along the westerly portion of the study area is shown on the Pedestrian Map, the Bicycle Map and the Trail and Greenway Map. These general maps, however, do not show final locations or alignments of the trail.

Consultant Report
and
Appendices

Rock Creek Employment Study



Submitted to:
Clackamas County

August 26, 2004

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Report Summary

Metro, the regional government for the greater Portland metropolitan area, identified a significant shortage of large "ready to develop" industrial land within the Metro Urban Growth Boundary (UGB). *The Metro 2002-2022 Urban Growth Report: An Employment Land Need Analysis,* issued in August 2002, provided a basis for the largest UGB expansion in Metro's history. Concurrent statewide policy efforts by Governor Kulongoski and the 72nd Oregon Legislature also focused efforts on facilitating job growth to stimulate the state's economy.

The Metro and State policy efforts have placed additional focus on increasing Oregon's supply of large developable industrial sites. Through these processes, the 400-acre Rock Creek Employment site was identified as an important potential addition to the Metro and State industrial land supply.

Specific Metro and Regional policy actions were initiated in 2002 and 2003 to evaluate the potential for the Rock Creek employment area. In December 2002 the Metro Council voted to expand the Metro UGB by approximately 12,000 acres into the Damascus/Boring Area, including the Rock Creek employment area. (Figure 1, Study Area Location Map) With that decision, Metro also adopted the new "2040 Growth Concept" design type "Regionally Significant Industrial Area" (RSIA) and a map identifying parcels in these industrial areas.

Next, the Governor issued Executive Order 03-02 on February 20, 2003. This Executive Order had two major components: creating an Industrial Lands Task Force and creating a new "Shovel Ready Industrial Sites Initiative." The Rock Creek industrial area, one of 160 industrial sites statewide, subsequently was evaluated by the Oregon Economic and Community Development Department (OECDD) as a candidate for Oregon's new "project ready" site certification program. Although the Rock Creek Employment Area was not chosen in the first round of Oregon's new site certification program, it is considered to be one of a select group of "opportunity sites" that could become developable over the next few years.

These state and regional policy factors, combined with the prospects created by the new RSIA designation, were the impetus for a decision by Clackamas County to initiate the Rock Creek Employment Study. The County Commissioners decided to advance planning for the Rock Creek industrial area with the goals to position the area to qualify for state funding to pay for needed infrastructure and to support employment development needed in the Damascus/Boring area. In addition, the Rock Creek study would serve as a model study for upcoming planning work for the Damascus/Boring area.

The objectives of the Rock Creek Employment Study included:

- Identify the amount of buildable land;
- Develop a set of "employment uses" based on market analysis and property owner input;
- Create two potential design alternatives that support identified employment clusters and respond to the results of the "Core Values" work in the Damascus/Boring Concept Planning process;
- Identify traffic impacts of full development of Rock Creek;
- Present and discuss design alternatives with property owners;
- Refine development scenarios;
- Develop strategies to pay for infrastructure;
- Produce written report; and
- Draft model zoning ordinance *(to be done by Clackamas County)*

Figure 2 shows the Rock Creek Study Area Boundary as well as the Metro 2040 Designations applied to this site.

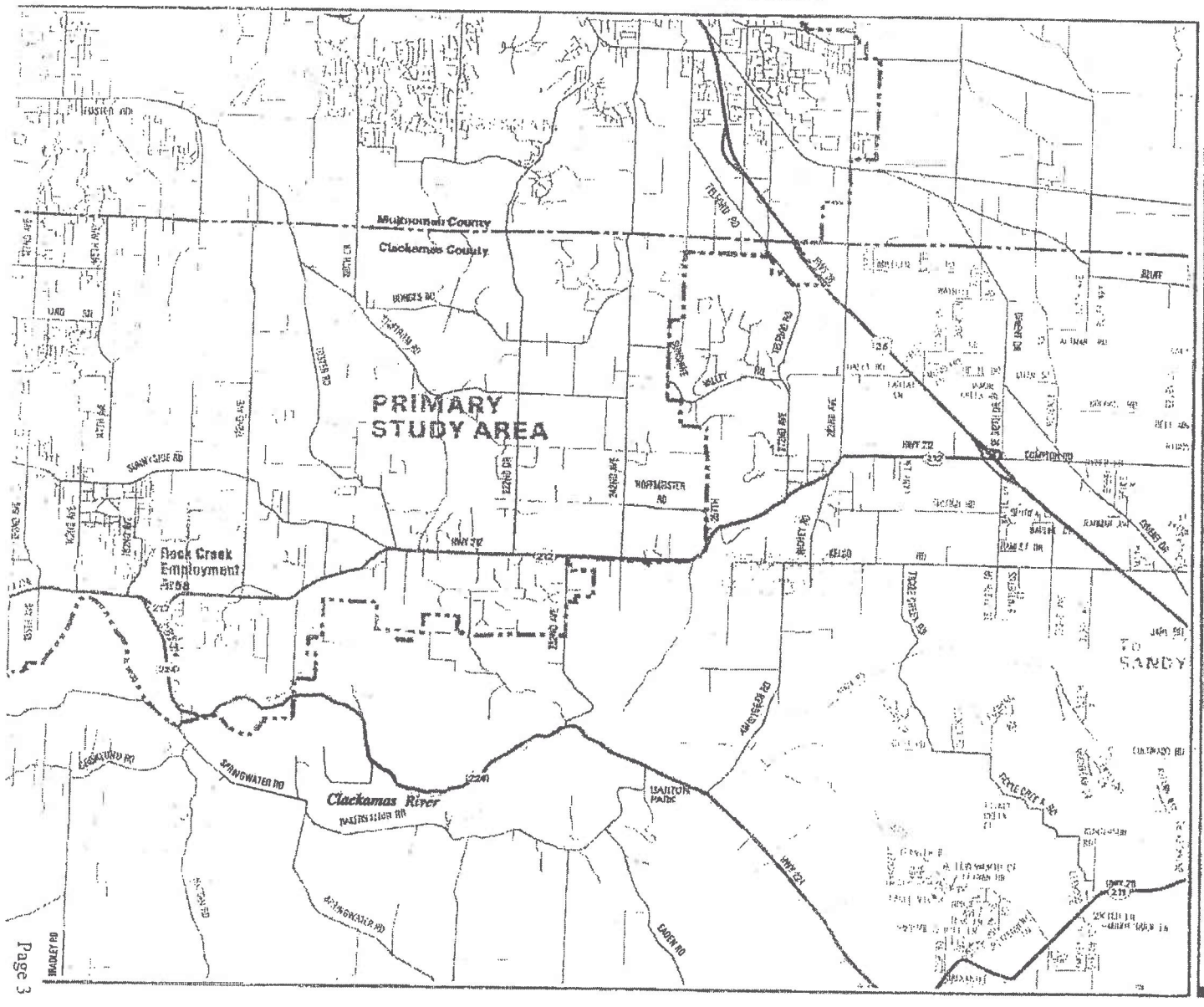
The Rock Creek study provides a preliminary reconnaissance of several factors and decisions that could help facilitate implementation of desired development within the Damascus/Boring area. Clackamas County and the consultant team, Otak, Inc. and Kittelson & Associates, began work in January 2004 to prepare and evaluate land use concepts for industrial uses in the Rock Creek study area. The consultants and the County evaluated the following elements: existing conditions and constraints in the study area; market analysis of potential types of industrial uses; alternative land uses to test impacts of potential development; water, sewer and transportation needs of development; estimated costs to provide needed services; and, strategies to fund the costs.

The issues identified by this study are intended to serve as early indicators of the work to be addressed prior to implementing development within the 12,000 acre Damascus/Boring Concept Plan area.

Key findings from these analyses include:

- The actual net buildable land area is approximately 187 acres to 215 acres (46% to 53% of gross land area) after adjusting for steep slopes, utility easements, road right-of-ways, environmental corridors and public open space/buffer areas. The amount of net buildable land could be reduced further with the recommendation that approximately 11 acres in the northeast corner of the study area be continued for residential use. The largest single parcel has approximately 49.9 acres, with 40.0 net buildable acres.
- The majority of the net buildable land area within the Rock Creek study area could be developed with a combination of light industrial or campus industrial uses. There is adequate market support for a variety of small, medium and large parcels with light industrial, campus industrial and medical campus uses.
- The two land use alternatives represented developments such as manufacturing, research and development center, industrial park, and/or medical center. In the short term, the capacity of the road system planned for 2006 would handle some additional traffic, with limits noted at the new 172nd/Hwy 212 intersection.

FIGURE 1



Rock Creek Employment Area

Rock Creek Employment Area

Damascus/Boring
Concept Plan
Study Areas

Primary Study Area

Secondary Study Area

Incorporated City

City of Happy Valley
within Project Area

Urban Growth Boundary

METRO / CLACKAMAS COUNTY

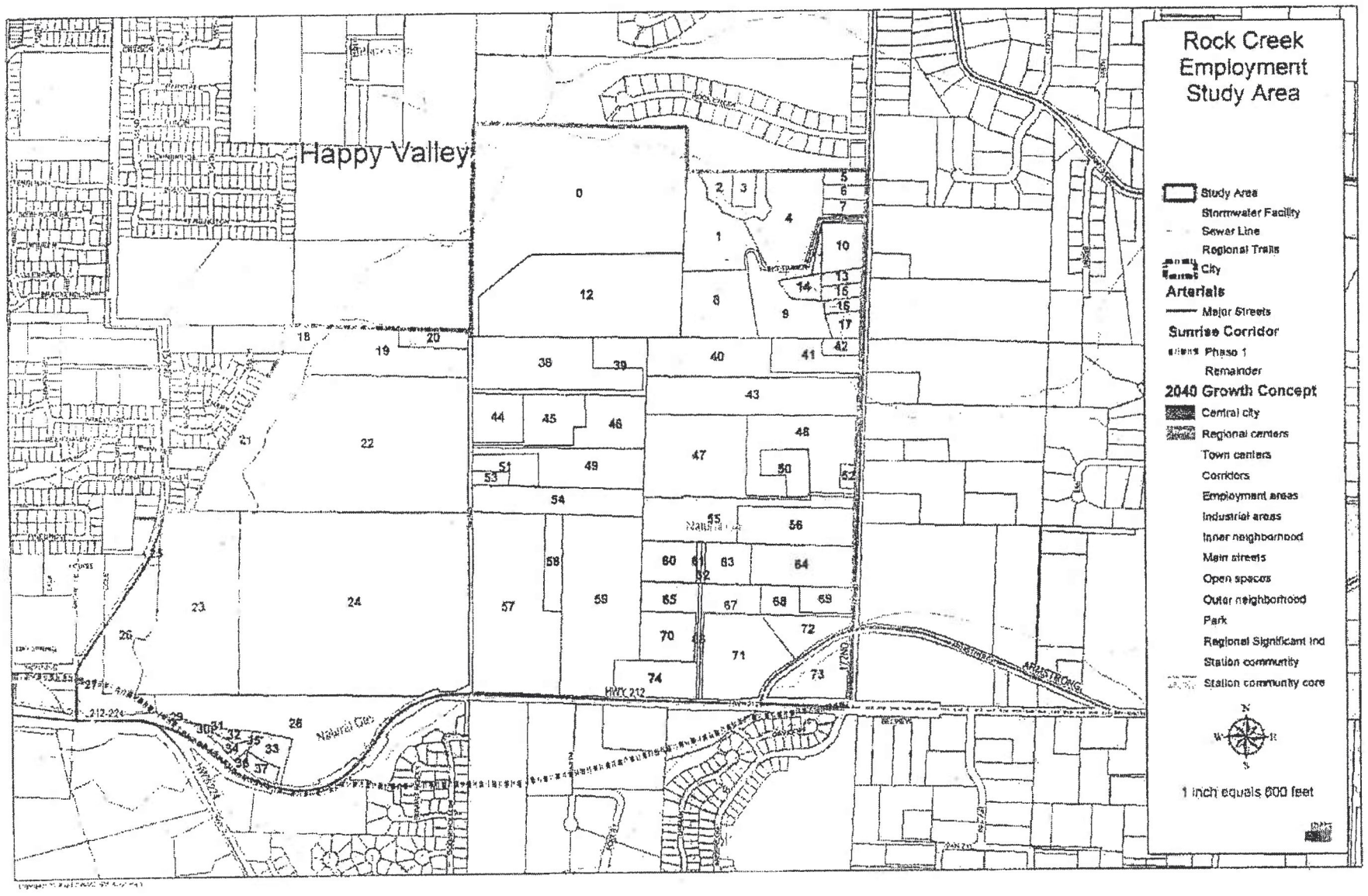
N

Scale = 1:55000

0 1 Mile

The information of this map was derived from digital databases on Metro's and Clackamas County's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

FIGURE 2


Happy Valley
Rock Creek Employment Study Area
Study Area
Stormwater Facility
Sewer Line
Regional Trails
City
Arterials
Major Streets
Sunrise Corridor
Phase 1
Remainder
2040 Growth Concept
Central city
Regional centers
Town centers
Corridors
Employment areas
Industrial areas
Inner neighborhood
Main streets
Open spaces
Outer neighborhood
Park
Regional Significant Ind
Station community
Station community core
1 inch equals 600 feet
Natural Gas
HWY 212
212-224
ARMSTRONG

- The draft land use concept (highest employment as in Alternative 2) would support approximately 5,300 jobs at full build-out of the site.
- While some initial level of development can be accommodated by relatively modest improvements to the existing highway system, full build-out of the Rock Creek Employment Study Area combined with other planned development in the Damascus/Boring Area and surrounding environs would require significant capacity improvements, such as the widening of 172nd Avenue.
- The Rock Creek Employment Study plans for the future development of the Sunrise Corridor east of the Carver Junction by providing a wide swath of land along the south edge of the study area. Because the Sunrise Corridor project has not yet identified alignments, the traffic analysis for this study does not assume added capacity is created by the Sunrise Corridor.
- The Sunrise Water Authority has a program to supply water and Clackamas Water Environment Services, WES, has a program to extend sewer service to the study area.
- Funding strategies to pay for infrastructure will require a mix of public and private sources, although not all funding sources are known at this time.

  Services for water and sewer often are funded through special district bond issues paid for by user fees. The funding needed to construct these facilities is more assured and predictable than that needed for transportation projects.

  Funding for transportation projects may come from a variety of sources, but the revenue is less predictable than that for sewer and water projects. Typical sources include the existing system development charge program, or potential formation of a local improvement district, urban renewal district, or zone of benefit recovery district. Other state or federal funding sources may become available for specific types of transportation projects, such as safety improvements.
- Study area property owners and neighbors were generally supportive of campus industrial and medical campus uses rather than all light industrial uses. Local residents also favored a very high quality development environment with development and design standards that would result in an aesthetically pleasing and environmentally sustainable development with minimum noise, odor and visual impacts.
- The current Metro 2040 Growth Concept designation of "Regionally Significant Industrial Area" (RSIA) may not be appropriate for the Rock Creek study area in light of the relatively small size of existing parcels (average parcel size is 5.29 gross acres) and local interest in accommodating major non-industrial employers.
- If a major, non-industrial use is anticipated for some portion of the study area, then the local jurisdiction would need to pursue removing a specific area from the RSIA designation.

Outstanding Issues

Work on a concept plan for the Rock Creek study area has underscored procedural and technical issues that the local jurisdictions, stakeholders, the Oregon Department of Transportation (ODOT) and Metro should resolve. Resolution of these issues will serve to make the best use of the work that has been accomplished and allow jurisdictions to continue with the next steps to help make the Rock Creek Employment Area ready for future development. The following issues need to be addressed in order to make the area "permit ready" for development:

- Coordination with the Damascus/Boring concept planning process: Concerns have continued about timing of the Rock Creek study which has preceded the Damascus/ Boring planning work. Local jurisdictions and stakeholders need to continue to coordinate the two studies by making use of and integrating the findings from the Rock Creek study into the Damascus/Boring effort. The Damascus/Boring Concept Plan needs to advance in a manner that allows the Rock Creek Study Area to be folded into its recommendations.
- Coordination with the Sunrise Project: The Sunrise Project involves planning a new road facility from I-205 east to the Carver Junction and a "transition" section from the junction east to about 172nd. This transition area impacts the Rock Creek study area. Alternative analyses for the Sunrise Project will be worked on through fall 2005, with selection of the preferred alternative in spring 2006. The current schedule for the Rock Creek study would have a concept plan ready before completion of the Sunrise alternatives analyses; however, proposed concepts for the Rock Creek study area must not preclude developing of those Sunrise alternatives.

  The local jurisdictions and the Oregon Department of Transportation will need to ensure that the Sunrise Project identifies a potential corridor for the transition area as early in the study as possible. Any comprehensive plan and zoning ordinances to be applied in the Rock Creek study area will need to limit or prohibit new development in the southerly area of the study area until the "preferred alignment" for the Sunrise Project is selected.
- Compliance with the Transportation Planning Rule: As part of proposed changes to comprehensive plan and zone designations, the local jurisdiction must show compliance with the "Transportation Planning Rule," the TPR, by analyzing existing and future traffic impacts from development, and proposing mitigation measures. At present there is debate about the interpretation and application of this rule.
- Developing funding strategies: In conjunction with amending their individual Transportation System Plans, Clackamas County and the City of Happy Valley need to develop and agree on a funding strategy for the cost of road improvements. The funding strategy should focus on collector and arterial improvements, priorities, and local developer funding sources, such as Local Improvement Districts and System Development Charges; and
- Creating development and design standards: As part of developing and adopting comprehensive plan and zoning designations, the local jurisdictions need to include development and design standards created with broad-based

public input. This includes more descriptive methods for enabling property owners to comply with Metro Title 3 (water quality) and new Goal 5 (significant resources) requirements. The draft land use concept tested in this evaluation takes these requirements into account

These findings and issues are intended to provide additional technical and policy input into the Damascus/Boring Concept Plan and Sunrise Project Supplemental DEIS planning processes. Many of these preliminary findings will be further refined during the next several months so that future development within the Rock Creek study area can move forward in a manner consistent with local, regional and state planning regulations.

Existing Conditions

The Rock Creek study area includes approximately 407.6 acres of total land area currently divided into 75 separate tax parcels, under 50 combinations of ownership. The two largest parcels include a 49.9 gross acre parcel (40 net acres) and a 35 gross acre parcel (10.5 net acres). ("Net acres" were calculated by subtracting the amount of "constrained" land, described next, from the gross acreage of the parcel.)

Major land constraints in the study area include roadway right-of-way, protected riparian and upland habitat corridors (Goal 5 and Title 3 designated areas, Metro Code Sections 3.07.310-3.07.370)[1], steep slopes (with grades over 25%), unstable landslide prone soils, and natural gas pipeline easements.

Title 3 supports Metro's Stream and Floodplain Protection Plan, which is intended to protect the region's health and public safety by reducing flood and landslide hazards, controlling soil erosion and reducing pollution in waterways. Title 3 has performance standards that limit development and seek to protect water quality areas through provision of vegetated corridor buffers that take into account the slope of the stream and number of acres drained by the stream. Title 3 also directs Metro to establish performance standards to protect regionally significant fish and wild habitat areas.

Work is still underway by Metro to finalize rules that implement Oregon Statewide Land Use Goal 5. Figure 3 illustrates the major areas with Title 3 and Goal 5 constraints.

Ideally, the concept plan alternatives should seek to avoid major impacts on land that is within Goal 5/Title 3 designations along Rock Creek and its tributaries, has unstable soils or steep slopes, or is within natural gas pipeline easements. Certain types of employment uses (e.g., office or flex buildings) could be developed on moderate sloped areas.

---

1 Statewide land use Goal 5 is to protect natural resources and conserve scenic and historic areas and open spaces. Metro Code Title 3 has the requirements to implement Goal 5.

The total buildable land area of the Rock Creek study area after subtracting the constrained areas is approximately 215 acres. (This area includes acreage with moderate slopes of 10%-25% grade and 15 acres in "Class 3 upland habitat.") However, 11 acres in the northeast corner of the study area are recommended for removal from the industrial area since they are developed with homes, functionally integrated into the Rock Creek Greens neighborhood and separated from the remainder of the study area by a tributary of Rock Creek. Deducting 11 acres from the original 215 acres leaves 204 buildable acres.

As indicated in Table 1, of the 407.6 total acres, the amount of buildable land area ranges from 176 to 204 acres depending on the type of development accommodated. Alternative 1 assumes light industrial development and would likely result in less potential usable land and building area than Alternative 2. Alternative 2 assumes that campus industrial development uses are allowed, including certain office and institutional uses (e.g., hospital and medical). It is assumed that the 22 acres of land with moderate slopes of 10% to 25% can be developed with Alternative 2.

Table 1

Estimated Distribution of Land Area and Jobs/Wages by Alternative

Assumed Land Allocation	Alt. 1 Light Industrial		Alt. 2 Campus Industrial (also applies to the Revised Land Use Concept)	
	Percent of Gross Area	*Acres*	*Percent of Gross Area*	*Acres*
Open Space				
Slopes>25%, Title 3 & Goal 5 (class 1)	23%	(92)	23%	(92)
Goal 5 Riparian Habitat (Class 2)	3%	(12)	3%	(12)
Goal 5 Riparian Habitat (Class 3)	0%	(1)	0%	(1)
Goal 5 Upland Habitat (Class 2)	2%	(7)	2%	(7)
Goal 5 Upland Habitat (Class 3)	10%	(40)	6%	(25)
Unbuildable moderate slopes (10-25%)	5%	(22)	0%	0
Roads and Utilities				
Public Roads (collectors only)*	4%	(16)	6%	(25)
Gas Pipeline Easement	8%	(31)	8%	(31)
Subtotal Constrained Land Area	55%	(221)	48%	(193)
Remaining Developable Areas (gross buildable land area)*				
Light Industrial	43%	176	0%	0
Campus Industrial**	0%	0	50%	204
Residential***	3%	11	3%	11
Total	100%	408	100%	408
Estimated Jobs/Wages at Buildout				
Jobs Supported at Buildout	2,801		5,328	
Jobs per Gross Acre	7		13	
Direct Wages at Buildout	$110,890,000		$210,570,000	
Average Wage per Job	$39,600		$37,800	

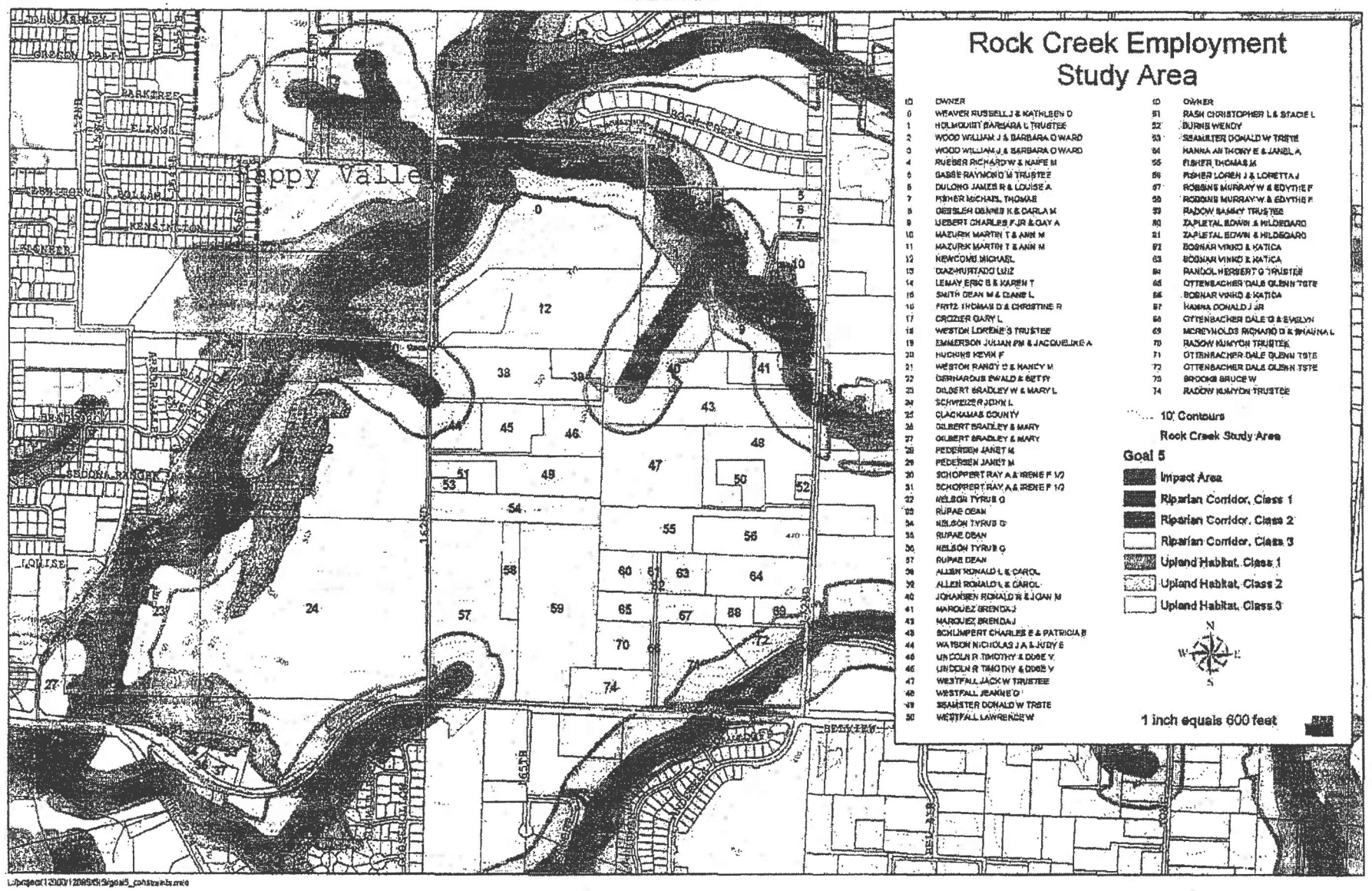
** This analysis does not deduct future right-of-way for the Sunrise Corridor alignment nor prospective interchange(s).*

*** Includes 15 acres of impacted Goal 5 upland habitat (class 3).*

**** Includes land in the northeast portion of the study area.*

Assumptions and estimates by Otak, Inc.

FIGURE 3



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Metro 2040 Growth Concept Designations

The majority of the Rock Creek Employment Area is designated by the Metro 2040 Growth Concept Map as Regionally Significant Industrial Area. As indicated on Figure 2, other 2040 Growth Concept map designations include Industrial Areas (primarily along Rock Creek and the west approach along Highway 212) and Corridors (along 172nd Avenue).

According to Title 4 (Metro Code Sections 3.-07.410-3.07.440) there are restrictions on certain types of land uses in Employment Areas. Section 3.07.420 describes "Regionally Significant Industrial Areas"; text amendments were adopted by the Metro Council on June 24, 2004 *(Exhibit B to Ordinance No. 04-1040)*.

In Regionally Significant Industrial Areas (RSIA):

- New retail and professional services uses are to serve the needs of workers in the area and be limited to 3,000 square feet per use and a total of 20,000 square feet in a single building or development projects;
- New non-retail commercial uses are allowed if the use does not reduce the performance of the regional freight routes ; and,
- The division of existing 50-acre parcels is allowed pursuant to an approved master plan, so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to an industrial use.
- Lot or parcels less than 50 acres may be divided into any number of smaller parcels.

The largest parcel in the Rock Creek Employment Area is estimated to be 49.9 gross acres. Hence, the current RSIA regulations would not require a minimum lot size requirement, but would restrict the types and sizes of users.

In Industrial Areas, non-industrial uses are limited to 5,000 square feet per use and a total of 20,000 square feet in a single building or development project.

Please see Appendix A for a complete excerpt of Metro Urban Growth Management Functional Plan regulations for RSIA and Industrial Areas.

Market Findings

The objectives of the market analysis included identifying potential employment clusters or types of industries that would best meet Rock Creek site opportunities. The site opportunities include both infrastructure characteristics (such as road, sewer and water availability) and likely property owner and neighboring resident preferences.

In order to conduct this analysis, Otak relied upon several background market studies and a series of meetings with local property owners, residents and stakeholders. In conducting

this analysis, Otak assembled and reviewed background market research materials including:

- *Clackamas County - Industry Sectors, Market Analysis & Strategic Decisions 2003. (by Clackamas County).*
- *Damascus Concept Planning Study, Appendix B, June 30, 2001 (market work by ECONorthwest).*
- *I-205 River to River Strategy, Phase 1 Report, July 25, 2002. (by Otak)*
- *Oregon Region 15 (Clackamas County) Occupations at a Glance, 2004, by the Oregon Employment Department.*
- *Portland Regional Partners for Business, presentation to the Clackamas Economic Development Commission on 2/20/04.*

Otak also drew from our firm and staff experience in planning, designing and constructing of industrial, commercial and mixed-use developments throughout the Pacific Northwest.

The background market research initiatives listed above, all identified significant business "clusters" that exhibit above-average tendencies to locate in the greater Portland metropolitan region. A "cluster" is defined by the Oregon Employment Department as *"a geographically bounded group of similar or related firms-connected by common markets, technologies or knowledge—their suppliers, their skilled workers and supporting institutions."*

The findings from the preliminary analysis of potential employment uses for the Rock Creek Employment Area indicate that there is medium to high development potential for the following industrial clusters:

- Medical uses;
- Corporate Headquarters;
- Industry Services;
- Bio-medical research and development;
- Biotech research and development;
- Building and special trades contractors and construction;
- Food and kindred products manufacturing (including milling and mixing);
- Printing and publishing;
- Stone, clay and glass products;
- Electric and electronic equipment (high tech);
- Instruments and related products (high tech);
- Communications; and
- Computer software.
- Fabricated metals and specialty manufacturing (may be more appropriate in General Industrial zone.)

The types of clusters that are not considered to have adequate market potential in the Rock Creek Employment Area include:

- Forest products manufacturing;
- Agricultural products and services;
- Paper products manufacturing;
- Transportation equipment manufacturing;
- Local & interurban transit facilities;
- Regional trucking & warehousing; and
- Wholesale trade.

Many types of ancillary commercial and service "employment uses" also could be accommodated to some degree in the Rock Creek Employment Area. These types of industrial support services typically include restaurants, office supplies, coffee shops, dry cleaners, fuel station, printing/copy store, bank, day care, etc. As noted by Metro's current Title 4 ordinance (see Appendix A), non-industrial uses are limited in size and are to serve the needs of workers in the industrial area.

Appendix B provides a listing of strategic clusters that were identified by the five market research initiatives. As noted in the "Sources" column of the table, each cluster was identified by between 1 and 5 of the market research initiatives. It should be noted that the acreage requirements listed in Appendix B are considered typical ranges in net buildable land area requirements for the corresponding industry type. There are certainly cases where each cluster may require more or less land area than that listed. It is also likely that specific clusters could locate into office or flex type buildings that are provided as either "build-to-suite" or "speculative" developments by a developer.

As noted in the next section of this report, community meetings were held to determine preferences regarding potential "employment users" along with local issues, concerns and objectives for future Rock Creek Employment Area development. These "community planning considerations" combined with the market analysis and infrastructure conditions became the basis for preparing and refining the design alternatives.

Community Planning Considerations

Prior to preparing land use and transportation alternatives, the consultant team worked closely with Clackamas County, ODOT staff, affected property owners, and stakeholders to identify a preliminary set of planning parameters for the Rock Creek Study Area. A set of small group discussions, held in April 2004, proved to be an effective method to discuss planning issues, ideas and concepts. Approximately 58 property owners and stakeholders attended these small group sessions.

In addition to these planning parameters, "Core Values" were developed by the Damascus/Boring planning participants to guide that concept planning effort. Because the Rock Creek area is part of the Damascus/Boring area, development

concepts for the Rock Creek Study area are intended to be consistent with the Core Values Statements (Appendix C).

Planning Parameters – The Planning Parameters developed from the small group discussions and the Core Values work are as follows:

Planning Coordination Parameters

- Ensure that any rezoning for Rock Creek is coordinated closely with the Damascus/Boring Core Values Statements and the Damascus/Boring Concept Plan process, as well as the Supplemental Draft Environmental Impact Statement for the Sunrise Corridor.

Land Use Approval Parameters

- Light industrial uses are fine as long as they are characterized as "employment" uses rather than heavy industrial or warehousing uses.
- Corporate headquarters and health care uses are considered ideal, along with supporting commercial and service uses.
- In the portion of the study area northeast of Rock Creek, housing and open space development are considered to be more compatible with the existing surrounding uses than industrial development.
- Attractive landscaping and gateway treatments necessary at key "gateway locations."
- Design standards preferred along with design review to ensure high quality buildings and landscaping.
- Retain adequate setbacks from pipeline easement.
- County should be patient to wait for strategic large employers.

Environmental Parameters

- Provide adequate buffers along Rock Creek and for the future Sunrise Corridor.
- Enhancement and protection of riparian areas, drainage basins and ground springs are desired.
- On site storm water treatment is desired.
- Restrictions on truck access, noise and fumes are desired.
- "Green street" design standards are desired, especially for 172nd Avenue.
- Preserve large "mature tree stands" to the extent possible.
- Support transit and multi-modal pathways.

Transportation Facility Planning and Improvement Parameters

- Future development should be allowed only with adequate or concurrent transportation facilities;
- Existing geometric, safety and capacity deficiencies along Hwy. 212 and 172nd Avenue need to be identified and rectified prior to or in conjunction with future urban development;
- Provide site access to/from the Rock Creek study area from Hwy. 212 to alleviate future trip demand along 172nd Avenue.

- Consider 162nd Avenue extension into Happy Valley to enhance connections with surrounding neighborhoods and to help alleviate trips on 172nd Avenue.
- Provide internal site circulation for both pedestrians and vehicles.
- Include pedestrian trail network and pathway connections across Rock Creek.
- Accommodate transit.
- Utilize green street standards with landscaping, bike paths and sidewalks, especially for 172nd.
- Ensure that adequate right-of-way is provided along 172nd Avenue for future widening with funds necessary to relocate property owners, as appropriate.

Sunrise Corridor Transportation Facility Parameters

- Concept plans and the potential location of future development should not preclude logical alignment alternatives that will be developed and evaluated as part of the Sunrise Project Supplemental Draft Environmental Impact Statement (DEIS). Meetings were conducted with ODOT Region 1 staff, Clackamas County and the consultant team to discuss the timing of the Draft EIS for the Sunrise Project.
- The Sunrise Project DEIS includes the segment between I-205 and the Carver Junction with a taper that extends east to 172nd Avenue. The working assumptions by Clackamas County and ODOT staff to date place the alignment alternatives generally in the vicinity of Highway 212. While the actual alignment alternatives have not yet been selected, it was determined that the most logical alignment options affecting the study area would require a right-of-way to be placed somewhere within a swath extending north approximately 400 feet from Highway 212 (at 162nd), from Rock Creek to 172nd. Hence, the area within this designated "Sunrise Corridor Planning Area" could be evaluated in the Rock Creek study for physical and functional relationships with the surrounding areas. However, development or major redevelopment within this area should not be allowed until completion of the Sunrise Corridor project east from the Carver Junction.
- While it may be possible to develop some portion of the Rock Creek study area without completion of the Sunrise Project facilities, any future development would be subject to ODOT and County traffic impact analysis and other policy requirements.
- The potential to provide future off/on ramps to interchanges in the Rock Creek study area and the planned Sunrise Corridor should be preserved in the vicinity of the Carver Junction, 162nd Avenue and 172nd Avenue.

Final alignment and interchange locations for the Sunrise Project and local arterial roadways within the Damascus/Boring Concept Plan Area will not be known for several years. (Decision makers for the Sunrise Project will choose a preferred alternative in spring 2006 and submit a Record of Decision in fall 2006.) The Rock Creek study is an attempt to determine if some development could occur in the near-term in conjunction with the Damascus/ Boring Concept Plan process.

Land Use Alternatives

The "planning parameters" led to the creation of two land use alternatives that depict a range in development activity and traffic/infrastructure demand that could potentially be accommodated in the Rock Creek study area. Otak initially prepared two preliminary land use alternatives that were refined during subsequent planning and public involvement activities into a conceptual land use plan.

The steps used to create the land use alternatives involved the following:

1. Consider Site Opportunities and Constraints—this required an analysis of land use constraints such as slopes, Title 3 buffers, Goal 5 buffers and parcelization.
2. Consider transportation and infrastructure conditions, and Metro, ODOT, County and City of Happy Valley improvement policies. This work included preliminary analyses of existing road and utility capacity levels, right-of-way easements and future roadway improvement plans, ODOT highway plan and access policies, Clackamas County capital improvement program and Transportation System Plan policies, and City of Happy Valley and local water and sewer service provider objectives.
3. Consider market findings regarding likely employment users, including the types of small, medium and large users anticipated to be attracted to the site;
4. Consider local property owner, neighbor and stakeholder objectives. This entailed conducting meetings with dozens of property owners, neighbors and project stakeholders. This step also entailed obtaining feedback from property owners and neighbors regarding the draft land use alternatives and utilizing that feedback to prepare a revised land use concept.

The two initial land use alternatives were intended to illustrate general directions for future Rock Creek site development. Both alternatives would accommodate the future Sunrise Project and were considered to be market supportable (with +/-20 year buildout) and intended to be consistent with the Metro 2040 Framework Plan land use designations and local Core Value statements.

Alternative 1 – Light Industrial

This alternative (included in Appendix D) envisions a light industrial development area with a mix of light manufacturing, research and development, and high technology. Ancillary retail and commercial services could be accommodated as well. These industrial users with ancillary office/commercial would not be expected to develop in the moderate sloping areas (slopes between 10% and 25%). As such, this alternative would have slightly wider open space buffers and generate less employment/vehicle trips than Alternative 2. This alternative would likely accommodate fewer large campus style employment users than Alternative 2. Since most light industrial users would require flat land, the total amount of developable land area and the resulting job density would be less than expected under Alternative 2. Table 1 indicates the total expected amount of gross buildable industrial land of approximately 176 acres, would support an estimated 2,801 jobs at buildout.

Alternative 2 – Campus Industrial (Maximum Employment)

This alternative (included in Appendix D) envisions a new industrial research and development campus with high traffic generation uses, such as a regional hospital, emergency care, ambulatory care, and ancillary medical office facilities. This alternative assumes that an area within the Rock Creek Employment Study Area allows institutional uses, such as hospitals and other campus industrial uses. The hospital facilities are assumed to require 40 to 50 acres (set aside for a large single user) and additional land area for associated uses.

The Business Park component is assumed to consist of small- to medium-sized employers housed in a mix of office, light industrial, and flex/tech style buildings. Ancillary retail and commercial services could be accommodated within the limits set in the RSIA or Industrial designations. Some of the uses envisioned by this alternative could locate within the moderately sloped areas (slopes from 10% to 25%), so the expected amount of development, employment and traffic/trips would be higher and buffer areas less than in Alternative 1.

Since most campus industrial users can develop on moderately sloped sites, the total amount of developable land area and the resulting job density would be more than is expected under Alternative 1. Table 1 (page 12) indicates the total expected amount of gross buildable industrial land of approximately 204 acres, would support an estimated 5,328 jobs at buildout.

Table 2 identifies a preliminary list of allowed, conditional and prohibited land use types and are intended to represent what future county or city zoning codes may consider. Actual land use code amendments would require public hearings to be conducted before final amendments are adopted.

Table 2
Preliminary List of Expected Uses

	Alternative 1	Alternative 2 (also applies to the Draft Land Use Concept)
Permitted Uses (includes uses allowed outright subject to development and design standards)	Research offices & laboratories, light manufacturing, printing & publishing, food processing, corp. regional or district office headquarters, private parking, accessory services, public utilities, child care, natural areas, transportation facilities	Same as Alt 1. Plus hospitals, medical offices, and business operations.
Conditional Uses (includes uses that may be allowed following public hearing, subject to development and design standards and conditions of approval)	Outdoor storage – (note, local residents felt strongly that these uses should be ancillary and limited), fire station, caretaker residence (security), communication towers	Same as Alt. 1.
Prohibited Uses (includes uses that would not be allowed)	Residential dwellings (unless existing prior to 2003), commercial uses, heavy manufacturing, hazardous waste storage.	Same as Alt. 1.
Minimum Lot Size	yet to be determined (see Table 3)	yet to be determined (see Table 3)
Sunrise Corridor Study Area	Major development approvals for properties within the Sunrise Corridor Study Area are not permitted until a Record of Decision is filed on the final Draft Environmental Impact Statement	Same as Alt. 1.

Draft Land Use Concept

Two public open house events were held to present and discuss the land use alternatives for the Rock Creek study area. The initial open house was held May 15, 2004 near Sunnyside Village. Clackamas County mailed meeting notices to property owners within the Study area, to those within 1,500 feet of the study boundary, and to other stakeholders and interested parties. A summary of public input from the event is provided in Appendix C.

With input from the public and ODOT, Otak and Clackamas County staff developed a revised, land use concept consistent with the public issues and concerns, and with the preliminary planning parameters. The resulting land use assumptions are similar to Alternative 2 in amount of development allowed and the trip generation.

In addition, the revised concept depicts the potential for Sunrise Project connections at prospective locations near the Carver Junction and at 172nd Avenue. ODOT staff stated that the Rock Creek concept plan must not preclude development of alternatives for the Sunrise Project, so these generalized Sunrise areas on the concept map are intended to acknowledge that the Sunrise Project will impact the area, but not to determine where the Sunrise alternatives must be located.

New trail alignments are shown along the natural gas pipeline easements, while the trail near the creeks is shown only for Metro's planned "Scouter's Mountain Trail." (This trail along Rock Creek north from Highway 212 is shown as a conceptual alignment in the Regional Transportation Plan.)

The draft land use concept was presented to the public at an open house held on June 26, 2004 in conjunction with the Damascus/Boring Concept Plan process. The comments received at the open house are included in Appendix C and are reflected in the revised land use plan shown in Figure 4. The estimated amounts for buildable land area, development square feet, jobs and income are similar to those stated above for Alternative 2.

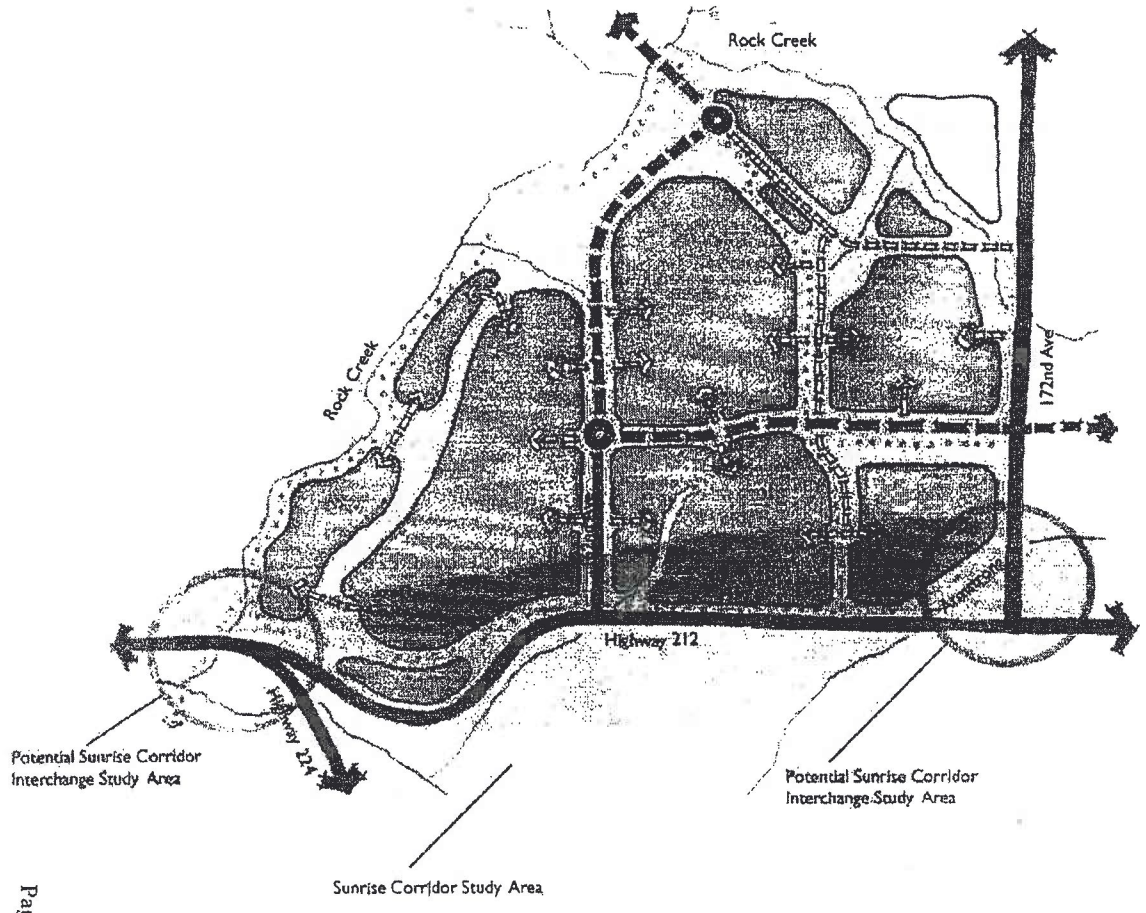
The draft land use concept attempts to accommodate large, medium and small light industrial users in a campus industrial setting. Application of development standards and design guidelines consistent with the Damascus/Boring Core Values statements and Rock Creek Community Planning Organization draft design standards (Appendix C) would create an aesthetically pleasing employment area that is functionally integrated into the surrounding neighborhoods with an excellent bicycle and pedestrian trail system. Preliminary development guidelines are identified in Table 3. (See Appendix "I" for a draft model zoning code.)

While several large employers could be accommodated on any of the six parcels in excess of 10 gross buildable acres (including one parcel in excess of 40 gross buildable acres), the opportunity exists to enhance the site's marketability to very large users though public and private land assembly. Public land assembly can be initiated though an urban renewal agency once the area is designated as an Urban Renewal Area and an Urban Renewal Plan is prepared in accordance with ORS 457. An advantage of public land assembly over private land assembly is that it gives the public an opportunity to "land bank" large development sites until a major user, consistent with the use and design characteristics of the local area, comes along.

FIGURE 4

ROCK CREEK EMPLOYMENT AREA

DEVELOPMENT ALTERNATIVES AND LOCAL IMPROVEMENT DISTRICTS FEASIBILITY STUDY



- employment
- buffers [1]
- residential
- arterial
- collector [2]
- trail [3]
- local
- water

Note:

[1] Buffers represent environmental areas designated by Metro as Goal 5 and Title 3 land, and natural gas pipeline easements.

[2] Roundabouts on 162nd Avenue and future local streets are illustrative only, actual alignments and intersection layouts will be determined during preliminary and final design.

[3] All trail alignments are conceptual and subject to change. The trail parallel to Rock Creek is currently adopted in the Regional Transportation Plan as "Scouter Mountain Trail." Other trails generally follow natural pipeline easements.

DRAFT LAND USE CONCEPT — CAMPUS INDUSTRIAL

07/23/04

Table 3

Preliminary Development Guidelines – Rock Creek Employment Study Area

Lot Size	A minimum lot size is not recommended, unless parcels are in excess of 10 gross buildable acres. There should be a minimum lot width of 250 feet along public streets. Flag lots should be discouraged, but if unavoidable they should comply with minimum access requirements.
Lots Over 10 Acres	Parcels over 10 gross buildable acres (net of constraints*) should be required to submit a master plan that depicts site buildout. Site master plans should depict site plans, proposed land uses, property lines, location of buildings, building heights and facade treatments, landscaping materials, street/pedestrian/transit circulation, parking, bus stops, building heights, setbacks, and storm drainage and utility systems.
Building Size & Height	No structure shall exceed a height of 70 feet, except flagpoles, which shall not exceed 100 feet (as long as the setback to the pole is at least 100 feet).
Setbacks	Minimum setbacks for buildings or fencing to any parking or circulation area should be 50 feet. Side and rear yard setbacks to any parking, circulation or building areas should be a minimum of 5 to 25 feet, as determined though design review. Note, additional setback provisions should be considered for parcels along 172nd Avenue, Highway 212 and within the Sunrise Corridor Study Area.
Parking (off street)	Minimum and maximum parking ratios should be established.** Shared and joint use parking should be encouraged for buildings and areas within 500 feet from each other. Bicycle parking should be provided in convenient & safe location.
Access	No development lot shall be created without provision for access to the public right of way. Planned collector streets should preserve easements for local street access points every 500 feet. Planned local streets should plan to have driveway access points at least 250 feet from street intersections or driveways. Lots or tracts created to preserve wetlands, greenways, natural areas, and parks ad storm water control facilities may not be required to abut a public street. Driveways along 172nd and Hwy. 212 should be consolidated or eliminated over time.
Buffers	Buildings, parking areas and streets within areas designated by Metro as Goal 5 resource areas or Title 3 buffers should be avoided. Underground utilities could be considered within these areas, subject to state, Metro and local land use regulations.
Landscaping (site)	Environmental and aesthetic quality should be enhanced by encouraging retention and protection of existing trees; requiring new trees/shrubs to be planted in new developments; using trees and landscaping materials to temper effects of sun, wind, noise and air pollution; using trees and landscaping to define spaces as a unifying urban design element.
Landscaping (parking areas)	A clear zone should be established at the ends of driveway aisles and at driveway entrances. Perimeter site landscaping of at least 5 feet in width should be provided in all off-street parking and circulation areas. Deciduous trees should be spaced at no more than 30 feet on center. Shrubs or ground cover should achieve 90 percent coverage within 3 years. At least 25 sq. ft. per parking stall should be improved with landscape islands. Bioswales and surface water treatment facilities should be encouraged.

** Development constraints may include utility and gas line easements, existing road easements, Goal 5 and Title 3 restrictions.*

*** Typical minimum auto parking ratios include: manufacturing (1.6 spaces per 1,000 sq. ft. of gross floor area); warehousing 0.3 spaces/1,000 sq. ft); wholesale trade (3.0 spaces/1,000 sq. ft.); office (2.7 spaces/1,000 sq. ft.); medical office (3.9 spaces/1,000 sq. ft.).*

Source: Otak, Inc.

Infrastructure Conditions

Otak conducted a preliminary assessment of existing and planned public facilities, including roads, water, sewer and storm water service in vicinity of the Rock Creek study area. The infrastructure conditions analysis provided in Appendix D concluded that sewer will be provided by the Water Environment Services (WES) and water by the Sunrise Water Authority. As indicated in the infrastructure conditions memorandum, WES plans to extend a new sewer trunk line to the north into the study area from the Hwy. 212/224 junction. According to WES, they have the capacity at the Clackamas River treatment plant to handle the additional effluent generated by future Rock Creek Employment Area development.

Sunrise Water Authority plans to serve the Rock Creek Employment Area using pressure lines that exist along 172nd Avenue and south of Highway 212. While an interim phase of development can be handled without expansion of water reservoirs, SWA plans to add a new reservoir in Happy Valley (near 145th Avenue) and upgrade their 172nd waterline. After those near term improvements are constructed, the SWA will have the needed capacity to handle full site build-out.

Storm water runoff is expected to be handled primarily though a combination of on site detention/treatment by individual property owners.

The major roadway assumptions that are supported by the traffic analysis conducted by Kittelson Associates (included in Appendix E) are described below:

- Both alternatives assume initial access will be provided via a new east-west collector street with an intersection on 172nd Avenue. Appropriate mitigation along 172nd Avenue will be required based on detailed traffic studies once actual development applications are being proposed. This may include the additional turning lanes on 172nd and a new traffic signal on 172nd in the future. The potential exists to extend this collector into the adjacent Regionally Significant Industrial Area that is being planned east of 172nd as part of the Damascus/Boring Concept Plan.
- Both alternatives assume a wide swath of land along the south edge of the study area that will be "reserved" for future planning of the Sunrise Project DEIS. Major development applications should not be approved in this designated "future Sunrise Corridor Study Area" until a formal Record of Decision is reached for this segment of the Sunrise Corridor.
- Both alternatives envision some type of connection with Highway 212 via 162nd Avenue, which would be reclassified and upgraded as a collector street. Access at this intersection would likely be restricted to right in and right out turning movements, and left turns from Highway 212. This access is dependent upon ODOT review and concurrence with a traffic study and mitigation solutions that reflect a specific development application.
- Analysis of near-term (year 2006) conditions showed that the planned road network could accommodate up to 1,000 PM peak hour trips from new, "phase 1" development in the Rock Creek study area. (NOTE: The actual number of trips that could be accommodated depends on the type and composition of "phase 1" development.)

- Analysis of "buildout" of the site tested more intense development generating approximately 3,100 trips during the PM peak hour. The buildout impacts would require significant improvements to the surrounding road network, including six to eight lanes on Hwy 212 (from 162nd to 172nd) to provide needed through-lanes and turn-lanes. An additional southbound lane on 172nd was needed to handle traffic from the north site access to a right-turn-only lane onto Hwy 212.
- Local streets could be expected to accommodate additional on-site circulation requirements for Alternative 1.
- Given the higher level of development and trip generation expected with the campus industrial type uses, the transportation assumptions for the draft land use concept (Figure 4) include the extension of 162nd Avenue to the north across Rock Creek into Happy Valley. This roadway would connect with a planned collector road extension along 162nd between Sunnyside Road and an area north of Rock Creek.
- All of the land use alternatives assume an excellent network of pedestrian and bicycle facilities along 172nd and 162nd and the new east-west collector road. There would also be opportunities to provide trails within pipeline easements and along Rock Creek, where Metro is planning to provide a new Scouter's Mountain Trail alignment.

Phasing and Implementation Strategy

A phasing strategy for roads and infrastructure has been identified to accommodate near-term development in the portion of the site that is located north of the planned Sunrise Corridor Study area.

The draft phasing strategy described in Appendix F is a general staging plan for major public improvements. Private developers may propose refinements to this strategy and the projects listed to meet their needs as long as such proposals preserve the integrity of the overall preferred land use plan. As such, roadway alignments, trail alignments, open space/buffer areas and sewer and water lines may be refined to coincide with available right-of-way and individual property owner/developer objectives. In this manner, development may proceed before the local public or state agencies have constructed or funded identified transportation improvements, as long as private developers can obtain permits and finance required infrastructure.

According to staff from the Sunrise Water Authority and WES, sewer and water systems would most likely be installed by the service providers who would in turn be "reimbursed" by property owners/developers opting to connect with these public facilities. A major sewer trunk line would be installed and financed by WES. The initial water lines for both fire and potable water services are to be provided by the SWA. Storm water systems would likely be handled as part of new street designs and a combination of on-site storm water treatment facilities paid for and installed by private developers.

The less certain infrastructure elements pertain to new streets and other non-motorized transportation improvements.

Tables 4A, 4B and 4C summarize the major transportation elements that are reflected by the Draft Land Use Concept.

Phase 1 Improvements

Phase 1 improvements are assumed to occur over the first five years (2005-2010). These initial improvements would be required to proceed with some initial level of development. These improvements include:

172nd Avenue/Hwy. 212 Intersection Realignment – This project already is identified in the ODOT STIP and County CIP for funding with the majority of funding through the FHWA Hazard Elimination Program (HEP) and County System Development Charge (SDC) revenues.

172nd Avenue Corridor Refinement Plan – Already identified in the Metro RTP and County CIP for funding, this plan is necessary to evaluate and select a preferred alignment and design section for 172nd Avenue in light of planned growth in the Damascus/Boring and Pleasant Valley Concept Plan Areas.

172nd Avenue/Industrial Access Intersection Project – This improvement must be consistent with the above mentioned projects and allow for an initial safe and efficient access point into the Rock Creek Employment Area from 172nd Avenue. Traffic modeling could be conducted as part of the 172nd Avenue Corridor Refinement Plan or separately during an actual development application. Funding for this project could be derived from a variety of private and public sources as noted in Table 3.

New Industrial Access Road – This new collector facility is needed to serve the Rock Creek Employment Area as a primary point of access. There is potential that this access point could be supplemented by more direct access to/from the future Sunrise Corridor in the vicinity of Rock Creek near the Carver Junction, but that decision may not be made for many years. In any event, a new east-west collector facility is needed as a main point of access to 172nd Avenue. While the actual location for this facility may be refined as preliminary and final engineering plans are developed, it is recommended that such a facility take advantage of the Williams Natural Gas pipeline easement to the extent possible and connect 172nd with 162nd Avenues. This facility could initially be constructed in stages depending upon available budget. Potential funding sources for this project are further discussed below.

The unfunded, phase 1 transportation improvements include the east-west collector road and related 172nd intersection improvements. Local stakeholders desire to preserve the opportunity for a direct Sunrise Corridor connection in the vicinity of Rock Creek near the Carver Junction. Hence, the draft land use concept depicts two potential Rock Creek Interchange Study areas, one near the Carver Junction and one near 172nd Avenue.

The recommended land use regulation approach is to have the County and City of Happy Valley adopt a special overlay district boundary in these areas as part of the comprehensive plan amendment and zone change amendment process. Any future land use application from parcels in these designated areas should be limited to "minor" alterations only. Major land use changes, such as subdivisions and new construction projects, should not be allowed until after an official NEPA Record of Decision is adopted for this segment of the Sunrise Corridor along with an Interchange Management Plan by local, state and federal officials.

Table 4A
Summary of Recommended Transportation Improvements
Rock Creek Employment Study

Phase 1 (years 2005 – 2010)

Improvement Name	Description	*Conceptual Cost**	Probable Lead Funding Sources
Off Site			
172nd/Hwy212 Intersection	Realignment of 172nd & Hwy 212	$1,200,000	FHWA/ODOT (HEP) & County SDCs
172nd/Industrial Area Intersection (widening)	Acquire ROW and add turn lanes	$900,000	Developer, City/County SDCs, ODOT (IOP), Urban Renewal, LID, ZBD
172nd Corridor Refinement Plan	Alternatives analysis and selection & public outreach	$150,000	Metro, ODOT/TGM, County, City
On Site			
New-Industrial Access Road	New east-west collector connecting with 172nd Ave. Assumes 3 lanes, sidewalks, pathway, entry treatment/signage and landscaping.	$3,900,000	Developer, City/County SDCs, ODOT (Immediate Opportunity Program), Urban Renewal, LID, Zone of Benefit Recovery (ZBR) District.

** Note, all costs are based on preliminary planning assumptions. While costs do reflect land acquisition, design and construction; they do not necessarily reflect special permitting, public outreach, financing, environmental mitigation, structural work, special storm water mitigation and illumination*

Source: Otak, Inc.

The traffic analysis by Kittelson & Associates concluded that some private development, with up to 1,000 PM peak hour trips, could be supported once the new east-west collector street is constructed. Preliminary analysis indicates approximate amounts of land area that would generate this amount of traffic and could be developed without capacity improvements to 172nd Avenue or Highway 212.[2] The amount of supportable development is as follows:

- 621,000 square feet of hospital development (42 +/- net acres); or
- 1,163,000 square feet of industrial park development (107 +/- net acres); or
- 776,000 square feet of business park development (59 +/- net acres); or
- Some combination of these and other development types.

2 The Kittelson analysis is summarized in a Memorandum dated July 14, 2004; it assumed construction of planned intersection improvements to 172nd Avenue/Highway 212 and 172nd Avenue/Sunnyside road are completed. A net buildable acre is area assumed to be developable after deducting area for streets, utilities, Goal 5 and Title3 buffers.

Phase 2 Improvements

Phase 2 transportation recommendations include improvements to state and local roadways and pathways over the 2011-2015 time period. Major improvements at this stage will likely entail a new traffic signal on 172nd, and improvement of 162nd Avenue with upgraded connections to Highway 212.

The potential to connect 162nd Avenue as a collector street with Highway 212 will need to be evaluated at this time, and appropriate safety and capacity improvements to be identified for Highway 212 as well. Any future improvement to Highway 212 and 162nd Avenue will also need to be consistent with the Sunrise Corridor recommended alignment and cross section through this segment. (Please refer to ODOT's input on traffic safety and intersection spacing issues in Appendix E.)

Potential projects and funding sources are identified below in Table 4B.

Table 4B
Summary of Recommended Transportation Improvements
Rock Creek Employment Study

Phase 2 (years 2011 – 2015)

Improvement Name	Description	Conceptual Cost*	Probable Lead Funding Sources
Off Site			
172nd/Industrial Area Intersection (signalization)	New Traffic Signal on 172nd	$175,000	City/County SDCs, ODOT (IOP), Urban Renewal
Hwy. 212 Turn Lanes & 162nd Intersection	Turn lanes and retaining walls on Hwy. 212	$1,170,000	FHWA, ODOT City/County SDCs, Urban Renewal
172nd Widening (approaches to Sunnyside & Hwy 212)	Road widening	$6,720,000	City/County SDCs , Metro RTIP
On Site			
162nd Avenue Improvement	Widen 162nd to Hwy. 212	$1,900,000	City/County SDCs, ODOT (IOP), Urban Renewal, LID, ZBR
162nd Avenue Roundabout	New roundabout	$200,000	City/County SDCs, ODOT (IOP), Urban Renewal, LID, ZBR

** Note, all costs are based on preliminary planning assumptions. While costs do reflect land acquisition, design and construction; they do not necessarily reflect special permitting, public outreach, financing, environmental mitigation, structural work, special storm water mitigation and illumination*
Source: Otak, Inc.

In addition to the identified roadway improvements, a new recreational trail alignment included in the Metro Regional Transportation Plan (RTP) named "Scouter Mountain Trail" is also included in the Draft Land Use Concept for the Rock Creek Study Area. The actual alignment for this trail will be determined when Metro proceeds with alternatives analysis and preliminary engineering. Initial input from local property owners indicated some concern over Metro's current trail alignment, which appears to be within Metro Title 3 and Goal 5 resource areas, and within private property boundaries. Alternative trail alignments advocated by some private property owners include following the Williams natural gas pipeline easement in lieu of following Rock Creek. Both trail alternatives are shown on the draft land use concept.

Phase 3 Improvements

Phase 3 transportation recommendations include additional improvements to state and local roadways and pathways over the 2016-2025 time period to support full buildout of the study area. Major improvements at this stage likely would entail a new traffic signal on Highway 212 at 162nd Avenue and extending 162nd across Rock Creek with a planned connection to Sunnyside Road. A new, local street connecting 162nd to 172nd also is envisioned and is assumed to have restricted, right-turn movements to and from 172nd Avenue.

With buildout of the site, Hwy 212 would need to be rebuilt generally between 162nd and 172nd with six to eight lanes to support through-lanes and turn-lanes. Also, significant capacity improvements would be needed at the intersections of Sunnyside/172nd and Hwy 212/172nd/Anderegg Parkway. (Note: The traffic analysis did not assume that the Sunrise Project was constructed. It is likely that many of the transportation improvements described here for the buildout conditions would be diminished if the Sunrise Project were constructed.)

Potential projects and funding sources for Phase 3 are identified below in Table 4C. Any future improvement to Hwy 212, the Sunrise Corridor and related interchanges and access points are to be identified as part of the Sunrise Project Draft EIS. Given the uncertainties about timing for both the planning and the funding for the Sunrise Project segment east of the Carver Junction, that planning element has not been identified in the table below.

In addition to the improvements listed, the draft land use concept for the Rock Creek Employment Area assumes an excellent local pathway and trail network within the Williams natural gas pipeline easement. Funding for pathways would be identified during the alternatives analysis and preliminary design tasks. Potential funding sources include expansion of the North Clackamas Parks District; Metro capital improvement program; Oregon State Parks; and other local public sources.

Table 4C
Summary of Recommended Transportation Improvements
Rock Creek Employment Study
Phase 3 (years 2016 – 2025)

Improvement Name	Description	Conceptual Cost*	Probable Lead Funding Sources
Off Site			
172nd Widening (central portion)	Road widening	$6,720,000	City/County SDCs , Metro RTIP
Hwy. 212 Reconstruction (Carver Jct. to 172nd Ave.)	Road widening	$12,400,000	Developer, City/County SDCs , Metro RTIP, ODOT
Hwy. 212/162nd signalization	Traffic Signal	$175,000	Developer, City/County SDCs , Metro RTIP, ODOT
Sunrise Corridor (Carver Jct. to beyond 172nd)	New Arterial	N/A	FHWA/ODOT and Local Entities
On Site			
162nd Avenue North Extension	New Collector	$3,600,000	City/County SDCs, ODOT (IOP), Urban Renewal, LID, ZBR

** Note, all costs are based on preliminary planning assumptions. While costs do reflect land acquisition, design and construction; they do not necessarily reflect special permitting, public outreach, financing, environmental mitigation, structural work, special storm water mitigation and illumination.*

Source: Otak, Inc.

Funding Strategies

As with most successful large master planned developments, the Rock Creek Employment Area will require a mix of public and private funding and financing for on- and off-site improvements.

The first step in the funding process entails amendments to local (City of Happy Valley and Clackamas County) Transportation System Plans to identify the facilities identified in Tables 4A, 4B and 4C. After the TSP amendment processes occur (assuming support from ODOT and other state, Metro and local agencies/stakeholders), the county and/or city can work with ODOT and local stakeholders to update local ordinances (such as the Happy Valley/Clackamas County Joint Systems Development Charge Methodology), capital improvement programs and the State Transportation Improvement Program (STIP) to designate appropriate improvements for funding.

As local plan amendments are adopted, funding sources should be identified. Potential local funding sources may include the following:

Local Systems Development Charges – The City of Happy Valley/Clackamas County SDC methodology could be amended to include capital facilities such as the new east-west collector facility and upgrades to 162nd Avenue. Both of these facilities are required to accommodate planned urban growth. A preliminary analysis by Otak indicates that the existing SDC rate system, if applied to the anticipated level of development within the Rock Creek Employment Area, could be expected to generate approximately $14 million in revenue (with Land Use Alternative 1) and $27 million in revenue (with Land Use Alternative 2 or the Revised Land Use Alternative) by the time build out is reached, assuming no SDC waivers are granted.[3]

Urban Renewal Plan District – Clackamas County may consider expanding its urban renewal district area into a portion of the Rock Creek Employment Study Area. Also, the City of Happy Valley could explore establishing a new urban renewal district in this location. Notwithstanding the challenge of meeting state and local planning approval regulations regarding the formation or expansion of urban renewal plans (please refer to ORS 457.085), significant funding resources could be obtained using Tax Increment Financing. A preliminary analysis by Otak indicates that potential assessed valuation in the Rock Creek Study Area increases from $18 million today to approximately $195 million (with Land Use Alternative 1) and $260 million (with Land Use Alternative 2 or the draft land use concept) at buildout. This change in assessed valuation could support an additional $1.4 million and $1.9 million in annual property tax revenues at buildout. If a conservative estimate of 50% site buildout over the life of the urban renewal district is assumed, these net

3 SDC analysis based upon analysis included in Table 5.

new property tax revenues could support between $6 million and $9 million in capital improvements within the urban renewal district.[4]

Local Improvement District (LID) – This approach assumes formation of a local improvement district in accordance with local ordinance and state statutes. A LID can be initiated by either the local jurisdiction or affected property owners for specific capital improvements with consent of at least 51% of affected property owners in the LID and at least two-thirds support from councilors.[5] LID assessments result in a lien placed on properties by the local jurisdiction until the assessment is paid in full.

Zone of Benefit Recovery District (ZBR) – This approach is similar to the LID financing method, but is almost always initiated by the private sector and does not require a lien on properties for the assessment.

Combination of LID or ZBR and SDCs – Happy Valley and Clackamas County have recent history in combining LID and SDCs for the construction financing of new collector roads, such as 147th Avenue. Hence, this is a likely funding approach. Otak performed a sensitivity analysis, shown on Table 5, that indicates three potential variations for combining SDCs and LIDs including 100% SDC funding; 50% SDC and 50% LID or ZBR funding; and 100% LID or ZBR funding. The preliminary analysis shown on Table 5 identified approximate costs per square foot of land area and costs per prototypical 5-acre site within the affected Rock Creek Employment Study area.

Metro Transportation Improvement Program – Selected arterial improvements, such as 172nd Avenue, and selected regional pathway improvements may be funded through the Metro TIP process.

ODOT Statewide Transportation Improvement Program (STIP) – State highway facilities are eligible for funding through updates to the STIP. Recent preference for improvements required to address freight mobility requirements and dedication of funds from federal and state programs (such as Oregon Transportation Infrastructure Act) can help raise the priority of improvements that benefit industrial job growth.

Oregon Immediate Opportunity Program – ODOT grants up to 50% of project ($500,000 cap) based on job creation. Letter of intent needed.

Infrastructure Grants

Water, sewer and parks facilities are often funded through special district bond issues paid for by user charges. Special utility districts, such as the Clackamas Water Environment Services (WES) and the Sunrise Water Authority (SWA), are expected to provide major trunk line improvements to provide urban sanitary sewer and water

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4 Urban Renewal TIF revenues assume existing Happy Valley tax rate of $7.7398 per $1,000 of assessed valuation for general government and 10% capitalization rate.
5 Please refer to City of Happy Valley LID Ordinance.

services in the Rock Creek Employment Area. In addition to urban renewal district funding, other state and federal funding sources for infrastructure may include:

Special Public Works Fund – Grants awarded in conjunction with a joint loan application for construction and/or improvement of infrastructure needs to support industrial, manufacturing and certain types of commercial development. Typically covers up to $5,000 per job. Loans up to $10M. Rate is 4.5%+/-. A grant award is based on a financial analysis of the applicant and a debt carrying capacity assessment. ($ of grant awards: subject to loan application ratios)

Oregon Community Block Grant Program – Grants for infrastructure improvements needed to support a business that will create or retain permanent jobs, the majority of which will be made available to low and moderate income workers. For public infrastructure projects, the ratio is one job per $20,000 invested.

Oregon Industrial Development Revenue Bond Program – Administered by the Oregon Economic and Community Development Department (OECDD) this program is focused on non-retail job creation. Bonds may be issued for manufacturing, processing and tourism facilities. Eligible companies may borrow $500,000 to $10 million though this program, and are obligated to pay back the bondholders.

Public/Private Development Agreements

In addition to these funding sources, major development projects often include advanced financing agreements between private developers and local jurisdictions. With advanced financing agreements, private entities that build public facilities can be compensated by the city as development occurs. Clackamas County and the City of Happy Valley will be required to work with ODOT and Metro staff, local service providers and developers to identify financing strategies for specific improvements.

Table 5

Analysis of Conceptual LID Formation Options for Selected Improvements
Rock Creek Employment Study (in 2004 dollars)

	Sensitivity Analysis Assumptions*		
Initial East/West Access Road	Scenario 1: 100% funding through SDC	Scenario 2: 50% funding through SDC and 50% through LID, ZBR or developers	Scenario 3: 100% funding through LID, ZBR or developers
Total Capital Cost	$3,900,000	$3,900,000	$3,900,000
SDC Share	100%	50%	0%
Developer Share	0%	50%	100%
LID or ZBR Cost **	$0	$1,950,000	$3,900,000
Cost Per sq. ft. of Land Area			
Alternative 1	$0	$0.19	$0.38
Alternative 2 & Revised Land Use Concept	$0	$0.17	$0.33
Avg. Cost per 5-acre site			
Alternative 1	$0	$42,000	$83,000
Alternative 2 & Revised Land Use Concept	$0	$36,000	$72,000
162nd Improvement/Roundabout (south extension to Hwy. 212)			
Total Capital Cost	$2,100,000	$2,100,000	$2,100,000
SDC Share	100%	50%	0%
Developer Share	0%	50%	100%
LID or ZBR Cost **	$0	$1,050,000	$2,100,000
Cost Per sq. ft. of Land Area			
Alternative 1	$0	$0.10	$0.21
Alternative 2 & Revised Land Use Concept	$0	$0.09	$0.18
Avg. Cost per 5-acre site			
Alternative 1	$0	$22,000	$45,000
Alternative 2 & Revised Land Use Concept	$0	$19,000	$39,000
162nd Improvements (north extension to Rock Creek)			
Total Capital Cost	$3,600,000	$3,600,000	$3,600,000
SDC Share	100%	50%	0%
Developer Share	0%	50%	100%
LID or ZBR Cost **	$0	$1,800,000	$3,600,000
Cost Per sq. ft. of Land Area			
Alternative 1	N/A	N/A	N/A
Alternative 2 & Revised Land Use Concept	$0	$0.15	$0.30
Avg. Cost per 5-acre site			
Alternative 1	N/A	N/A	N/A
Alternative 2 & Revised Land Use Concept	$0	$33,000	$66,000

Notes:

** Estimated development area, after accounting for unbuildable slopes, Goal 5, and Title 3 buffers is assumed to be 234 acres for Alternative 1, and 271 acres for Alternative 2 and the Revised Land Use Concept.*
*** Local Improvement District (LID) and Zone of Benefit Recovery District (ZBR)*

Source: Otak, Inc.

Recommended Next Steps

The steps required to implement the revised land use alternative for the Rock Creek Study Area generally include:

1. Participants need to continue coordinating with the Damascus/Boring Concept Plan by integrating findings from the Rock Creek employment area study.
2. Participants should coordinate with the Sunrise Project Supplemental DEIS, by designating the transition corridor, between Rock Creek and 172nd Avenue, which needs to be considered in the future assessment of transportation infrastructure requirements.
3. Clackamas County and the City of Happy Valley need to work on the traffic analyses to show compliance with the Transportation Planning Rule. (Information on the TPR is found in Appendix H).
4. Clackamas County and the City of Happy Valley will need to amend their respective Transportation System Plans to add projects that support the planned development and street system. Further, the jurisdictions will need to work together to develop funding strategies for paying for needed projects.
5. As part of proposed zoning standards, Clackamas County and the City of Happy Valley should include special design standards to address local public concerns and objectives stated in the Core Values of the Damascus/Boring project. Preliminary development guidelines are identified in Table 3. Additional design considerations that were provided by the Rock Creek CPO are included in Appendix C. Metro's final decision on the Regionally Significant Industrial Area (RSIA) Title 4 ordinance may also impact the timing of implementation.
6. To implement comprehensive plan amendments, the local jurisdiction must develop responses to Metro's Title 11 "Planning for New Urban Areas" and submit that plan to Metro 60 days before the public hearing on proposed comp. plan amendments. Most of the requirements are addressed in the concept plan, such as types of land uses, a conceptual transportation plan, and a conceptual public facilities plan.

   Title 11 requires that there be provisions for annexation to the appropriate city or service district so that all required urban services will be provided. Thus, appropriate steps to annex these new, urban areas to sewer and water service districts (Clackamas Water Environment Services and Sunrise Water Authority) need to be started.
7. The local jurisdictions need to continue to create opportunities for family-wage jobs and craft an economic development strategy. If a major, non-industrial use is proposed for some part of the study area, then the jurisdictions would need to pursue removing that area from the RSIA designation.

Once these basic steps are taken and finalized (with legislative decisions pending any appeals), some level of development may be proposed, reviewed and potentially approved by appropriate local, regional and state decision bodies. The timing of development will then be affected to some degree by the ability for adequate public facilities to be provided to serve any proposed developments.

BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

CITIZENS FOR PROTECTION
OF NEIGHBORHOODS, LLC,
ROBERT THOMPSON and
RODNEY STUBBS,
Petitioners,

vs.

CITY OF SALEM,
Respondent,

and

SUSTAINABLE FAIRVIEW ASSOCIATES, LLC,
Intervenor-Respondent.

LUBA No. 2003-201

FINAL OPINION
AND ORDER

Appeal from City of Salem.

Paul R. J. Connolly, Salem, filed the petition for review and argued on behalf of petitioners.

Randall Tosh, City Attorney, and Kris Jon Gorsuch, Salem, filed a joint response brief and argued on behalf of respondent and intervenor-respondent.

BASSHAM, Board Member; HOLSTUN, Board Chair, participated in the decision.

AFFIRMED 06/09/2004

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

EXHIBIT 4

Opinion by Bassham.

NATURE OF THE DECISION

Petitioners challenge a decision that amends the city comprehensive plan and development code to adopt new mixed use plan and zoning designations and also applies those designations to a 275-acre parcel.[1]

FACTS

The subject property is the location of the former Fairview Training Center, a state facility that for over 90 years housed and provided training for mentally and physically disabled persons. In 1999, the state decided to close the facility. In anticipation of the closure, the state initiated a master planning process to consider options for post-closure use (1999 redevelopment plan). The 1999 redevelopment plan produced for the state recommended that the property be conveyed to private ownership and developed for mixed commercial and residential uses.

In 2003, the state conveyed the subject property to intervenor-respondent. Also in 2003, the city began proceedings to include mixed use development designations in its comprehensive plan and development code. While the city was evaluating the establishment of the mixed use zoning designations, the city considered the application of those designations to the subject property. The city's proceedings culminated in two ordinances: (1) Ordinance 59, which amends the Salem Area Comprehensive Plan (SACP) by adopting a mixed use comprehensive plan designation, and (2) Ordinance 58, which applies that designation to the subject property and rezones the property for mixed use development. Petitioners challenge the city's adoption of the two ordinances.[2]

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[1] The challenged decision is embodied in two ordinances, Ordinances 58 and 59. The city does not dispute petitioners' description of the two ordinances as one decision for the purposes of LUBA review.

[2] Ordinance 58 applies the Fairview Mixed Use (FMU) zone and four mixed use overlays (Low-Intensity Residential, Mixed Intensity, Adaptive Use and Village Center) to the subject property.

REPLY BRIEF

Petitioners move to file a nine-page reply brief, arguing that a reply brief is necessary to respond to new matters raised in the joint response brief. Respondent and intervenor-respondent (respondents) object, arguing that (1) the reply brief is not timely, and (2) the reply brief is not confined to new matters, as is required by OAR 661-010-0039.[3]

The joint response brief was filed on Wednesday, April 28, 2004. The reply brief was filed and a copy of the reply brief was provided to respondents on Wednesday, May 5, 2004, one day prior to oral argument. While one day is a relatively short period of time to review a reply brief and prepare for oral argument, we do not believe that respondents were prejudiced in their ability to respond to the reply brief. Therefore, we do not deny the reply brief because it was not timely filed.

However, we agree with respondents that the reply brief either amplifies arguments made in the petition for review or includes additional arguments for remand not presented in the petition for review. It is not limited to new matters included in the response brief. Therefore, we will not consider the reply brief.

RENEWED MOTION TO TAKE EVIDENCE/OBJECTION TO THE RECORD

On March 23, 2004, petitioners moved for LUBA to consider evidence not in the record pertaining to a transportation analysis performed for the state in 1999 (1999 transportation analysis). In that same motion, petitioners requested that we reconsider our February 18, 2004 order on record objections where we declined to order the city to include the 1999 transportation analysis in the record of this appeal. We denied petitioners' objection and motion to take evidence in an order dated April 7, 2004. Petitioners renew their motions in a footnote on page 13 of the

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[3] OAR 661-010-0039 provides, in relevant part:

> "A reply brief may not be filed unless permission is obtained from the Board. A request to file a reply brief shall be filed with the proposed reply brief together with four copies as soon as possible after respondent's brief is filed. A reply brief shall be confined solely to new matters raised in the respondent's brief. A reply brief shall not exceed five pages, exclusive of appendices, unless permission for a longer reply brief is given by the Board."

petition for review. Petitioners provide no reason that persuades us that we should reconsider our April 7, 2004 order, and we decline to do so. Petitioners' motions are denied.

FIRST ASSIGNMENT OF ERROR

OAR 660-012-0060(1), part of the Transportation Planning Rule (TPR), requires that a local government evaluate applications for post-acknowledgement plan amendments and take certain steps to address traffic impacts if the local government determines the proposed amendment will "significantly affect" a transportation facility.[4] As defined by OAR 660-012-0060(2) and as relevant here, a proposed amendment will "significantly affect" a transportation facility if the

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[4] OAR 660-012-0060 provides, in relevant part:

> "(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. This shall be accomplished by either:
>
> "(a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;
>
> "(b) Amending the [transportation system plan (TSP)] to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division;
>
> "(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or
>
> "(d) Amending the TSP to modify the planned function, capacity and performance standards, as needed, to accept greater motor vehicle congestion to promote mixed use, pedestrian friendly development where multimodal travel choices are provided.
>
> "(2) A plan or land use regulation amendment significantly affects a transportation facility if it:
>
> "* * * * *
>
> "(c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
>
> "(d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP."

proposal "[a]llows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility" or "[w]ould reduce the performance standards of the facility below the minimum acceptable level identified" in the local government's transportation system plan (TSP).

The city found that the challenged decisions do not "significantly affect" any transportation facilities within the meaning of OAR 660-012-0060 because (1) Ordinance 58 allows no development at all of the subject property, other than a 20-acre portion, until subsequent master plan and refinement plan(s) are adopted, (2) traffic generated by development of the 20-acre portion would not exceed traffic generated by the former state facility under the former zoning, and (3) any development that would be allowed pursuant to subsequently adopted master plans and refinement plans would be subject to review under standards that ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of affected transportation systems.[5]

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[5] The city's findings state, in relevant part:

> "* * * The proposed amendments to the SACP do not significantly affect a transportation facility because no specific development that can be assessed to have an impact is permitted by the amendment. The proposed amendments do however call for a development type that is new to Salem that encourages a more comp act urban form of development that preserves open space, encourages reduction in [single-occupancy vehicle] trips, promotes the pedestrian, and facilitates the use of multi-modal transportation options. * * * The proposed amendment[s] to the comprehensive plan [are] consistent with the intent and purpose of the TPR and will become an additional tool to enable Salem to meet the requirements of Goal 12.
>
> "[The] TPR also requires that amendments to land use regulations that significantly affect a transportation facility be in compliance with the provision of [the] TPR. The proposed amendment establishing the FMU zone does not significantly affect a transportation facility because the FMU zone only allows a limited amount of development until such time when the required Fairview Plan and Refinement Plan(s) are submitted for review and public hearing. The amount of development permitted by the FMU zone prior to the approval of the Fairview Plan does not significantly affect a transportation facility. In a trip generation comparison study conducted by Kittleson and Associates, Inc., and provided by [intervenor-respondent] * * *, it determines that the amount of development permitted by the FMU zone prior to Fairview Plan and Refinement Plan(s) approval will not generate a traffic impact that exceeds the levels of traffic that the site, surrounding neighborhoods, and existing transportation system has already experienced when the site was operating as the Fairview Training Center.

Petitioners argue that the city erred in concluding that the challenged decision will not "significantly affect" a transportation facility under OAR 660-012-0060. According to petitioners, the city cannot defer evaluation of the traffic impacts of uses allowed under the challenged amendments to subsequent decisions that are not subject to compliance with the TPR. Petitioners particularly fault the city for failing to require that the applicant prepare a traffic impact analysis (TIA) and use that TIA to determine whether the challenged amendments "significantly affect" any transportation facilities. Petitioners contend that evaluation of a TIA is necessary to determine whether proposed amendments comply with OAR 660-012-0060. In addition, petitioner argue that the city's TSP independently requires a TIA whenever traffic generated by proposed development would exceed thresholds defined by the city's public works department.[6] Petitioners cite to a bulletin issued by the city public works department indicating that a TIA is required for any development proposal that generates more than 100 vehicle trips.

> "As a requirement of the Fairview Plan, a transportation impact analysis (TIA) of the major transportation and circulation elements intended to serve the FMU zone is required, as well as an overall transportation and mobility plan addressing the integration of pedestrian, transit, and vehicular use on the site. In order to further address the requirements of [the] TPR, * * * [the challenged decision adopts TPR] language into the FMU zone to require that the Fairview Plan, subsequent refinement Plan(s), or development within the FMU zone identify whether it significantly affects a transportation facility. It would also require that any component of the Fairview Plan, Retirement Plan(s), or development that is determined to affect a transportation facility assure that the proposed uses or development are consistent with the identified function, capacity, and performance standards of the transportation facility. This amendment assures compliance with [the] TPR before the Fairview Plan can be adopted.
>
> "In addition to the requirements of the FMU zone, the Fairview Plan, and Refinement Plan(s) noted above, the FMU zone also requires that Refinement Plan(s) provide an update to the TIA approved with the Fairview Plan. The update is required to include trip generation factors for various modes, estimated trips per day by land use, proposed vehicular access and circulation plans, and traffic impacts by mode on adjacent development." Record 141-142.

[6] Petitioners cite to Policy 5.1 of the TSP, which states:

> "The City shall require Traffic Impact Analyses as part of land use development proposals to assess the impact that a development will have on the existing and planned transportation system. Thresholds for having to fulfill this requirement and specific analysis criteria are established in the *City of Salem Street Design Standards*." (Italics in original).

Petitioners also challenge the city's determination that residential development of a 20-acre portion of the subject property would not generate greater traffic than allowed under current zoning. That determination rested on a trip generation analysis comparing the traffic impacts of the Fairview Training Center when it last operated, and the estimated traffic impacts of residential development of the 20-acre portion. According to petitioners, that comparison is flawed, because it fails to take into account the degree to which traffic generated by the Fairview Training Center contributed to nearby transportation facility failures.

Respondents argue that Ordinance 59 does not implicate OAR 660-012-0060 at all because it simply establishes new mixed use plan and zoning designations that can be applied to property in the city. While Ordinance 58 applies the new FMU zoning to the subject property, and that zoning *potentially* allows uses with significant traffic impacts, respondents argue that the terms of the FMU zone limit development of the subject property in such a way as to ensure that traffic impacts from any future development will be consistent with the function, capacity and performance standards. of affected transportation facilities. Respondents emphasize that SRC 143C.165, which is part of the new zoning restrictions applicable to the subject property, is substantially identical to the requirements of OAR 660-012-0060(1) and (2).[7] According to respondents, requiring that all

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[7] SRC 143C.165 provides, in relevant part:

> "(b) The Fairview Plan, and any subsequent Refinement Plan, or any site plan or other development proposal within the FMU zone shall identify whether the plan or development significantly affects a transportation facility by:
>
> "(1) Changing the level of service of an existing or planned transportation facility;
>
> "(2) Changing standards implementing the street classification system;
>
> "(3) Allowing types or levels of land uses which would result in levels of travel or access which are inconsistent with the level of service of a transportation facility; or
>
> "(4) Reducing the level of service of the facility below the minimum acceptable level identified in the City of Salem Transportation System Plan.

development of the subject property (other than a 20-acre portion) comply with SRC 143C.165 is sufficient to ensure that Ordinance 58 complies with the TPR.

With respect to the 20-acre portion that is available for development under Ordinance 58 without complying with SRC 143C.165, respondents argue that the trip generation report relied upon by the city establishes that the additional trips generated by a 20-acre residential subdivision will not exceed the number of trips that the prior use of the Fairview Training Center generated. Therefore, respondents argue, the city could find, as it did, that Ordinance 58 does not significantly affect a transportation facility, within the meaning of OAR 660-012-0060(2).

With respect to the necessity for a TIA, respondents argue that nothing in OAR 660-012-0060 requires that a local government prepare or evaluate a TIA. Further, respondents argue that any local requirement for a TIA applies only when there is a "development proposal," *i.e.*, a specific subdivision, master plan or similar application proposing development, and that nothing in the TSP or elsewhere requires a TIA for a rezoning application that does not itself propose any "development."

We agree with respondents that the city properly found that Ordinance 58 does not "significantly affect" any transportation facility within the meaning of OAR 660-012-0060. It is permissible to find that a proposed amendment complies with OAR 660-012-0060 based on conditions or restrictions that limit allowed uses on the subject property to levels consistent with the function, capacity and performance standards of affected transportation facilities. *ODOT v. City of*

"(c) Any component of the Fairview Plan, any subsequent Refinement Plan, or any development, which significantly affects a transportation facility shall assure that the proposed uses or development are consistent with the identified function, capacity, and performance standards of the transportation facility by either:

"(1) Limiting allowed uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;

"(2) Altering densities or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

"(3) Providing transportation facilities adequate to support the proposed uses."

Klamath Falls, 39 Or LUBA 641, 660, *aff'd* 177 Or App 1, 34 P2d 667 (2001) (a condition that effectively prevents development allowed by the amendment from impacting a transportation facility at all unless and until the facility is improved is sufficient to ensure compliance with the TPR). Here, no development under the FMU zone is permitted at all (other than development of 20 acres, as we discuss below) unless and until a master plan is approved. That master plan must demonstrate, based on a TIA, that allowed development will be consistent with the function, capacity and performance standards of affected transportation facilities.

It is true, as petitioners point out, that the master plan process does not involve a plan or zoning amendment to which OAR 660-012-0060 is directly applicable. Nonetheless, petitioners offer no reason why application of the FMU standards at SRC 143C.165, which substantially replicate the standards at OAR 660-012-0060, will be insufficient to ensure that allowed uses are consistent with the function, capacity and performance standards of affected transportation facilities.

With respect to the 20-acre portion that is available for residential development without evaluation under SRC 143C.165, we agree with respondents that the trip generation report is a sufficient basis under which the city could conclude that development allowed on that portion of the property will not "significantly affect" any transportation facility within the meaning of OAR 660-012-0060(2). As respondents point out, the focus of inquiry under OAR 660-012-0060(2)(d) is the *net difference* in impacts on transportation facilities between the unamended plan and zoning code and the amended plan and zoning code. *ODOT v. Klamath Falls*, 39 Or App at 648. Here, the city compared traffic generated by the former Fairview Training Center allowed under the former zoning, and traffic that would be generated by residential development of the 20-acre portion, and found that the former exceeded the latter. Petitioners' only criticism of that approach is that it fails to take into account any transportation facility failures caused by the former Fairview Training Center. However, as respondents correctly point out, the causative element inherent in OAR 660-0012-0060(2) and the focus of the rule on the net difference between the amended and

unamended plan and zoning code renders it legally irrelevant whether the former Fairview Training Center caused transportation facility failures.

With respect to the necessity for a TIA, we generally agree with respondents that OAR 660-012-0060 does not *require* preparation or analysis of a TIA, although depending on the nature of the proposed amendment and the local government's approach to finding or ensuring compliance with the TPR, some kind of traffic generation or traffic impact analysis may be necessary. Here, the only aspects of Ordinance 58 that require some kind of traffic generation analysis are those provisions allowing 20 acres to develop as a residential subdivision. Petitioners do not explain why the traffic generation report the city relied upon is insufficient to support the city's conclusions with respect to that 20-acre portion, and we do not see that it is. As explained, the other aspects of Ordinance 58 that govern the remainder of the subject property do not allow any development at all in the absence of master plan approval, which will require both a TIA and an evaluation of the traffic impacts of such development consistent with OAR 660-012-0060. Petitioners have not demonstrated that the current proceeding must include an analysis of traffic generation or traffic impact under that approach, and we do not see that it does.

Further, we agree with respondents that the TSP provisions cited to us by petitioners fail to establish that the rezoning application at issue here is the kind of "land use development proposal" that requires a TIA under the TSP.

The first assignment of error is denied.

SECOND ASSIGNMENT OF ERROR

Petitioners argue that the city erred in considering and approving Ordinance 58 (and by extension, Ordinance 59) as legislative amendments to the city's comprehensive plan and development ordinance. According to petitioners, the city's code distinguishes between "major plan changes," which are subject to legislative procedures and standards, and "minor plan changes,"

which are subject to quasi-judicial procedures and standards.[8] Petitioners contend that the city erred in processing Ordinance 58 as a legislative "major plan change" rather than as a quasi-judicial "minor plan change." Petitioners argue that the city's error in applying legislative procedures and approval standards means that the city failed to require the applicant to bear the appropriate burden of proof with respect to Statewide Planning Goal 12 (Transportation) and the TPR. Petitioners repeat their arguments under the first assignment of error that the city erred in failing to require a TIA.

Petitioners also argue that even if the challenged decision is a legislative decision under the SRC, it is a quasi-judicial decision under the factors set out in *Strawberry Hill 4 Wheelers v. Benton Co. Bd. of Comm.*, 287 Or 591, 602-03, 601 P2d 769 (1979).[9]

Respondents contend that the city did not err in using the procedures and approval criteria for a legislative "major plan change" because the challenged ordinances are properly characterized as "major plan changes." SRC 64.040(f). As such, respondents contend, the amendments are legislative acts of the city council and are subject to the legislative approval criteria set out in SRC 64.070 rather than the quasi-judicial approval criteria set out in SRC 64.090. According to

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[8] SRC 64.040(f) defines "major plan change" as "a single proceeding which amends, supplements or repeals SRC 64.020 to 64.220 including the comprehensive plan * * *." A "minor plan change" is an exception to the definition of "major plan change." SRC 64.040(g) defines "minor plan change" as "single proceeding for amendment to the comprehensive plan map affecting [fewer] than five privately and separately owned tax lots * * *."

[9] We summarized the *Strawberry Hill 4 Wheelers* factors in *Valerio v. Union County*, 33 Or LUBA 604, 607 (1997

> "1. Is 'the process bound to result in a decision?'
>
> "2. Is 'the decision bound to apply preexisting criteria to concrete facts?'
>
> "3. Is the action 'directed at a closely circumscribed factual situation or a relatively small number of persons?'
>
> "The more definitely these questions are answered in the negative, the more likely the decision under consideration is a legislative land use decision. The answer to each of the questions must be weighed; no single answer is determinative. *Estate of Paul Gold v. City of Portland*, 87 Or App 45, 740 P2d 812, *rev den* 304 Or 405 (1987)."

respondents, a "minor plan change" is limited to those circumstances that involve only plan map designation amendments, and does not include ordinances, such as Ordinances 58 and 59, that (1) repeal a section of the comprehensive plan, (2) adopt new plan text to replace the repealed text, and (3) apply newly adopted plan map designations to property. To the extent petitioners argue that use of the legislative process prejudiced petitioners' ability to participate, respondents argue that the legislative approval process provided adequate opportunity for public input, and petitioners were provided multiple opportunities to raise issues and provide evidence to support their arguments.

With regard to *Strawberry Hill 4 Wheelers*, respondents argue that even if the factors set out in *Strawberry Hill 4 Wheelers* are used to identify whether the challenged decision is legislative or quasi-judicial, the challenged decision is clearly legislative.

We agree with respondents that the challenged ordinances are not "minor plan changes," because they involve considerably more than simple plan map amendments. As respondents point out, the challenged decisions repeal the prior plan text that provided for a development overlay for the subject property, adopt new plan text to allow for mixed use development throughout the city, and apply those newly adopted designations to the subject property. Under SRC 64.040(f), the challenged decisions are clearly "major plan changes" that are reviewed under legislative procedures and according to the city's approval criteria for legislative actions.

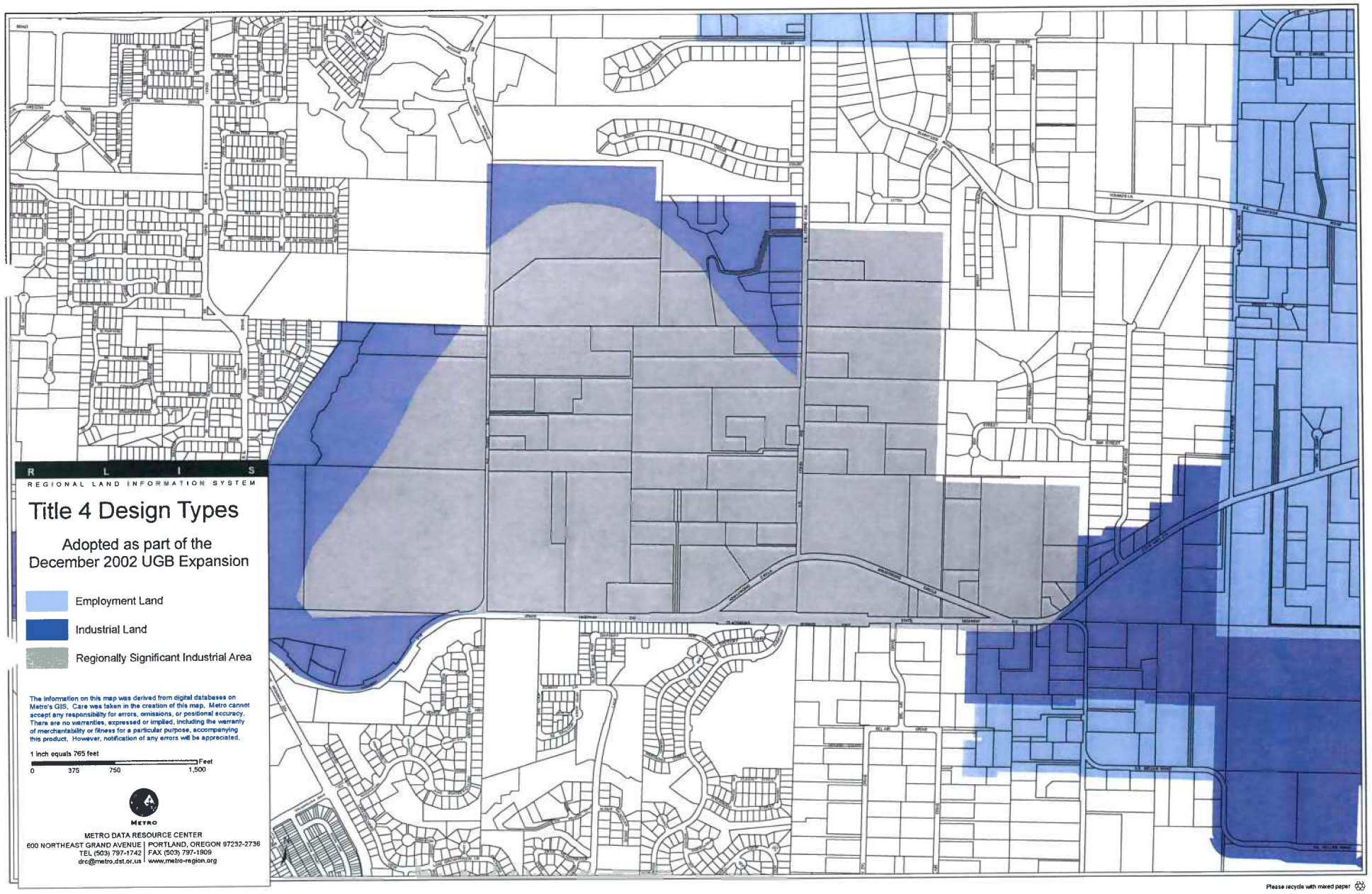
Given that conclusion, it is not clear to us whether it matters whether the challenged ordinances would be viewed as legislative or quasi-judicial under the *Strawberry Hill 4 Wheelers* factors. Even if the challenged ordinances can be viewed as quasi-judicial under the *Strawberry Hill 4 Wheelers* factors, petitioners do not explain why that characterization would alter what procedures and criteria govern the application, or why that characterization would provide an independent basis for reversal or remand. In any case, we agree with respondents that the challenged ordinances, taken together, are properly viewed as legislative in character under the *Strawberry Hill 4 Wheelers* factors. Ordinance 59 adopts new comprehensive plan and zoning

text and designations that can be applied across the city. That Ordinance 58 applies those new designations to a single property does not detract from the legislative character of the city's actions.

The second assignment of error is denied.

The city's decision is affirmed.

EXHIBIT # 11 D



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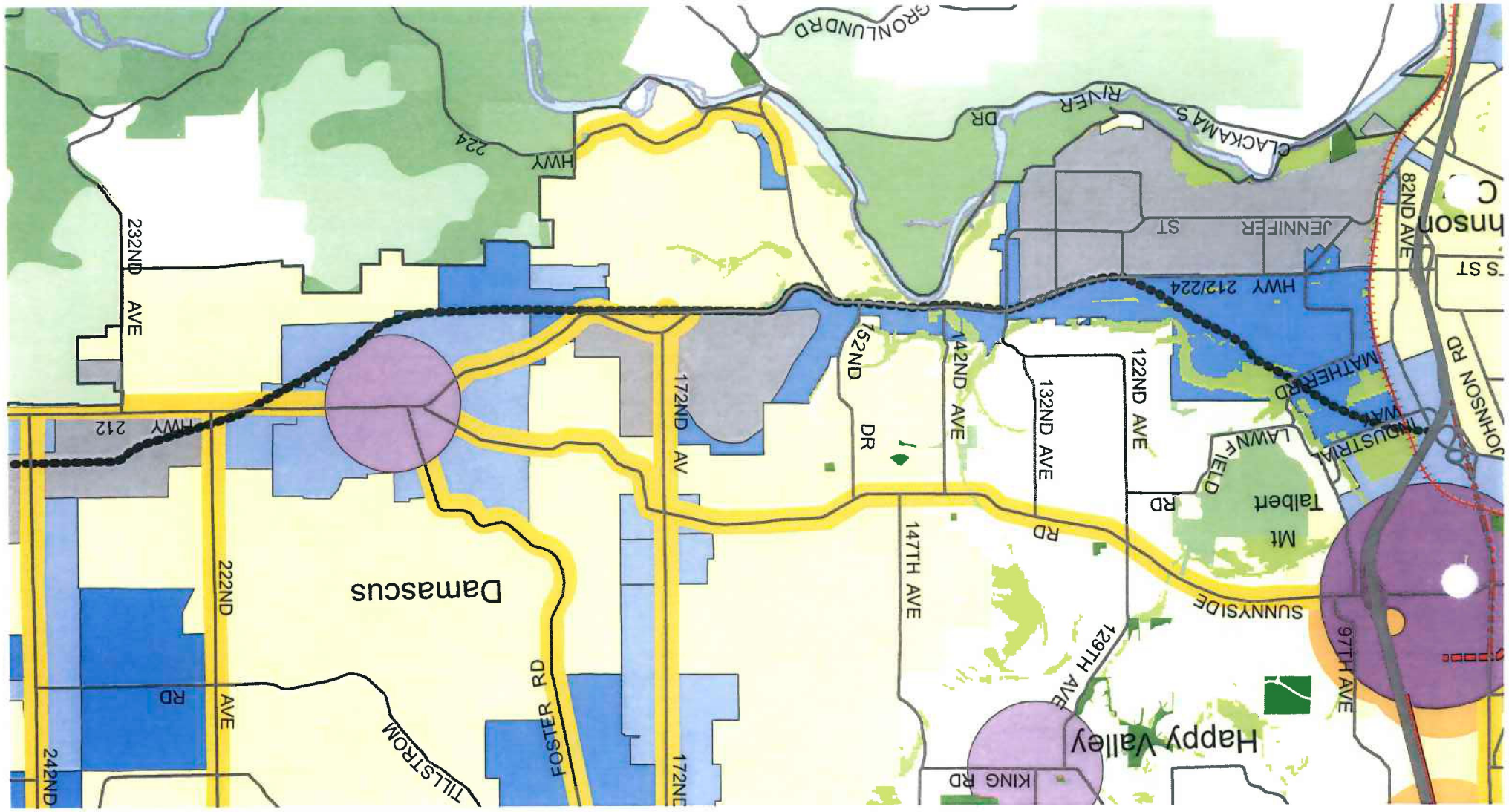


GRONLUND RD
CLACKAMAS RIVER DR
HWY 224
232ND AVE
HWY 212
HWY 212/224
JENNIFER ST
82ND AVE
MATHER RD
INDUSTRIAL WAY
JOHNSON RD
LAWNFIELD RD
Mt Talbert
SUNNYSIDE RD
122ND AVE
132ND AVE
142ND AVE
152ND DR
172ND AV
147TH AVE
129TH AVE
97TH AVE
Happy Valley
KING RD
Damascus
222ND AVE
242ND
TILLSTROM RD
FOSTER RD

EXHIBIT # "E"

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ACCEPTING THE DAMASCUS/BORING CONCEPT PLAN AS RECOMMENDED BY THE DAMASCUS/BORING CONCEPT PLAN ADVISORY COMMITTEE	))))	RESOLUTION NO. 06-3676 Introduced by Councilor Rod Park

WHEREAS, the Metro Council adopted Ordinance No. 02-969B (For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code in Order to Increase the Capacity of the Boundary to Accommodate Population Growth to the Year 2022) on December 5, 2002, adding Study Areas 10 through 19, known as the Damascus area, to the urban growth boundary; and

WHEREAS, Title 11 of the Urban Growth Management Functional Plan (UGMFP) requires the completion of an urban growth plan diagram and policies that comply with the UGMFP and the 2040 Growth Concept design types assigned to the area by Ordinance No. 02-969B; and

WHEREAS, the Metro Council approved Resolution No. 01-3098A (For the Purpose of Amending the Metropolitan Transportation Improvement Program to Allocate FY 2004 - 05 Congestion Mitigation/Air Quality (CMAQ) and Surface Transportation Program (STP) Funds) in September, 2001, to amend the Metropolitan Transportation Improvement Program to allocate $2 million of Surface Transportation Program funds for concept planning for the Damascus area ($1.4 million) and to complete the Draft Environmental Impact Statement for the Sunrise Corridor Unit 1 ($600,000); and

WHEREAS, Metro entered into intergovernmental agreements with ODOT, Clackamas County, and the cities of Damascus, Happy Valley and Gresham to coordinate participation in the planning process; and

WHEREAS, the Damascus/Boring Concept Plan Advisory Committee, made up of area residents and property owners, neighborhood associations, business and environmental organizations and representatives from the cities of Damascus, Happy Valley and Gresham, Clackamas County, ODOT and Metro, guided the creation of a concept plan for the 12,200-acre Damascus/east Happy Valley/Boring area; and

WHEREAS, the Damascus/Boring Concept Plan Advisory Committee recommended a final concept plan map and implementation strategies on November 29, 2005, to assist the cities in complying with Metro Functional Plan Title 11 and to serve as guidelines for use in updating / developing their comprehensive plans; now therefore,

BE IT RESOLVED:

1 That the Metro Council accepts the Damascus/Boring Concept Plan as endorsed and recommended by the Damascus/Boring Concept Plan Advisory Committee on November 29, 2005, as shown on the Exhibit A, attached and incorporated herein.

2. That the Metro Council recognizes the Damascus/Boring Concept Plan as the basis for completion of Title 11 planning by the local governments responsible for comprehensive planning in the area.

EXHIBIT # "F"

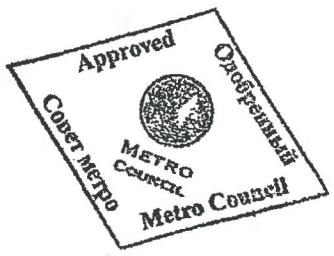
3. That the Metro Council will continue working with its regional partners to coordinate future planning and funding actions related to the Damascus/Boring Concept Plan.

ADOPTED by the Metro Council this 16th day of March, 2006.

David Bragdon, Council President

APPROVED AS TO FORM:

Daniel B. Cooper, Metro Attorney



CITY OF HAPPY VALLEY, OREGON
RESOLUTION 06-14

A RESOLUTION ACCEPTING THE DAMASCUS/BORING CONCEPT PLAN

WHEREAS, during 2003-2005, the City of Happy Valley participated with Metro, ODOT, Damascus, Gresham, and Clackamas County in the development of the Damascus/Boring Concept Plan (Concept Plan);

WHEREAS, the Concept Plan includes an approximately 2400 acres that will be part of Happy Valley;

WHEREAS, the Metro Council accepted the Concept Plan on March 16, 2006;

WHEREAS, the City of Happy Valley has started a Comprehensive Planning process to implement the Concept Plan;

WHEREAS, Exhibit A is an Executive Summary of the Concept Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Happy Valley, Oregon, that:

Section 1. The Happy Valley City Coucil accept the Damascus/Boring Concept Plan.

Section 2. This resolution is and shall be effective from and after its passage by the Council.

PASSED by the City Council on this 2nd day of May, 2006.

APPROVED by the Mayor on this 2nd day of May, 2006.

Eugene Grant
Mayor

Attest:
Marylee Walden
City Recorder

EXHIBIT # "6"

NOTICE OF PUBLIC HEARING

CITY OF HAPPY VALLEY

PLANNING COMMISSION AND CITY COUNCIL

THIS IS TO NOTIFY YOU THAT THE CITY OF HAPPY VALLEY HAS RECEIVED A PLAN AND/OR LAND USE REGULATION THAT MAY AFFECT THE PERMISSIBLE USES OF YOUR PROPERY AND OTHER PROPERTIES (IF CURRENTLY ANNEXED WITHIN CITY LIMITS).

This notice is provided in order to comply with Ballot Measure 56 - approved by Oregon voters on November 3, 1998. Ballot Measure 56 requires the City to print the following sentence: "The City has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property."

Notice is hereby given that the

HAPPY VALLEY PLANNING COMMISSION will hold a **PUBLIC HEARING on TUESDAY, MAY 13, 2008** and the **HAPPY VALLEY CITY COUNCIL** will hold a subsequent **PUBLIC HEARING on TUESDAY, JUNE 3, 2008** both hearings to commence **at 7:00 p.m.**

The hearings will be held at the Happy Valley City Hall Annex
12915 SE King Road,
Happy Valley, OR, 97086

The purpose of these hearings is to consider public testimony on:

AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN TEXT, DEVELOPMENT CODE TEXT AND COMPREHENSIVE PLAN MAP/ZONING MAP REGARDING THE CREATION AND APPLICATION OF A "ROCK-CREEK MIXED EMPLOYMENT" COMPREHENSIVE PLAN DESIGNATION/ZONING DISTRICT

On May 13, 2008 and June 3, 2008, the City of Happy Valley will hold public hearings regarding proposed amendments to the City's Comprehensive Plan text, Development Code text and Comprehensive Plan/Zoning Map (Local File No. CPA-03-08/LDO-03-08). Please see the attached DRAFT materials. ***The City of Happy Valley has determined that adoption of this plan may affect the permissible uses of your property, and other properties in the affected area, and may change the value of your property.*** The file is available for inspection at the City of Happy Valley City Hall located at 12915 SE King Road, Happy Valley, OR 97086. A copy of the entire file may be obtained electronically for the cost of electronic transfer to a writable CD, or copying costs for paper copies. All written comments must be received by Friday, May 2, 2008 at the above address. For additional information concerning the file, please contact Michael D. Walter, AICP at 503-595-6172, or write to michaelw@ci.happy-valley.or.us. The Planning Commission holds a first evidentiary public hearing in regard to the proposed Amendments, followed by a recommendation to the City Council. The City Council is the final local review authority and will consider the Amendments and an Ordinance at the subsequent public hearing. Applicable criteria for this review are generally set forth in:

- Happy Valley Comprehensive Plan Policies;
- Happy Valley Development Code
- Metro Urban Growth Management Functional Plan; and,
- Oregon Statewide Planning Goals and Statutes.

Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this meeting if requested at least 72 hours prior to the meeting. To obtain such services, please contact Marylee Walden, City Recorder, at 503.760.3325

EXHIBIT # "H"

CITY OF HAPPY VALLEY

12915 SE KING ROAD
HAPPY VALLEY, OREGON 97086
(503) 760-3325
FAX: (503) 760-9397

NOTICE

NOTICE IS HEREBY GIVEN that the Happy Valley Planning Commission will hold a public hearing on the 13th day of May, 2008 at the hour of 7:00 p.m., and the Happy Valley City Council will hold a subsequent public hearing on the 3rd day of June, 2008, also at 7:00 p.m. The hearings will be held at the City Hall Annex, 12915 SE King Road, in the City of Happy Valley, Oregon, in regard to the following matter:

DOCKET
NUMBER

CPA-03-08/LDO-03-08

The City of Happy Valley will hold public hearings regarding the potential adoption of the "Rock Creek Mixed Employment Plan," including corresponding Comprehensive Plan Text Amendments; Development Code Text Amendments; and, Comprehensive Plan Map Amendments/Zone Map Amendments (Local File No.CPA-03-08/LDO-03-08). The proposal includes the legislative application of the "RC-ME" comprehensive plan designation/zoning district within an approximately 165-acre area that is roughly bounded by Rock Creek to the west; a tributary of Rock Creek to the north; 162nd Avenue to the east; and, Highway 212 to the south.

The Planning Commission may recommend approval, approval with conditions or denial of a Comprehensive Plan Map Amendment/Zone Change application to the City Council (the final local review authority), in accordance with the applicable Policies from the City of Happy Valley Comprehensive Plan; Title 16 (Development Code) of the City of Happy Valley Municipal Code, including Chapter 16.40 (Amendments to the Comprehensive Plan, Specific Area Plans, Land Use Maps and Land Development Title of this Code); the Metro Urban Growth Management Functional Plan; and, Oregon Statewide Planning Goals and Statutes. All written comments must be received by the City of Happy Valley, 12915 SE King Road, Happy Valley, OR 97086 by 5:00 p.m. on **Friday, May 2, 2008**. Verbal testimony will be accommodated at the public hearings.

Testimony should pertain to the applicable criteria. The decision will be made in accordance with said criteria. The City Council decision may be appealed to the Land Use Board of Appeals (LUBA). Failure to raise an issue in writing prior to or before the close of the written comment period or failure to provide sufficient specificity at the public hearing to afford the Planning Commission and the City Council an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based upon that issue. The applicant and any person who submits written comments shall receive notice of the decision.

The decision-making criteria, application, and records concerning this matter are available at the City of Happy Valley City Hall at the above address during working hours (8:00 a.m. to 5:00 p.m. weekdays), please call for an appointment. A copy of the entire file may be obtained electronically for the cost of electronic transfer to a writable CD, or copying costs for paper copies. For additional information, contact Michael D. Walter, Planning Services Manager at the above address and phone number.

The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 72 hours in advance by contacting Marylee Walden, City Recorder at the above phone number.

Michael D. Walter, AICP
Planning Services Manager

EXHIBIT # "I"

600 NORTH 3T GRAND AVENUE | PORTLAND, OREGON 232 2736
TEL 503 797 1700 | FAX 503 797 1797

METRO

RECEIVED BY
MAY 08 2008
CITY OF HAPPY VALLEY

May 8, 2008

Chair Rob Klever and Commissioners
City of Happy Valley
12915 SE King Road
Happy Valley, OR 97236

RE: File No. CPA-03-08/LDO-03-08, Rock Creek Mixed Employment Plan/Zone District

Chair Klever and Commissioners:

Thank you for the opportunity to review and comment on the proposed Rock Creek Mixed Employment comprehensive plan / zoning district amendment that intends to implement the Damascus/Boring Concept Plan for the subject employment area. Please enter this letter into the hearing record.

After reviewing the staff report / findings of fact and associated supplemental material, Metro staff concludes that the proposal, if adopted, would comply with the Urban Growth Management Functional Plan. As you know, Metro brought approximately 12,200 acres east of Happy Valley and including the City of Damascus into the UGB in December 2002. The Damascus/Boring Concept Plan (DBCP), the result of a multi-jurisdictional planning effort, was recommended in November 2005 to the affected cities and Clackamas County as the guiding plan for this area.

Metro, Clackamas County and the City of Happy Valley accepted the DBCP. The portion of that plan that is the subject of this proposed amendment was designated for mixed employment. The City's proposed Rock Creek Mixed Employment (RC-ME) district and associated implementing code complies with Metro's Employment Area design type, as specified in Title 4 of the Functional Plan, which most closely reflects a mixed employment district.

As the Metro liaison for the City, the project manager during the DBCP process and a member of the Review Team for the East Happy Valley Comprehensive Plan, I am very familiar with and understand the planning history of this Rock Creek site. Based on my knowledge and additional internal review, we conclude that this proposal fulfills the intent of the DBCP and complies with Title 4 of the Functional Plan.

Sincerely,

Ray Valone
Principal Planner

cc: Michael Walter
Meg Fernekees, DLCD
David Bragdon, Metro Council President
Rod Park, Metro Council District #1
Michael Jordan, Metro COO
Richard Benner

ATTACHMENT # "B-1"

STERLING SAVINGS BANK

Judy Johnson-Bari
Happy Valley Business Alliance, President
Sterling Savings Bank, Assistant Vice President

May 13, 2008

City of Happy Valley, Planning Commission

I am writing to express my full support for the decision to adopt a new Comprehensive Plan designation the district titled "Rock Creek" mixed employment.

The primary use will be to support a new Hospital for Providence. This would truly be an asset to my business in Happy Valley, encouraging a more stable a work force given the local services it will provide.

I have a large amount of experience in the use of facilities of Providence. I was married to a Dialysis Patient that was serviced by Providence. I have knowledge of the growing need on a daily basis for that particular medical condition. Every day in the state of Oregon alone a minimum of two new patients are placed on dialysis. Knowing this information alone it is easy to understand why Providence needs to expand. It is truly a blessing to those citizens of Happy Valley, Damascus, Boring, Estacada, and Sandy to know in the near future they will have access to medical care.

Increasing awareness of the greater Happy Valley business area, promoting a healthy business climate and encouraging high ethics and professional standards are also reasons to support the decision.

Sincerely,

Judy Johnson-Bari

Judy Johnson-Bari

14638 SE SUNNYSIDE RD
CLACKAMAS, OR 97015
PHONE: 503-658-3515
FAX: 503-658-4950

ATTACHMENT # "B-2"

Clackamas County Business Alliance

May 13, 2008

City of Happy Valley
12915 SE King Road
Happy Valley, OR 97086

RE: CPA-03-08

On behalf of the Clackamas County Business Alliance (CCBA), we urge your approval of the application of Providence. The proposal implements the Damascus-Boring Concept Plan design type of mixed employment on this site.

We are in support of the application for the following reasons:

- The application supports the development of high-wage jobs in Clackamas County, which is critical to the success of not only the business community, but to the tax base of local communities such as Happy Valley
- Expansion of health care opportunities in the County supports our employees, and makes it easier for our companies to retain qualified workers.
- Health care is a growth industry for the County. As business and communities, we need to support the expansion of the industry.

CCBA does not normally support individual development applications. The one exception is where the proposed development has a positive and widespread impact on many businesses. We believe this application meets that criteria, and urge your positive review of the proposal.

Thank you for your consideration.

Sincerely,

Burton Weast

Burton Weast
Executive Director

ATTACHMENT # "B-3"

148 'B' Avenue, Suite 100, Lake Oswego, OR 97034

WRITTEN TESTIMONY
OF
CLACKAMAS COMMUNITY COLLEGE
Dean College Advancement, Shelly Parini

PRESENTED TO THE
CITY OF HAPPY VALLEY ON ECONOMIC DEVELOPMENT
MAY 13, 2008

Chair and distinguished members of the Planning Commission; I am pleased today to have the opportunity to support and champion economic development growth for Happy Valley. I am here to ensure you understand our commitment to your community's workforce and training needs as you grow and expand your local economy.

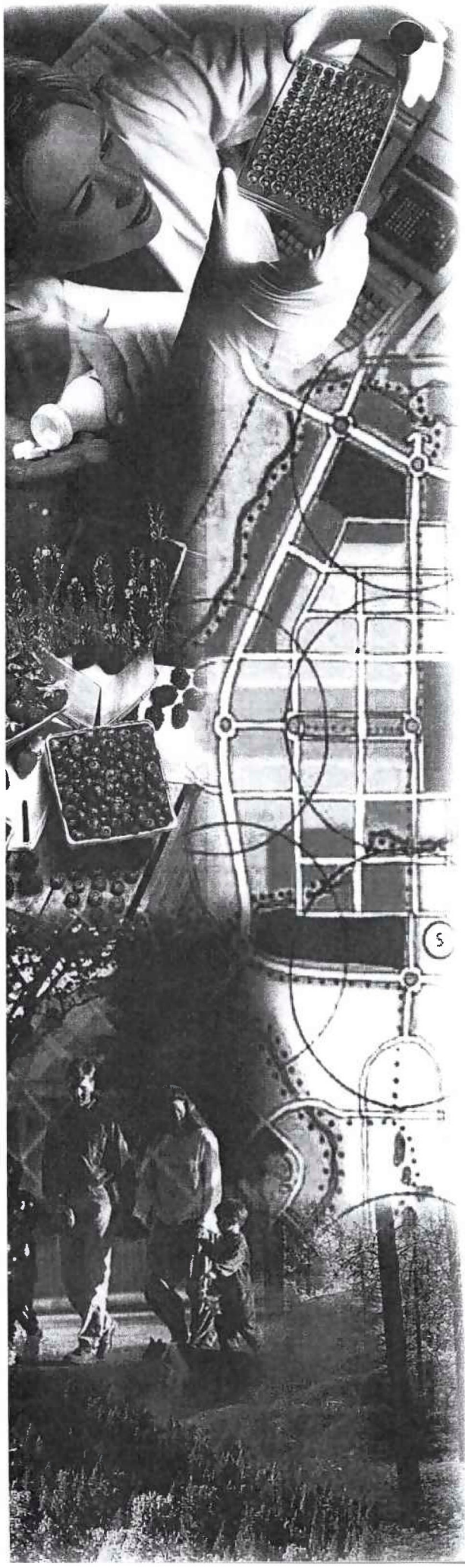
As a leader in the state's economy, we understand providing accessible, affordable post-secondary education and workforce training opportunities to Oregon's students is essential to the business climate of this state. As an economic development professional and employee of Clackamas Community College, I believe community colleges are critical economic development partners; ensuring that students of all ages and income levels have equal opportunities for education, skill training and career pathways.

With the recent investment in the Harmony Campus and an emphasis on Health Education, Clackamas Community College has demonstrated our commitment to workforce preparedness; and we are strategically positioned for more jobs to come. We pride ourselves on being the quiet driving force behind Oregon's workforce and training needs.

Just like community colleges, a strong business climate is essential to our society. Together they not only boost our economy, but they enhance our community's well-being. On behalf of Clackamas Community College, I ask you to continue exploring ways to grow a diverse and healthy economy in Happy Valley. As you know, it takes a cluster of economic engines from health care to agriculture to manufacturing to make a community's economy complete.

We must continue to invest in both our society and our economy. On behalf of Clackamas Community College, we thank you for your commitment to the economic vitality and sustainability of our region.

ATTACHMENT # 4B-4



SUMMER, 2005

Clackamas County Healthcare+

CLACKAMAS COUNTY HEALTHCARE STRATEGY

Clackamas County, with the help of a Blue Ribbon Committee, is developing an economically sustainable healthcare sector that will benefit generations to come. The key to moving ahead is a realistic vision, strategy and action plan to support existing businesses; expand and nurture new businesses; and recruit related businesses.
As illustrated below, the elements of this strategy include: building a firm foundation, developing supplier networks, and focusing on firms that can serve the local market and export goods and services outside the region.

Why is healthcare an economic engine?

Healthcare is now and will be a primary source of high wage jobs in Clackamas County. Economic trends and population growth point toward continued strong growth of this industry.

National Trends

Employment

- A 30% growth in the field is anticipated from 2002 to 2012, adding 3.5 million new jobs.
- The field features 10 of the 20 fastest-growing occupations, including medical and physician assistants and medical records technicians.

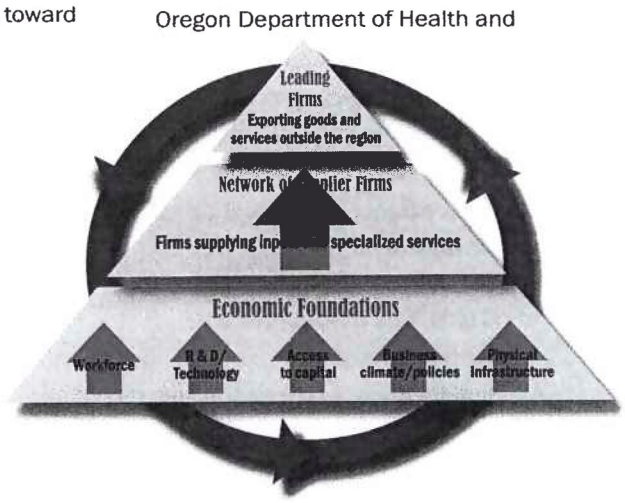
Multipliers

A Wisconsin study examined economic multipliers among numerous medical and health services industries found that:

- Every $1.00 of revenue generated by the healthcare industry generates an additional $1.30 of revenue in other industries.
- Every $1.00 of personal income in the healthcare industry created 80 cents worth of additional personal income in other industries.
- Each new job created in healthcare creates at least an equal number of new jobs in other industries.

State Trends

Although the health services industry is the largest employer in Oregon, new jobs remain unfilled due to lack of a prepared workforce. According to the Oregon Department of Health and



An integrated view of product development and production

Human Services, shortages are likely in all healthcare settings and in most healthcare disciplines. Healthcare industry employment is projected to be approximately 149,000 in Oregon by 2012—
a net increase of 30,000 jobs. Many healthcare-related fields also are experiencing a shortage of trained workers.

Clackamas County Trends

- Healthcare occupations will be the fastest growing in Clackamas County in the next five to 10 years. Employment is projected to increase by more than 22% to more than 12,000 by 2012, resulting in more than 4,400 job openings.
- The average annual wage in 2000 for all employees in the healthcare sector was $36,474. This average wage is above the County-wide average of $34,221, and ranks 11th of 21 industry sectors. The highest healthcare wages are in hospitals ($65,000) and the offices of physicians, especially those in mental health ($65,875).
- The elderly population, a major user of healthcare services, is growing, in number and in percent of the total County population. From 2000 to 2040, the number of residents 55 or older will increase dramatically, from 69,895 to an estimated 175,571.

Healthcare connects!

A cluster is a group of similar or interrelated firms that share common markets and technologies and require similar worker skills. The advantages of focusing on this cluster as a whole include:

- Accumulation of skilled labor in places with a concentration of employers
- Opportunities for specialized supplier firms and strong buyer-supplier relationships
- Spillovers of knowledge among firms
- Competition and collaboration among firms
- Stimulation of research and development and technology transfer activities

The healthcare cluster diagram and narrative below describe the core technologies that collectively enable related businesses to evolve and flourish.

Core Technologies

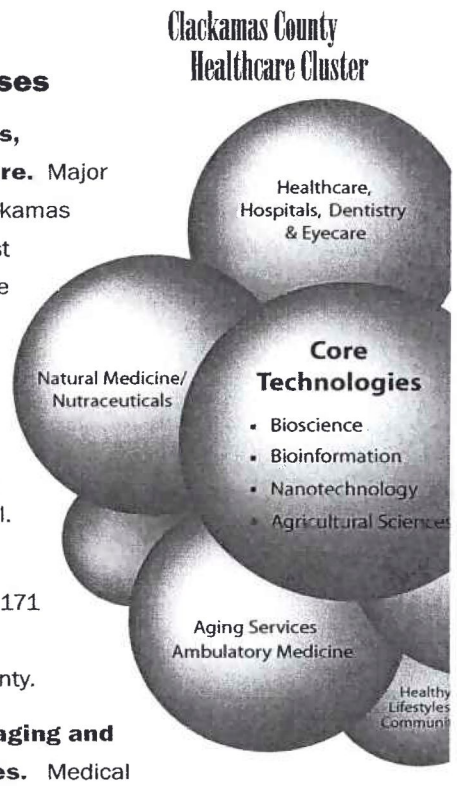
Core technologies are basic technologies that can be applied to many businesses, with multiple applications. In healthcare, they consist of the following:

Bioscience. Combination of engineering and technology with biology to develop products that improve human and animal health, and agriculture. There are over forty companies in Clackamas County that develop medical devices and make bioscience supplies.

Bioinformation. Addresses the management of databases and other information in healthcare and related fields, including conversion into useful knowledge.

Nanotechnology. Research and technology development at the atomic, molecular or macro-molecular levels to provide a fundamental understanding of phenomena and materials, and create and use structures, devices and systems that have novel properties and functions.

Agricultural Sciences. Production and processing of plant and animal products for human consumption and use.



Related Businesses

Healthcare, Hospitals, Dentistry and Eye Care. Major medical facilities in Clackamas County include: Adventist Health, Kaiser Sunnyside Medical Center, Legacy Health System, Meridian Park Hospital, Providence Milwaukie Hospital and Willamette Falls Hospital.

As of 2002, there were 195 physicians' offices, 171 dental practices and 19 optometrists in the County.

Medical Devices/Imaging and Sonography Machines. Medical devices are a wide range of medical product from syringes to wheelchairs.

Imaging is the ability to localize individual sound sources in three-dimensional space including x-ray mammography and other technologies.

Sonography is a diagnostic aid in which high-frequency sound waves detect the presence of normal and abnormal pregnancies and pelvic tumors.

Animal Medicine. Animal medicine is the integration of veterinary medicine with nutrition, genetics, economics, food safety and other disciplines. Animal medicine consists of professionals (veterinarians, veterinary technicians, etc.), medicines and related technologies. Veterinary services in Clackamas County account for 455 jobs and an annual payroll of $11 million.

Aging Services; Ambulatory Medicine. Healthcare services and technologies related to this growing aging population are an opportunity to build on current healthcare and hospital facilities. A special area of growth is integrated healthcare, housing, and community services for the aged based on the continuum of care model.

Natural Medicine/Nutraceuticals and Biopharmaceuticals. This field includes professions such as naturopaths, herbalists, acupuncturists, massage therapists and chiropractors, and vitamins, herbal supplements and nutraceuticals (food-derived medical products).

Healthy Lifestyles and Communities. Many Clackamas County communities are committed to planning and developing sustainable communities with an emphasis on environmentally-friendly construction. Both community leaders and employers believe that healthy communities promote healthy employees. From Wilsonville and Lake Oswego, to Damascus and Happy Valley, communities are ensuring that residents have access to good public transportation systems, biking and walking paths, and play space for children.



County/Industry/ Academic Action Plan

The following action plan or "roadmap" links the efforts and resources of Clackamas County, industry, and college and university partners. The action plan is comprised of economic development targets, as illustrated in the graphic above, and recommended actions for each target.

1 Education and Training

Higher education teaming with industry clusters creates a win-win environment where students, educational institutions and cluster partners benefit. Educational institutions provide healthcare industries with a skilled workforce and source for management training and technical assistance.

ACTIONS

Implement the University Center plan for an integrated healthcare research, education and training organization to address emerging workforce and education needs that benefit the healthcare cluster:

- Conduct market research and develop a program.
- Choose a strategic location to house mixed-use University Center.
- Work with appropriate stakeholders to determine a governance model.
- Develop private sector partners and champions.

2 Research and Development

Research and development is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems or methods, including design and development of prototypes and processes.

Economic Development Targets



ACTIONS

- Create opportunity for companies to collaborate on research and projects with Pacific Northwest National Laboratory (PNNL), Oregon Nanoscience and Microtechnology Institute (ONAMI), Oregon Health and Sciences University (OHSU) and other major medical facilities.
- Develop an active database of federal research opportunities available to healthcare cluster companies.
- Use Oregon Science and Technology Partnership (OSTP) to link companies and scientists.

3 Technology Transfer

Technology Transfer is the process of converting scientific findings from research laboratories into marketable products in the commercial sector.

ACTION

Develop systematic links among PNNL, OHSU, ONAMI, Clackamas Community College, OIT and companies in Clackamas County to make research developed in the laboratory available for commercialization.

4 Commercialization

Commercialization includes the process of developing marketable products or services and producing and delivering products or services for sale (whether by the originating party or by others) to government or commercial markets.

ACTION

Work with companies in the cluster to identify further actions to assist them to bring their products to market and also in co-marketing opportunities.

5. Suppliers

Substitute local products for products that may be imported (e.g., utilize local paper supplies instead of those from other regions).

ACTION

Identify opportunities to substitute local products for products that are currently imported from outside the region. This may be a major opportunity for all healthcare facilities in the region to buy more local products.

6. Production and Manufacturing

Production and manufacturing encompass the processes necessary to turn raw materials into finished goods for sale.

ACTIONS

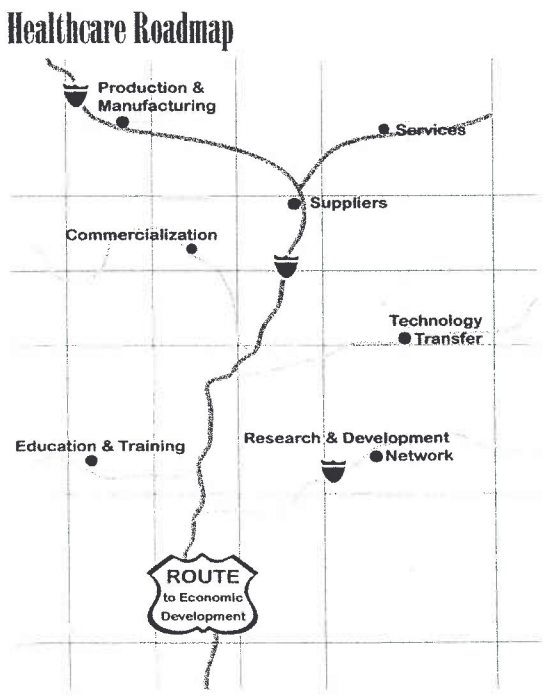
- Analyze company needs to capitalize on opportunities for further collaboration and economies of scale in production processes, possibly through shared facilities.
- Ensure there is an adequate supply of land to support the development and growth of the healthcare cluster.

7. Services

"Services" refers to specialized non-health services needed by the cluster, such as legal, patent, accounting, planning, construction, sales, marketing or real estate expertise.

ACTIONS

- Identify support services needed to transform knowledge into economic development activities.
- Develop a strategy to address support service gaps and weaknesses.



BLUE RIBBON COMMITTEE MEMBERS

Dr. Thomas Aschenbrener, Northwest Health Foundation
Tom Call, VATA Inc.
Dr. Dian Connett, Clackamas Community College
Craig Danielson, Workforce Investment Council of Clackamas County
President Martha Ann Dow, Oregon Institute of Technology
Mary Erichsen, IBM, Life Sciences
Phillip Fogg, Jr., Marquis Companies
Jesse Gamez, Kaiser Sunnyside Medical Center
Denise Honzel, Oregon Institute of Technology
Dr. Joe Johnson, Clackamas Community College
Monte Knittel, Adventist Health
Lowell Miles, Miles Fiberglass/Workforce Investment Council of Clackamas County
Shelly Parini, Clackamas County Business and Economic Development
Russ Reinhard, Willamette Falls Hospital
Martha Schrader, Chair, Clackamas County Board of Commissioners
Richard Smith, Providence Milwaukie Hospital
Dr. Diane Vines, Oregon Science and Technology Partnership
Mark Wright, Health Wright Products
Martin Zerr, Kaiser Sunnyside Medical Center

SPONSORED BY:

Clackamas County Business and Community Services Department
Clackamas Community College
Workforce Investment Council of Clackamas County

CONSULTANT TEAM

Cogan Owens Cogan, LLC
Bob Wise
Damian Pitt
Steve Faust
Suzanne Roberts

For more information, contact:

Business and Economic Development Team
9101 SE Sunnybrook Boulevard
Clackamas, Oregon 97015
Phone: 503.353.4299
Fax: 503.794.8005
Web site. http://www.co.clackamas.or.us/business/

COGAN
OWENS
COGAN

CLACKAMAS COUNTY

Clackamas County Hospital Economic Profile

Report of Hospital Contributions to Clackamas County

October, 2006
Revised March, 2007

October, 2006
Revised March, 2007

EXECUTIVE SUMMARY

The healthcare industry is large and complex including primary care physicians, long term and aging services, hospitals, outpatient services, dental care, eye care and many other components.

This report summarizes the economic and related contributions of the hospital industry in Clackamas County and the special economic contributions of the four hospitals located in the county. The analysis will be shared with County leadership and the business community and will be used by County leaders to guide how best to support the growth of the healthcare industry through public policies and investments.

During 2004, Clackamas County created a Healthcare Cluster Economic Development Roadmap[1] under the guidance of a Blue Ribbon Committee composed of healthcare industry leaders.

Healthcare is now and will continue to be a primary source of high-wage jobs in Clackamas County. Economic and demographic trends point toward continued strong growth of this industry. With its national Medicare and Medicaid funding, healthcare also is a traded sector importing capital into Clackamas County.

Although the health services industry is the largest employer in Oregon, new jobs remain unfilled due to lack of a prepared workforce. Healthcare industry employment is projected to be approximately 149,000 in Oregon by 2012—a net increase of 30,000 jobs. In Clackamas County, healthcare occupations will be the fastest growing in the next five to 10 years. Employment is projected to increase by more than 22% to more than 12,000 by 2012, resulting in more than 4,400 new jobs.

Hospitals are the center of the healthcare economic engine and are the key component in a healthcare economic cluster. Hospitals represent:

- The largest sources of employment in the healthcare sector
- A source of steady employment growth parallel to population growth and the aging of the population
- Centers of service and product innovation, and charity care
- Centers of traded-sector capital imports in the form of Medicare and Medicaid funding
- High economic multipliers, are estimated to be between 2.63 and 2.69 for wages generated by urban hospitals (i.e., $1 spent by the hospital in wages could result in between $2.63 and $2.69 in local economic activity). In addition, a multiplier of two is estimated for the impact of federal Medicare and Medicaid dollars on the local economy.
- Major purchasers of local products and services

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[1] Clackamas County Healthcare+: Situation Report and Economic Development Roadmap (2004) and summary document Clackamas County Healthcare+: Clackamas County Healthcare Strategy (2004).

Most Significant Findings

To show the most complete picture possible of the economic impact of hospitals in Clackamas County, this report references several different data sources. As such, projections from different sources use different target years.

- Hospitals, as recipients of Medicare and Medicaid funds are, in effect, a traded sector of the economy because of their ability to import capital.
- Expenditures from Medicare rose from $88.15 million in 1999 to $149 million in 2004, an increase of 144%.
- Between 2000 and 2004, approximately $430 million was paid to Clackamas County hospitals from federal funds through Medicare.
- Between 1999 and 2004, $70.13 million was paid to Clackamas County hospitals from federal funds through Medicaid.
- Between 1999 and 2004, Clackamas County hospitals spent $703.2 million on all covered wages, which, if we assume a multiplier of 2.69, hospitals could be expected to generate up to $1.89 billion for the area economy. (See Economic Impact of Hospitals on Clackamas County section for a literature analysis on hospital multipliers). Hospital spending on supplies and equipment increase the amount generated in the region.
- Clackamas County is projected to be home to 13.4% (134,684 people) of the state's total population by the year 2025.
- Clackamas County's population over 55 is growing dramatically from 69,895 in 2000 to 175,571 in 2040, an increase of 151%.
- Employment in the County's hospital industry is forecasted to grow from 2,750 employees in 2000 to 3,865 in 2014. The vast majority of projected healthcare jobs are in the hospital sector.
- The total amount spent by hospitals in Clackamas County on wages paid to employees grew 115 percent between 1999 and 2004.
- The 2004 average hourly wage for the top 50 occupations in Clackamas County Hospitals was $20.43/hour, or an annual salary of approximately $42,489.
- Total clients served in the County's hospitals reached 474,861 by 2004. Outpatient visits grew by 5,568 in 2004 while inpatient visits grew by 1,184.
- Clackamas County Hospitals, between 1999 and 2004, increased charity care from $1.6 million up to $11.8 million in 2004, an increase of 613 percent.

October, 2006
Revised March, 2007

ABOUT THIS REPORT

This report summarizes the economic and related contributions of the hospital industry in Clackamas County.

Our analysis will be shared with County leadership and the business community and will be used by County leaders to guide how best to support the growth of the healthcare industry through public policies and investments.

For more detailed information and data sources, reference the following sections, which are designed to be stand-alone informational summaries.

WHY HEALTHCARE IS AN ECONOMIC ENGINE

Healthcare is now, and will be, a primary source of high-wage jobs in Clackamas County. Economic trends and population growth point toward continued strong growth of this industry. With its national Medicare and Medicaid funding it is also a traded sector – it imports capital into Clackamas County.

During 2004, Clackamas County created a Healthcare Cluster Economic Development Roadmap[2] under the guidance of a Blue Ribbon Committee composed of healthcare industry leaders (Appendix A). The principal high-level action coming from the 2004 Healthcare Economic Development Roadmap was a major initiative by Clackamas Community College to create a specialized education and training center to train professionals to fill future job openings in the healthcare industry.

Here are the major trends identified:

National and State Trends

- Nationally, 30% job growth is anticipated from 2002 to 2012, adding 3.5 million new jobs.
- The healthcare field features 10 of the 20 fastest-growing occupations, including medical and physician's assistants and medical records technicians.
- Each new job created in healthcare creates at least an equal number of new jobs in other industries.

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[2] Clackamas County Healthcare+ : Situation Report and Economic Development Roadmap (2004) and summary document Clackamas County Healthcare+ : Clackamas County Healthcare Strategy (2004).

- Although the health services industry is the largest employer in Oregon, new jobs remain unfilled due to lack of a prepared workforce.
- Healthcare industry employment is projected to be approximately 149,000 in Oregon by 2012—a net increase of 30,000 jobs.

Clackamas County Trends

- Of all occupations, healthcare will be the fastest growing in Clackamas County in the next five to 10 years. Employment is projected to increase by more than 22% to over 12,000 by 2012, resulting in more than 4,400 job openings.
- The average annual wage in 2000 for all Clackamas County employees in the healthcare sector was $36,474. This average wage is above the county-wide average of $34,221, and ranks 11th of 21 industry sectors. The highest healthcare wages are in hospitals and the offices of physicians, especially those in mental health, at over $60,000 per year.
- The elderly population, major users of healthcare services, is growing in absolute numbers and as a percentage of the total county population. From 2000 to 2040, the number of residents 55 years or older will increase dramatically, from 69,895 to an estimated 175,571, a 151% increase.

WHY HOSPITALS?

Hospitals in Clackamas County are at the center of the healthcare economic engine and are the key component in this economic cluster. Hospitals represent:

- the largest sources of employment in the healthcare sector;
- a source of steady employment growth parallel to population growth and the aging of the population;
- centers of service, product and service innovation, and charity care;
- centers of traded-sector capital imports in the form of Medicare and Medicaid funding;
- high economic multipliers, estimated to be between 2.63 and 2.69 for urban hospitals; and,
- major purchasers of local products and services.

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ECONOMIC IMPACT OF HOSPITALS ON CLACKAMAS COUNTY

The economic impact of the healthcare industry, and hospitals in particular, on a local economy can be sizable. Researchers have concluded overall that both urban and rural hospitals generate substantially more income and employment in a local economy than might be readily apparent. Doekson et al. assert that "the hospital sector in a large metropolitan area is an export service and can contribute greatly to the stability and growth of the local economy"[3].

Two research projects have measured the impacts of urban medical complexes. In urban hospitals, some clients served come from outside the urban areas, making them centers for interregional trade. A study on Upstate Medical Center in Syracuse, New York showed that every dollar of income brought into the community from outside the region generated $2.63 locally. The Pittsburgh Metropolitan Area's hospital sector generated $2.69 for every $1.00 of imported income[4].

If we apply urban economic multipliers -- Clackamas County hospitals could be expected to generate between $2.63 and $2.69 for every dollar of income. In other words, between 1999 and 2004, Clackamas County hospitals spent $703.2 million on all covered wages, which means if we assume the $2.69 multiplier, hospitals could be expected to generate up to $1.89 billion for the local economy. In addition, these numbers do not include the amount of money spent locally on supplies or equipment, which would increase the amount generated in the region.

Turner and Mallory (quoted in Doekson et al.) found that Medicare and Medicaid income for a rural hospital in Nebraska had a multiplier of 2. While this case is not directly applicable to the hospitals in Clackamas County (the study focused only on the impact of Medicare and Medicaid on rural hospitals/economies), it is illustrative of the impact Medicare and Medicaid have on a local economy[5].

New construction on hospitals also impacts the local economy. Doekson et al. provide a methodology for measuring the impact of hospitals on a local economy. In that methodology they include multipliers for both income and employment generated through construction on hospitals. Assuming this model, hospital construction might generate $1.50 for every $1.00 of income and 1.66 jobs for every one construction job in the local economy[6].

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[3] Doeksen, Gerald A., Tom Johnson and Chuck Willoughby, *Measuring the Economic Importance of the Health Sector on a Local Economy: A Brief Literature Review and Procedures to Measure Local Impacts*, 1997, Funded by Southern Rural Development Center, Box 9656, Mississippi State, MS 39762.
[4] Ibid.
[5] Ibid.
[6] Ibid.

FOCUS OF THE QUANTITATIVE ANALYSIS

The balance of this report is an analysis of quantitative data and related findings for the most important economic contributions hospitals make to Clackamas County including[7]:

- Population and demographic trends
- Employment trends
- Wages
- Clients served
- Charity care
- Medicare and Medicaid spending (imported capital)[8]
- Economic multipliers

The profile includes information that addresses the last five years and a five-year forecast of economic benefits and impacts for the following hospitals collectively in Clackamas County[9]:

- Kaiser Sunnyside Medical Center
- Providence Milwaukie Hospital
- Meridian Park Hospital, Legacy Health System
- Willamette Falls Hospital

Portland Adventist was not included in this quantitative report because the hospital is not located in Clackamas County. However, the contributions Adventist makes to the community, including their participation in the Blue Ribbon Committee, are included in the Hospitals-at-a-Glance profiles.

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[7] All wage and employment data (including employment, types of jobs, annual salaries and wages) is from the Oregon Employment Department (OED) Workforce Analyst for NAICS code 622: Hospitals. This report also includes Oregon Association of Hospitals and Health Systems (OAHHS) Data Bank system data on Clients/Patients Served, Charity Care and Medicare and Medicaid contributions summarized for the four hospitals in Clackamas County (hospitals report to the OAHHS by name, not NAICS code).

[8] Dollar amounts for wages, charity care, construction, Medicare and Medicaid are not adjusted for inflation.

[9] In early 2006 Providence Health Systems purchased 69 acres in the Rock Creek area. Over time, a medical center on this site could provide up to 4,000 traditionally high-paying jobs, and catalyzing development in the entire Rock Creek Employment Area.

REPORT OF HOSPITAL CONTRIBUTIONS TO CLACKAMAS COUNTY

Facts on
Population and Demographic Trends

Findings

- Oregon is expected to grow by just over 1 million people by the year 2025. (Table 1) By 2025, Oregon is expected to move from 25th to 4th in national ranking for the percentage of its population 65 and older by 2025.[10] In addition, this population will increase from 13% to more than 25% of the total population by 2050.[11]

- Clackamas County is projected to be home to 13.4% (134,684 people) of the state's total population growth by the year 2025 (see Table 1).

- The elderly population over 55 is growing dramatically from 69,895 in 2000 to 175,571 in 2040 and is growing as a percentage of the total county population. (Table 2)

- Healthcare services growth will mirror overall population growth and increase with the aging of the population, which uses substantially more services.

- Healthcare services and technologies related to growing and aging populations provide an opportunity to build related economic development around the hospital facilities in the county.

- A special area of growth will be the design of integrated healthcare, housing, and community services for the aging, based on the continuum of care model.

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[10] Filip, Patricia, *A New Look at Growing Old, Oregon Stater*, The Oregon State University Alumni Association magazine.
[11] Oregon State University, College of Health and Human Services, Center for Healthy Aging Research, *Overview*, http://www.hhs.oregonstate.edu/healthyaging/research-overview.html, accessed October 2, 2006.

Table 1.
2025 Population Projections

	Clackamas County 2005	Clackamas County 2025	Oregon 2025	Clackamas County Percent of Oregon Growth
Total	363,241	497,925	3,618,199	
Change		*134,684*	*1,007,815*	13.4%
% Change		*37%*	*28%*	

Source: Oregon Department of Human Services and Cogan Owens Cogan

Table 2.
Clackamas County Elderly Demographics

	2000	2010	2020	2030	2040
Total residents age 55+	69,895	100,532	128,932	146,618	175,571
Percent of county population	21%	26%	28%	27%	28%
Residents age 55-64	32,252	53,058	55,421	51,673	69,860
Percent of county population	9%	14%	12%	10%	11%
Residents age 65-74	18,944	27,475	45,993	48,753	46,360
Percent of county population	6%	7%	10%	9%	7%
Residents Age 75 +	18,699	19,999	27,518	46,192	59,351
Percent of county population	5%	5%	6%	9%	10%

Source: Oregon Office of Economic Analysis and Cogan Owens Cogan

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REPORT OF HOSPITAL CONTRIBUTIONS TO CLACKAMAS COUNTY

Facts on Employment

Findings

- Between 1999 and 2004 employment in Clackamas County hospitals grew from 2,710 to 3,221 jobs (19%). (Table 3)

- Employment in the County's hospital industry is forecast to grow from 2,750 employees in 2000 to 3,865 in 2014 (excluding the possible development of a new hospital in Happy Valley). See Figure 1.

- In 2004, the top 50 occupations in Clackamas County hospitals provided 3,130 jobs. Total employment in the top 50 hospital occupations in Clackamas County is projected to grow by 20% (632 jobs) between 2004 and 2014. (Table 4)

- Registered nurses ranked as the number one occupation (975 more jobs than the second-ranked occupation) in 2004, with a total of 1,212 or 38% of all hospital jobs that year. (Table 4)

- The nursing occupation is expected to grow by 243 employees by the year 2014 (1,455 total jobs), more than the total number of employees in the second-ranked occupation in 2004. (Table 4)

- Growing healthcare and hospital employment provides immediate and long-term opportunities for County residents to gain permanent employment.

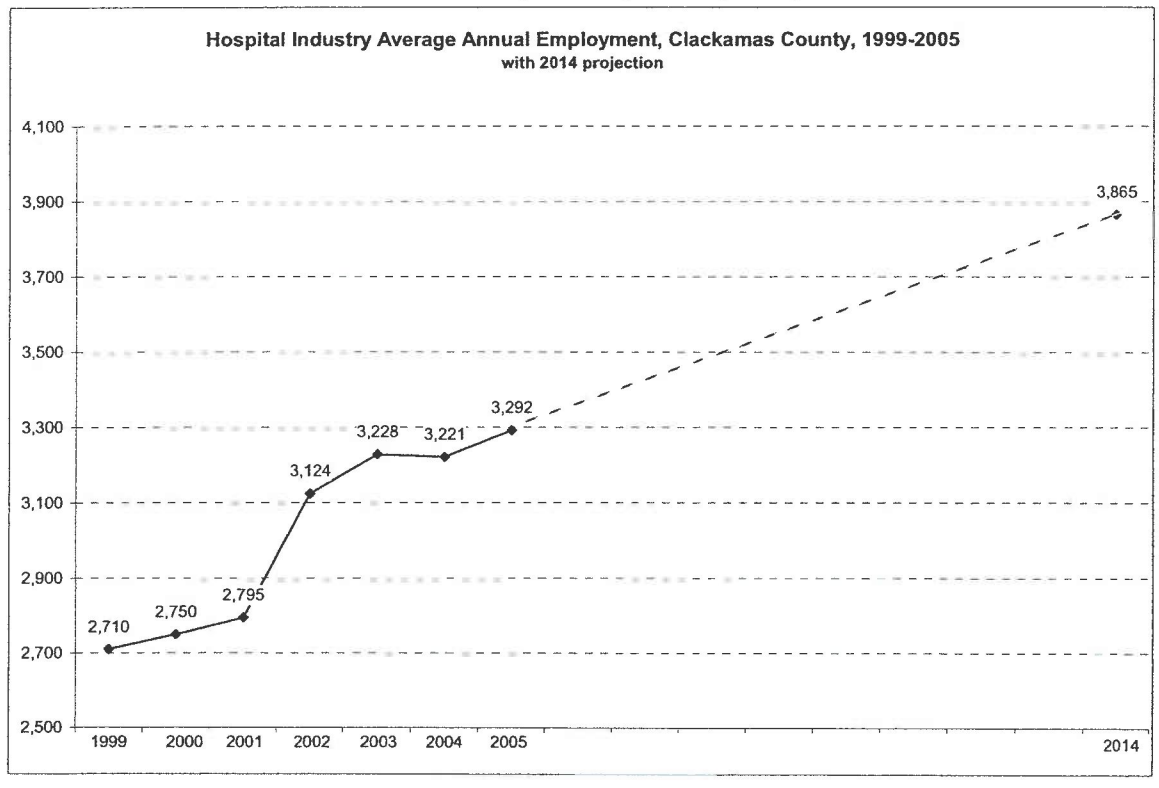
- Locally, Clackamas Community College is developing a major healthcare training center to meet future needs of the sector in general, and hospitals in particular. The Oregon Institute of Technology is also a significant healthcare training center. There also are other institutions in the region, such as Oregon Health Sciences University, Pacific University and Portland State University that have healthcare education and training programs that serve the Clackamas County community.

Table 3.
Clackamas County Hospital and Total Employment

	Year	Hospitals Annual Average	All Industries	Percent of Total Clackamas County Employment
	1999	2,710	110,646	2.5%
	2004	3,221	125,202	2.6%
Change	*1999 - 2004*	*511*	*14,556*	
% Change	*1999 - 2004*	*19%*	*13%*	

Sources: Oregon Employment Department and the US Census and Cogan Owens Cogan

Figure 1.
Total Hospital Industry Average Employment, Clackamas County
with 2014 Projection (All Hospitals)[12]



Source: Oregon Employment Department and Cogan Owens Cogan

[12] Projection does not include the jobs that may be created in the event that Providence Happy Valley is built.

Table 4.
Employment Projections for the Top Twenty Occupations in Clackamas County Hospitals

Occupation	2004 Emp	2014 Proj Emp	Change	% Change	Replacement	Total Emp Change
1. Registered Nurses	1,212	1,455	243	20.0%	292	535
2. Nursing Aides, Orderlies, and Attendants	237	285	48	20.3%	36	84
3. Interviewers, Except Eligibility and Loan[13]	133	160	27	20.3%	38	65
4. Maids and Housekeeping Cleaners	120	144	24	20.0%	28	52
5. Medical Secretaries	104	125	21	20.2%	23	44
6. Radiologic Technologists and Technicians	89	107	18	20.2%	19	37
7. Pharmacists	75	90	15	20.0%	16	31
8. Healthcare Support Workers, All Other	71	85	14	19.7%	15	29
9. Medical Assistants	65	78	13	20.0%	13	26
10. Food Preparation Workers	56	68	12	21.4%	19	31
11. Health Technologists and Technicians, All Other	55	66	11	20.0%	11	22
12. Production, Planning, and Expediting Clerks	55	66	11	20.0%	15	26
13. Surgical Technologists	51	62	11	21.6%	8	19
14. Medical and Clinical Laboratory Technologists	45	54	9	20.0%	14	23
15. Physical Therapists	44	53	9	20.5%	5	14
16. Respiratory Therapists	44	53	9	20.5%	16	25
17. Pharmacy Technicians	44	53	9	20.5%	7	16
18. Medical and Health Services Managers	42	50	8	19.0%	9	17
19. Medical Records and Health Information Technicians	38	46	8	21.1%	6	14
20. Cardiovascular Technologists and Technicians	33	40	7	21.2%	7	14

Source: Oregon Employment Department and Cogan Owens Cogan

13 Interview persons by telephone, mail, in person, or by other means for the purpose of completing forms, applications, or questionnaires. Ask specific questions, record answers, and assist persons with completing form. May sort, classify, and file forms. Source: US Census Bureau Industry and Occupation 2000, http://www.census.gov/hhes/www/ioindex/txtnew.html#062

REPORT OF HOSPITAL CONTRIBUTIONS TO CLACKAMAS COUNTY

Facts on
Wages and Annual Salaries

Findings

- The total amount spent by hospitals in Clackamas County on wages paid out to employees grew 115 percent between 1999 and 2004. (See Table 5.)
- Between 1999 and 2004, Clackamas County hospitals spent $703.2 million on all covered wages, which means if we assume a multiplier of 2.69, hospitals could be expected to generate up to $1.89 billion for the area economy. (Table 5)
- The 2004 average hourly wage for the top 50 occupations in Clackamas County hospitals was $20.43/hour, or an annual salary of approximately $42,489 (calculated as $20.43 x 40 hours/week x 52 weeks/year). (Table 6)
- The 2004 average wage for registered nurses was $30/hour or an annual salary of $62,400 (calculated as $30 x 40 hours/week x 52 weeks/year). (Table 6)
- While some of the average wages may seem low, the hospitals provide many opportunities for advancement for current employees. Hospitals frequently provide significant funding for employee education, training and career ladders. For example, Kaiser Permanente has established an education and career ladders trust fund nationally with initial funding of up to $100 million[14].
- Because of the fast-changing and expanding nature of the hospital workforce, this sector provides opportunities for employment at all levels with a real opportunity for advancement.

Table 5.
Clackamas County Wages

	Year	Hospitals Annual Wages	All Industries Annual Wages	Percent of Total CC Wages
	1999	$70,842,611	$3,341,535,000	2.1%
	2004	$152,262,498	$4,542,969,000	3.4%
Total	*1999 - 2004*	*$703,238,199*	—	—
Change	*1999 - 2004*	*$ 81,419,887*	*$1,201,434,000*	—
% Change	*1999 - 2004*	*115%*	*36%*	—

Source: OAHHS Data Bank, http://censtats.census.gov/cgi-bin/cbpnaic/cbpsect.pl and Cogan Owens Cogan

[14] Source: http://www.seiu49.org/docUploads/KaiserRatificationMailing_final.pdf

Table 6.
Average Hourly Wages for the Top Twenty Occupations in Clackamas County Hospitals in 2005

Occupation		2005 Region 15 Avg. Wage	2005 State Avg. Wage
1.	Registered Nurses	$30.00	
2.	Nursing Aides, Orderlies, and Attendants	$11.86	
3.	Interviewers, Except Eligibility and Loan		$11.82
4.	Maids and Housekeeping Cleaners		$8.92
5.	Medical Secretaries	$15.74	
6.	Radiologic Technologists and Technicians	$26.65	
7.	Pharmacists	$41.10	
8.	Healthcare Support Workers, All Other	$14.92	
9.	Medical Assistants	$14.82	
10.	Food Preparation Workers	$9.74	
11.	Health Technologists and Technicians, All Other		$19.56
12.	Production, Planning, and Expediting Clerks	$19.03	
13.	Surgical Technologists	$19.92	
14.	Medical and Clinical Laboratory Technologists	$24.76	
15.	Physical Therapists	$30.27	
16.	Respiratory Therapists		$21.32
17.	Pharmacy Technicians	$13.04	
18.	Medical and Health Services Managers	$35.65	
19.	Medical Records and Health Information Technicians	$14.77	
20.	Cardiovascular Technologists and Technicians	$19.93	

Source: Oregon Employment Department. Region 15 consists of Clackamas County.

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REPORT OF HOSPITAL CONTRIBUTIONS TO CLACKAMAS COUNTY

Facts on
Clients and Patients Served

Findings

- Total clients served in the County's hospitals reached 474,861 in 2004. (Table 7)
- Outpatient visits grew to 444,796 in 2004. (Table 7)
- Inpatient visits reduced, with 29, 885 in 2004.
- From 1999 to 2004, the growth in outpatient clients (5,568) was much higher than the growth in inpatients (1,184). (Table 7)
- In addition, substantial numbers of patients are being treated in other non-hospital settings including specialized clinics, ambulatory care centers, and other medical service offices.
- Additional hospital capacity can be expected in Clackamas County, especially as Happy Valley and Damascus grow in size.

Table 7.
Clackamas County Hospitals Clients/Patients Served

	Year	Total Patients	Discharges (Inpatient Visits)	Outpatient Visits
	1999	467,929	28,701	439,228
	2004	474,681	29,885	444,796
Change	*1999 - 2004*	*6,752*	*1,184*	*5,568*
% Change	*1999 - 2004*	*1%*	*4%*	*1%*

Source: OAHHS Data Bank and Cogan Owens Cogan

REPORT OF HOSPITAL CONTRIBUTIONS TO CLACKAMAS COUNTY

Facts on Charity Care[15]

Findings

- According to the Oregon Governor's Office, more than one of every six Oregonians has no health insurance (about 609,000 people, or 17 percent)[16].
- The uninsured in Clackamas County are estimated to be 61,852 (363,241 x 17 percent)[17]. This population does not receive Medicare or Medicaid services.
- Statewide, nearly half of the uninsured are working adults, while 117,000 are children. The consequences of having no coverage can be deadly.[18]
- Many uninsured people eventually receive care, but only after their conditions have worsened. They often receive such care in emergency rooms, where medical treatment is most expensive[19].
- An increasing number of the uninsured are receiving services at hospitals in the County[20].

Table 8.
Clackamas County Hospitals Charity Care

	Year	Charity Care
	1999	$1,658,626
	2004	$11,831,171
Change	*1999 - 2004*	*$10,172,545*
% Change	*1999 - 2004*	*613%*

Source: OAHHS Data Bank and Cogan Owens Cogan

- Clackamas County hospitals, between 1999 and 2004, increased charity care from $1.6 million to $11.8 million. This represented an increase of 613 percent (see Table 8).
- Charity care will closely correspond to the number of people in the county without health insurance and the percentage of population who are unemployed or living in poverty. *This correlation is likely to continue as health care becomes unaffordable or if employers eliminate their insurance coverage. Cost shifts to employers if Medicare and Medicaid funding continues to decline will worsen this situation.*

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[15] Data on Charity Care does not include Kaiser Sunnyside. Charity Care **is defined as the dollar amount of free care, based on a hospital's full established rates, provided to patients who are determined by the hospital to be unable to pay their bill. The determination of a patient's ability to pay is based on the hospital's charity care policy. Financial assistance provided by the hospital may pertain to all or just a portion of the patient's bill. Charity Care does not include Bad Debt. Source: Oregon Association of Hospitals and Healthcare definitions for "Uncompensated Care," http://www.oahhs.org/data/uncompensated_care.php**

[16] Oregon Governor's website, *Making Healthcare Available for all Oregonians*
http://www.oregon.gov/Gov/sos2006/healthcare.shtml

[17] Ibid.

[18] Ibid.

[19] Ibid.

[20] Ibid.

REPORT OF HOSPITAL CONTRIBUTIONS TO CLACKAMAS COUNTY

Facts on
Medicare and Medicaid[21]

Findings

MEDICARE

- Medicare—the federal program that pays for healthcare needs for those aged 65 and over—funding (federal source) has a large impact on the local economy.
- Hospitals, as recipients of Medicare funds, are, in effect, a traded sector of the economy because of their ability to import capital.[22]
- The number of people eligible for Medicare in Clackamas County (persons aged 65 and over) is projected to grow from 37,643 to 105,711 (a 180% increase) between the years 2000 and 2040. (Table 10)
- Between 1999 and 2004, expenditures from Medicare rose 144% or $88.15 million to a total of $149 million in 2004. (Table 9)
- In 1999, Medicare made up 26% of the total charges for Clackamas County hospitals. This number increased to 36% by 2004. (Table 9)
- From 1999-2004 a total of $592.3 million Medicare dollars were spent in Clackamas County's economy through its four hospitals. (Table 9)
- Out of a total of $978 million the federal government spent on Medicare in Clackamas County between 2000 and 2004, approximately $430 million went to hospitals[23].

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[21] Data on Medicare and Medicaid does not include Kaiser Sunnyside.

[22] In their study of the economic impact of hospitals on a local economy, Turner and Mallory (quoted in Doekson et al.) write: "The hospital is one of the few economic entities that brings in money from the outside. The monies brought in are the Medicare and Medicaid funds. These are monetary injections into the local economy. As such, they set off a successive round of spending and re-spending throughout the local economy. Most communities work very hard at economic development to attract firms that will produce a good to be exported and bring in sales revenue. A hospital does just that. The hospital is an export base entity that brings home funds from the outside. As such, it provides a multiplier stimulus that is generally not recognized." (From Doeksen, Gerald A., Tom Johnson and Chuck Willoughby, *Measuring the Economic Importance of the Health Sector on a Local Economy: A Brief Literature Review and Procedures to Measure Local Impacts*, 1997, Funded by Southern Rural Development Center, Box 9656, Mississippi State, MS 39762.)

[23] Not all Medicare paid to hospitals comes from the federal government (some is paid for through private plans). The total federal Medicare expenditures in Clackamas County between 2000 and 2004 were $978 million (Source: http://www.dataplace.org/charttable/index.html?period=2003&sub=Go). Of all federal Medicare payments made nationally, an estimated 44% is spent on hospitals (Source: *Kaiser Report, Section 6: Medicare Spending*, http://www.astrazeneca-us.com/content/drugAssistance/medicare/d/reporters/Facts%20and%20Figures/Kaiser%20Chartbook/Medicare%20Spending,%20Kaiser%20Study.pdf). $430 million is 44% of $978 million.

- Medicare spending will continue to grow with the increased growth of an aging population.

- Capture of federal Medicare funding provides a large infusion of imported capital to the region and this amount will continue to grow.

MEDICAID

- Medicaid funding (dedicated to helping low-income and disabled populations receive care) also is a large external contributor to the local economy. On average, 60 % of all Oregon Medicaid dollars come from the federal government, while the remaining 40% are paid by the state government.[24]

- Hospitals, as recipients of Medicaid funds are, in effect, a traded sector of the economy because of their ability to import capital to the county.

- Seven percent, 22,603, of Clackamas County's population under 65 in 2000 was below the federal poverty level and therefore eligible for Medicaid. If we assume a constant 7% poverty rate, Clackamas County residents below the poverty line would account for 28,836 people by 2025. (Table 10)

- In addition, the number of seniors over 65 in Clackamas County receiving Medicaid-funded long-term care and other assistance[25] is projected to grow from 3,170 in 2005 to 6,759 by 2025. This is an increase of 113% by seniors who may also be eligible for Medicaid by the year 2025. (Table 11)

- In 1999 Medicaid accounted for 4% of the total charges (billings) for Clackamas County hospitals, but by 2004 it made up 7% of the total. (Table 9)

- Between 1999 and 2004, a total of $70.13 million was paid to Clackamas County hospitals from federal funds through Medicaid. (Table 9)

- The overall performance of the economy, distribution of wealth, and poverty rates will determine the number of people eligible for Medicaid in the future.

- State and federal funding, the efficiency of the capture rate at the County's hospitals, and overall reimbursement rates for Medicaid will be important factors in determining the amount of Medicaid imported to the County.

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[24] State of Oregon Department of Human Services.
[25] In addition to Medicare, seniors may also receive Medicaid if they are disabled or in poverty according to the federal poverty rate.

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ECONOMIC IMPACT OF HOSPITAL MEDICARE AND MEDICAID ON CLACKAMAS COUNTY

- Medicare and Medicaid federal source funding for 2000-2004 totaled approximately $494 million.
- Assuming an economic multiplier of 2 for Medicare and Medicaid, the total generated in the local economy would be approximately $988 million over five years.

Table 9.
Hospital Income from Medicare in Clackamas County

		Medicare Total Charges	Medicaid Charges (Fed $)	Medicare % of Total Charge	Medicaid % of Total Charge (Fed $)
	1999	$ 61,160,337	$ 6,243,637	26%	4%
	2000	$ 67,502,143	$ 7,488,496	25%	5%
	2001	$ 76,734,724	$ 10,151,752	26%	6%
	2002	$ 111,277,720	$ 12,934,608	33%	6%
	2003	$ 126,268,582	$ 15,146,026	33%	7%
	2004	$149,307,912	$ 18,164,420	36%	7%
Total	*1999 - 2004*	*$ 592,251,418*	*$ 70,128,939*		
Change	*1999 - 2004*	*$ 88,147,575*	*$ 11,920,783*		
% Change	*1999 - 2004*	*144%*	*191%*		

Source: OAHHS Data Bank and Cogan Owens Cogan

Table 10.
Clackamas County Elderly Demographics

	2000	2010	2020	2030	2040
Residents Age 65 - 74	18,944	24,475	45,993	48,753	46,360
Percent of county population	6 %	7%	10%	9%	7%
Residents Age 75 +	18,699	19,999	27,518	46,192	59,351
Percent of county population	5%	5%	6%	9%	10%
Total	*37,643*	*44,474*	*73,511*	*94,945*	*105,711*
Change 2000 - 2040					*68,068*
% Change 2000 - 2040					*180%*

Source: Oregon Office of Economic Analysis and Cogan Owens Cogan

Table 11.
Projected Number of Seniors
Receiving Medicaid in Clackamas County

	2005	2015	2025
Seniors	3,170	4,700	6,759
Change 2005-2025			*3,589*
% Change 2005-2025			*113%*

Source: Oregon Department of Human Services and Cogan Owens Cogan

REPORT OF HOSPITAL CONTRIBUTIONS TO CLACKAMAS COUNTY

Facts on
Construction Spending

New construction on hospitals also impacts the broader local economy.

- Between 1999[26] and 2006, at least $128.9 million was spent on construction for hospitals in Clackamas County. (Table 12)

- Assuming an income multiplier of 1.5[27], the $128.9 million spent on hospital construction between 1999 and 2006 might generate approximately $193 million in the local economy. (Table 12)

- In addition, for every construction job created from hospitals, 1.66 jobs will be created in the local economy[28].

Table 12.
Construction Spending for Hospitals in Clackamas County

Year	Valuation of CC Hospital Construction	Economic Impact of Hospital Construction
1999-2006	$128,910,352	$193,365,528

Source: Clackamas County Building Services, City of Tualatin, City of Milwaukie, Oregon City and Cogan Owens Cogan

[26] Data for Willamette Falls Hospital is available only for 2002-2006 and data for Providence Milwaukie was only available for 2004-2006.
[27] Doeksen, Gerald A., Tom Johnson and Chuck Willoughby, *Measuring the Economic Importance of the Health Sector on a Local Economy: A Brief Literature Review and Procedures to Measure Local Impacts*, 1997, Funded by Southern Rural Development Center, Box 9656, Mississippi State, MS 39762.
[28] Ibid.

APPENDIX A: COMMITTEES

Clackamas County Economic Development Healthcare Committee

Name, Organization

Co-Chairs:

- Denise Honzel, Oregon Institute of Technology
- Miriam Odermann, Providence Health System

Members:

- John Coffee, Clackamas Community Action
- Kathy Levee, Marquis Companies
- Maureen Mitchell, Clackamas Community College
- Shelly Parini, Clackamas Community College
- Sarah Ross, American Medical Response
- Richard Smith, Providence Milwaukie Hospital
- Vicki Smith, Clackamas Community College

Staff and Consulting Team

Name, Organization

- Cindy Hagen, Clackamas County
- Bob Wise, Cogan Owens Cogan
- Teak Wall, Cogan Owens Cogan

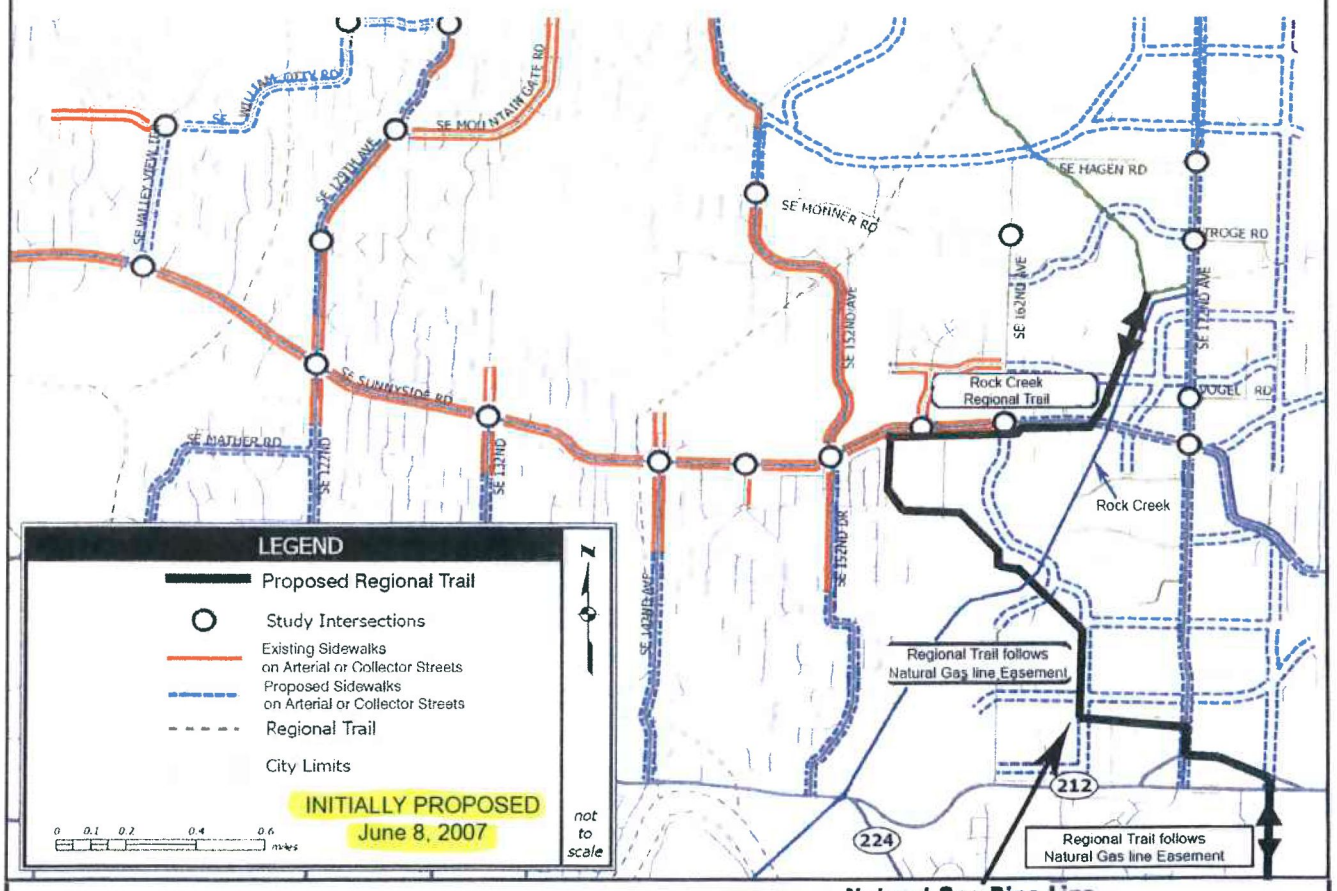
This Citizen Proposed Rock Creek Trail Section will utilize the existing interstate natural gas line easement alignment, when adopted, it will guarantee the desired continuation of the existing high quality environmental stewardship of the Lower Rock Creek Corridor.

FIGURE 5-1

City of Happy Valley
TRANSPORTATION SYSTEM PLAN
Proposed Pedestrian Master Plan

THE PROPOSED ROCK CREEK REGIONAL TRAIL SECTION, SE SUNNYSIDE ROAD TO CLACKAMAS RIVER, USES THE EXISTING INTERSTATE NATURAL GAS PIPELINE EASEMENT CORRIDOR in order to ensure the Desired Environmental Protection of the Lower Rock Creek Stream Corridor, which contains BOTH HIGH-VALUE WILDLIFE HABITAT and NATURAL SUSTAINING ANDROMORPHS SALMONID POPULATIONS

When traveling South, the Proposed Rock Creek Regional Trail Alignment leaves the creek corridor at SE Sunnyside Road and the trail then continues westerly towards SE 152nd Avenue where the trail connects into the Existing Interstate Natural Gas Pipeline Easement that crosses SE Sunnyside Road Just East of SE 152nd Avenue. The trail then Follows the Natural Gas Pipeline Easement Corridor South crossing Highway 212 and Connecting up to the Clackamas River Regional Trail to the South.



Natural Gas Pipe Line Easement with Rock Creek Regional Trail

East Happy Valley Comprehensive Plan

Proposed and Submitted by **COMPASS ENGINEERING** **4105 SE International Way, Suite 501** **Milwaukie, Oregon 97222** May 1, 2008	**Rock Creek Regional Trail** **Following the Natural Gas Pipeline Easement Corridor** **From SE Sunnyside Road to the Clackamas River**	**1** **1**

3250-11 PedMasterPlan

ATTACHMENT # "B-5"

DAVID C. NOREN
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May 13, 2008

Planning Commission
City of Happy Valley
12915 SE King Road
Happy Valley, OR 97086

Re: Rock Creek Mixed Employment Comprehensive Plan and Code Text
Casefile No. CPA-03-08/LDO-03-08

Dear Commissioners:

I represent Service Employees International Union Local 49. We urge you to recommend changes to the proposed Rock Creek Mixed Employment Comprehensive Plan and Land Development Ordinance texts, and to recommend that the city council delay adoption of any plan or LDO provisions for the Rock Creek area until further planning for the Damascus-Boring Concept Plan area is completed.

The proposals should carry forward the work done on the Concept Plan. However, by allowing medical centers as an outright permitted use, the proposed regulations are not consistent with the concept plan, with the requirements of Metro's Title 4, and with State Goals 9 and 11.

This letter outlines the legal and policy reasons to plan better for health care and jobs. Lynn-Marie Crider of SEIU 49 will provide oral and written testimony describing her organization's stake in health care planning and explaining their concern with allowing medical centers as a permitted use without any review for public need or public benefit. We are also providing written testimony from economist Joseph Cortright of Impreza Consulting concerning the need for land that promotes traded sector business, and from economist Bryce Ward of ECONorthwest describing the market for health care and the effect of land use regulations in promoting its efficiency and equity.

Our concerns fall into three main areas. First, SEIU 49 is concerned that allowing a new hospital and related facilities as an outright permitted use will drive up health care costs, which affect their membership to a disproportionate degree. Second, SEIU 49 is concerned that allowing hospitals in the mixed employment zone, without a requirement that the use serve and support research and development and other primary uses

ATTACHMENT # "B-6"

appropriate to an employment district, will deprive the region of industrial land needed to create new jobs and support rising wages. Third, SEIU 49 is concerned that adopting comprehensive plan designations and new zoning regulations for a small portion of the Damascus-Boring Concept Plan areas before planning has advanced for the rest of the area will fragment the planning process and prevent careful coordinated implementation both of Metro's Title 4 requirements and Goal 11's requirement that you plan for a timely, orderly and efficient arrangement of health services in a way that coordinates the type and location of health services within the area of the Concept Plan and the surrounding region.

A. Planning for Health Services

1. The Requirement to Plan for Health Services

ORS 197.175 requires that you adopt amendments to your comprehensive plan and land use regulations in compliance with the state goals. Comprehensive plans, as the statutory definition in ORS 197.015 makes clear, are intended to be very broad. State Goal 11 requires the "timely, orderly and efficient arrangement of public facilities and services," which "refers to a system or plan that coordinates the type, locations, and delivery of public facilities and services. . .." State Goal 11 specifically includes health services among the key public facilities and services cities must plan for.

This is not an issue many jurisdictions have faced squarely yet, but Goal 11 clearly requires it. Health services have been overshadowed by other public facilities and services, such as those that require Public Facility Plans under ORS 197.712(2)(e) (sewer, water and transportation) and those that require urban services agreements under ORS 195.060-085 (sanitary sewer, water, fire protection, parks, open space, recreation, streets/roads/transit). But health services still must be planned for to provide a timely, orderly, and efficient arrangement, taking into consideration the type, location and delivery of the services. An expected increase in proposals for new hospitals means that better planning must start now.

Because of the cost of major facilities and the need to address impacts across jurisdictional lines, planning for health services is not fundamentally different from planning for sewer services in an area like Happy Valley and Damascus. Other jurisdictions already have sewer systems, but the long term interest in efficient development and fair sharing of costs means that cities, service districts and the county must work together to provide sewer service in a timely, orderly and efficient manner. The same is true for health care: major facilities such as hospitals that will shape delivery of health care and drive heath care costs should be carefully coordinated with other jurisdictions and health service providers to assure that timely, orderly and efficient arrangement.

Unlike some other services, health services are not primarily provided by governmental units. Nevertheless, Goal 11 requires planning for other privately provided "public" services such as "energy and communication services" along with "health services." The intent of the Goal is clearly to reach services that are provided *to* the public, rather than services or facilities that are owned *by* the public. The extent of public involvement in paying for health care facilities (dependence on Medicare and other government reimbursement and the use of government-authorized construction financing) and their costly nature may explain the inclusion of health services among Goal 11's public facilities and services. Because the providers of health services are not public agencies required to act in conformance with the state goals, planning for health services needs to occur through the zoning and development process.

Goal 11 recognizes that access to health services is an essential aspect of a functioning modern society, one that must be addressed not just at the state and federal level but at the local level as well. Goal 11 requires that cities plan and coordinate to be sure that health services are provided in the best way possible.

2. The Policy Reasons to Plan for Health Services

As set forth in the memorandum from Bryce Ward and in the testimony of SEIU's health care policy analyst Lynn-Marie Crider, the market for health services has complexities that create inefficiencies, drive up costs, and limit access to health care in sometimes unexpected ways. Those inefficiencies drive up health care costs and prevent the orderly and efficient delivery of health services. They can be addressed by determining at the local level, when an application is submitted, whether there is a need for the proposed services and that the development of new health care facilities is coordinated with other providers and other jurisdictions.

3. The Way to Plan for Health Services

Before approving a major facility such as a hospital, Happy Valley should provide a process that considers whether there is a public need for the facility and whether the facility is in the public interest. These are broad discretionary criteria, but ones that cities in Oregon and elsewhere have used for many years in review of conditional uses. The applicant should have the burden of providing evidence of public need and public benefit, and the city should notify providers of similar services and seek their input and input from the public before deciding whether a hospital at a particular location is needed, whether it is in the public interest, and whether it will contribute to or detract from the timely, orderly, and efficient delivery of health services. Public benefit should include provisions to ensure that health care is accessible to all, including emergency services in conjunction with any hospital.

The proposed LDO text adds a definition of "medical center" and includes medical centers as a permitted use for the RC-ME zone. It allows an applicant to get master plan .

approval and "vest" the approval for a medical center including a hospital and various related facilities (such as surgery and diagnostic imaging). There is no requirement that the applicant show a hospital is needed or that delivery of health services is coordinated with other providers and other jurisdictions. That is not the way to plan for health services.

B. Planning for Jobs

The Rock Creek area is mapped on Metro's Title 4 maps as RSIA. The Concept Plan shows it as eligible for "mixed employment" and shows other areas as eligible for RSIA. Whether the area is regarded as employment or RSIA for purposes of Title 4, it should limit non-industrial uses. As set forth in Joe Cortright's written testimony, the purpose of protecting industrial land is to ensure there are areas where traded sector businesses can locate. Traded sector activities create jobs. Local sector activities such as health services delivered at a hospital do not, in general, create new jobs. They only move jobs around within the region. For purposes of Title 4, a hospital is not industrial. It is a commercial activity, one that fills a limited number of jobs to serve a local need and no more. By allowing hospitals as an outright permitted use, you will violate both the spirit and the letter of Title 4's requirements to protect industrial and employment lands from non-industrial uses.

The Concept Plan identifies the Rock Creek employment area as suitable for industrial research and development. The supporting Rock Creek Employment Area Study for Clackamas County dated September 15, 2004, identified two land use alternatives; Alternative 2, at page 19, "envisions a new industrial research and development campus with high traffic generation uses, such as a regional hospital, emergency care, ambulatory care, and ancillary medical office facilities." This alternative, which is reflected in the Concept Plan, is clearly premised on a core research and development campus, which the hospital and other medical uses would support and serve. It was not premised on a hospital, independent of the research and development campus, that provides only local sector jobs that could be provided elsewhere. Some of the background analysis suggested a desire for a biomedical research area that might be supported by a major medical facility. If the primary use for the area is research and development, laboratory, medical manufacturing, or other traded sector business, a hospital that serves that primary purpose might be appropriate in the employment area. But your regulations should clearly impose that requirement, rather than allowing a hospital outright and hoping that somehow biomedical research and manufacturing will follow.

C. Planning in Coordination with the Area and the Region

Because the area is mapped as RSIA, the proposed plan and LDO regulations clearly violate Title 4. The Concept Plan identifies hundreds of acres as eligible for RSIA designation, but leaves the process and timing for comprehensive planning fluid. Even

assuming that Happy Valley adopts regulations that are appropriate for Employment areas, the city should wait until the East Happy Valley area and Damascus are more fully planned before adopting plan amendments that would violate Title 4 and Title 11. You should therefore recommend that action on this proposal be considered by the city council, but that any final action be delayed until much more work is done in Happy Valley and Damascus to assure that the RSIA lands will in fact be planned and zoned for job creation, and that there is a timely, orderly and efficient arrangement for delivery of health services within the concept plan area and the surrounding region. This is particularly true in light of the need for more transportation planning and the absence of any demonstrated need for a new hospital in the area within the next several years.

D. Suggested amendments to the Proposed RC-ME text, and to other elements of the plan and code:

We urge that you recommend the following changes to the proposed text for LDO Title 16 and to the Comprehensive Plan.

To generate jobs consistent with State Goal 9 and Metro Title 4:

1. All commercial uses in the RC-ME zone should include the approval standard that the use must serve one of the primary uses of the district. This is required by Title 4. The purpose statement in proposed 16.12.150 includes the limitation in describing the purpose of the district, but does not make it an approval standard.

2. For the RC-ME zone, list "medical center" as a commercial use rather than an institutional use, so that it is subject to the limitation that it serve the primary uses of the district. Review medical centers as a conditional use. Medical centers, hospitals and ancillary facilities such as ambulatory surgery and diagnostic imaging would be allowed only if they serve approved and operating biomedical research and development facilities and laboratories, both of which are permitted uses and are consistent with the creation of traded sector jobs in the employment area.

To provide for the orderly and efficient arrangement of health services, consistent with State Goal 11:

3. Require that medical centers and their components, including ambulatory surgery centers, diagnostic imaging centers and hospitals, be reviewed as conditional uses in *all* zones, require the applicant to demonstrate that approval of the proposed use meets a public need and is in the public interest, and require a determination that the type, level and location of health services proposed has been coordinated with similar health services providers in Clackamas County to allow for the orderly and efficient delivery of services for the area.

4. Include a provision in the Comprehensive Plan that new major health care facilities such as hospitals, ambulatory surgery centers and diagnostic imaging centers will be reviewed to ensure the orderly and efficient arrangement for health services by requiring a showing there is public need and public benefit and that the proposed facility has been coordinated with other providers and affected jurisdictions.

If Happy Valley adopts these suggested changes to the proposed plan and LDO amendments, it will be able to comply with Metro's Title 4 and with State Goal 11.

Thank you for your consideration.

Very truly yours,

David C. Noren

IMPRESA

Joseph Cortright

May 13, 2008

Planning Commission
City of Happy Valley
12915 SE King Road
Happy Valley, OR 97086

RE: File No. CPA-03-08/LDO-03-08
(Rock Creek Mixed Employment Comprehensive Plan)

Dear Commissioners:

Policy Research
Assessment
Economic Strategies
Communication Strategies And Services
Analysis

Please accept the following letter as testimony in the proceeding considering adoption of the Rock Creek Mixed Employment Comprehensive Plan amendment.

My firm has been retained by the Service Employees International Union to examine economic issues in this matter concerning the relation between land uses planning the creation of jobs. This analysis is based on my review of the city's land use plan, material submitted by the applicant, the staff report on this matter, and also the review of a variety of socioeconomic data.

In this letter, I offer my qualifications, and then outline the important distinction economists make between the traded and local sectors of the economy.

Qualifications

I am Vice-President and Economist of Impresa, Inc., a Portland-based economic consulting firm. I've worked as an analyst of state and regional economies for more than 25 years. In the 1980s, I helped lead one of the first comprehensive studies of the supply and demand for industrial land in the Portland metropolitan area, as well as technical analyses of the relationships between commercial land use patterns and travel behavior. For more than 12 years, I was the chief staff person for the Oregon Legislature's Joint Legislative Committee on Trade and Economic Development and was author of more than two dozen major reports and studies of the Oregon economy. I

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ATTACHMENT # 11B-7 1r

have also done considerable work in Washington State as well; a 1990 report I prepared on economic development was published by the University of Washington and in 1997, I led a comprehensive evaluation of the operations of the Washington State Department of Community, Trade and Economic Development. Since establishing Impresa, Inc. in 1995, I have been involved in a range of studies of the Portland metropolitan economy (always including Clark County). These analyses include *Progress of a Region*, a 1996 report published by the Institute for Metropolitan Studies at Portland State University and a series of reports examining the region's high technology industry cluster. My work also includes national and international projects. I've been the lead author of two studies published by the Brookings Institution looking at the high tech and biotech industries and a national study of the migration of talented young workers among US metropolitan areas. I've served as an advisor to foundations and international organizations including the Ford Foundation, the McArthur Foundation, and the Organization for Economic Cooperation and Development. I am co-editor of EconData.Net, the web's leading guide to economic data for states and local areas, and am also a member of the editorial board of Economic Development Quarterly, a scholarly journal of economic development studies. I also serve on the Oregon Governor's Council of Economic Advisors.

Traded and Local Sectors of the Economy

In considering a major change to its land use designations, the city of Happy Valley should pay particular attention to the different roles that different types of economic activity play in driving its economic well-being. Economists generally divide regional economic activity into two broad categories, the traded sector of the economy and the local sector of the economy. The traded sector consists of firms selling their goods and services outside the region, in competition against businesses in other states, and increasingly in other nations. The traded sector includes most manufacturing businesses, and some professional service businesses—like engineers or research and development facilities. The local sector of the economy consists of businesses that primarily serve the needs of the local population, providing the kinds of services (food, clothing, furnishings, building materials, financial services and health and personal care) that people everywhere consume.

These traded sector firms are particularly important because they bring new income into the community that is paid out in wages to employees and re-spent throughout the local economy.

In general, local governments should place a great premium on maintaining and enhancing the health of their traded sector industries. Because the demand for most retailing is driven by the size and income of the resident population, the amount and location of retail-zoned land has little effect on the

overall level of retail sales generally, or on the local sector of the economy. On the other hand, because businesses in the traded sector are not tied to the local market, if they do not find suitable locations locally, they have the option of serving national or international markets by moving to other jurisdictions.

State, regional, and city policies recognize the importance of preserving land for these traded sector industrial purposes, and impose specific restrictions on developing such lands for local consumer service activities. This distinction is a core element of Metro's Title 4:

"To improve the region's economic climate, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas."
(Metro Title 4: 3.07.410)

The provision of health care services is a non-industrial use. If your objective is to create jobs locally and regionally, your planning and land use regulations should prohibit health care facilities in RSIA areas and carefully limit them in Employment areas.

A reduction in land available for the traded sector of the economy has adverse consequences for Happy Valley and the regional economy

The proposed land use designation and regulations for the subject property would allow a large scale health care facility without any further review of its impacts on the creation of jobs for the area. Because the demand for health care is overwhelmingly local, delivery of health care is essentially the retailing of services with the same effect on jobs as commercial retail sales. In general, the development of this site as a health care facility will not be "creating" any net new jobs in the regional economy. Designating (or not designating) this particular site for use as a health care facility will not change the need for health care in metro Portland. If need does not change, the number of people working in the health care industry should not change and thus one should expect that no new jobs will be created.[1] Building a new medical center with related doctor offices is in this sense the same as building a new shopping center: people will shop in a different place, but no new jobs will be created. The "new" health care jobs will simply be located in different places than they

[1] The lack of transparency in the health care economy, and the possibility that increased supply may itself increase demand and thus "create" jobs, is a well-recognized economic phenomenon that I will not attempt to describe here. Because the bulk of health care costs are paid by local employers and employees through premiums and out-of-pocket expenses, excess health care facilities tend to drive up medical care costs for the entire population, which is an economic disadvantage for the region. Within a local economy new facilities may result in the provision of some additional services, but this increase is not driven by a change in the need for medical care..

would be otherwise. In all likelihood, the effect of approving this zone change would be to be to have fewer jobs at other health care facilities throughout this portion of the metropolitan area. The regional economy will not be made more diverse as a result. The effect rather is to preclude the development of this site for traded sector manufacturing activity, an effect which weakens the regional economy.

Health care research, related patenting of medicines and devices, and manufacturing of such medicines or devices may be part of the traded sector if they export the fruits of the research and manufacturing beyond the region. In such circumstances, it may be appropriate to allow a cluster of health care activity in an employment area, if there is proof that the core activity or primary purpose of the health care cluster is research and development or related manufacturing. However, the land use regulations proposed to implement your Rock Creek Mixed Employment district allow medical centers, doctors' offices and other local sector health services as an outright permitted use without any requirement that they be tied to a health care or biotechnology cluster that *creates* jobs instead of simply moving jobs around within the local area. Adopting a plan designation for the affected property that opens its use to a local service sector activity like health care effectively diminishes the availability of land for traded sector industrial uses. Planning the subject property for mixed employment rather than industrial has the effect of reducing the net amount of land available in the region for industrial use. Allowing health care facilities as an outright permitted use in your employment district, without requiring that they be tied to a cluster of health care research and development, does not effectively limit non-industrial jobs in the employment area, as contemplated by the regional planning embodied in Metro's Title 4 .

Regionally, the availability of suitable industrial land has been identified as a critical factor, approaching a crisis, in planning for the region's economic future.

> ". . . lack of preservation of strategically located sites for future industrial development now represents a brewing crisis. Industrial land supply is one of a number of important factors forming a foundation for our economic future, and the lack of clarity regarding industrial land supply objectives and overall economic development strategy creates an atmosphere of uncertainty for our region."
> Phase 3: Regional Industrial Land Study for the Portland – Vancouver Metropolitan Area, Prepared by Otak, Inc. in association with ECONorthwest & Parametrix, October 31, 2001
> http://www.upa.pdx.edu/IMS/currentprojects/rilspdfs/FinalReport.pdf

Conclusion

The policy objective behind Regionally Significant Industrial Areas and Employment Areas is to provide land for traded sector industries that make a net contribution to the regional economy, and to bar use of such sites for local-serving activity. Consistent with that policy, whether this property is regarded as a Regionally Significant Industrial Area, as shown on the Metro Title 4 map, or as an Employment Area as shown in the concept plan, it should not allow local sector heath care facilities such as hospitals and medical office buildings without a showing that those uses are part of a health care cluster that creates jobs for the area. Allowing those uses as permitted outright will likely deprive the region of valuable land that should be preserved for traded sector industrial uses.

I hope that this information is useful to you in considering the economic consequences of this proposed change in land use designation for the subject property.

Best Regards

Joseph Cortright

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May 13, 2008

TO: Happy Valley Planning Commission
FROM: Bryce Ward
SUBJECT: THE EFFECT OF LAND USE REGULATIONS ON THE MARKET FOR HEALTH CARE

I. Overview

The City of Happy Valley has been asked to adopt comprehensive plan amendments and land-use regulations for a mixed employment area that would allow hospitals/medical centers as an outright permitted use. Simplistic economic reasoning, uninformed by the realities of particular markets, might guess that this approach would cause more efficient delivery of health care services. According to the simplistic model, building a hospital in Happy Valley would increase supply and should lower prices and/or improve quality. This conclusion, though, requires several assumptions. In particular, this model assumes that the hospital market is competitive, that patients have the information and ability to choose among competing providers, and that demand remains constant. That is, it assumes that building a new hospital does not increase or decrease individuals' medical needs or willingness to pay for health care. In reality, though, these assumptions are not valid. Health care markets are fraught with complications that reverse the standard economic logic. Economists and health policy experts worry that, under certain conditions, increasing hospital supply actually increases costs without improving quality (in fact, the added supply may even decrease quality). Furthermore, unfettered health care markets may make it harder for residents of low-income communities to access health care.

Given these potential adverse consequences for both market efficiency and equity, caution in approving the development of new hospitals is warranted. By allowing hospitals or other major medical facilities only after a case-by-case review that requires a showing of need and public benefit, land use regulations can and should help implement the orderly and efficient provision of health services. This serves the public interest by preventing residents, businesses, and governments in Happy Valley and throughout the Portland area from paying higher health care costs and by preserving access to health care in low-income communities.

I have been asked by Service Employees International Union Local 49 and their attorney to analyze some of the economic impacts of allowing unregulated development of major health care facilities such as hospitals. In this memo, I describe in greater detail the adverse consequences (in terms of equity and efficiency) that may arise when hospital construction proceeds without adequate oversight (Part II). I present evidence that these problems are

ATTACHMENT # 11 B-8

likely to affect the market for health care in the Portland area (Part III), and I argue that Happy Valley can and should provide for the orderly and efficient provision of health services by requiring that major medical facilities clearly demonstrate that they are serving the region's interests by a meeting a public need and providing a public benefit (Part IV).

II. New hospital construction may raise health care costs without improving quality

The dramatic rise in health care spending in recent years is well documented. Health care costs as a share of GDP have risen from 7% of GDP in 1970 to 16% today and are expected to rise to 20% of GDP by 2016. In recent years, the growth has been especially pronounced. Premiums for employer-sponsored health insurance have doubled since 2000.[1]

Similarly, the value of hospital construction permits per capita doubled between 2000 and 2006 with the real value of hospital construction reaching its highest level since 1969.[2] Between 2002 and 2006, in the Portland area the value of hospital construction permits exceeded over $300 per person,[3] making the Portland area one of the biggest spenders on new hospital construction in the country.[4]

Given the simultaneous rise in both health care costs and hospital construction, it seems natural to ask if they relate to one another. It is possible that the construction boom is simply the appropriate response to high prices (and profits) stemming from a shortage of health care facilities. Once built, these new hospitals should alleviate the shortage and lead to improved access, declining health care costs (and perhaps improved health care quality). It is also possible, however, that the hospital construction boom reflects the response of hospital administrators to perverse incentives in the health care market that encourage hospitals to engage in a "medical arms race" designed to steal some of the highly profitable patients or procedures from competing hospitals. In this scenario, new hospital construction does not alleviate shortages, improve access, lower prices and improve quality. Rather, it creates a surplus of expensive beds and equipments that hospitals need to fill (even if the patients filling them do not really need to be there) which leads to higher costs and lower quality.

So which is it? While there are certainly some markets where hospital construction is warranted, if new construction produces excess capacity or increases market concentration, it is likely to increase health care costs without improving quality.

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[1] http://www.kff.org/insurance/7672/index.cfm

[2] Medicare Payment Advisory Commission, March 2008 report, Section 2a: http://www.medpac.gov/chapters/Mar08_Ch02a.pdf

[3] Glass, D. and J. Stensland. Hospital Construction Trends. www.medpac.gov/transcripts/1107_hospital_construction_DG_pres.pdf

[4] Ibid.

Excess construction boosts health care costs for three reasons. First, as Milton Roemer famously observed in 1961, supply may induce its own demand in health care markets.[5] Stated differently, "hospital beds, once built, will be used."[6] Second, additional hospital construction frequently produces duplicative and underused capacity preventing hospitals from experiencing economies of scale and scope. Third, new hospital construction is a means for existing hospital systems to increase their dominance in a local market. Hospitals with high market shares are able to command higher prices from patients and insurers.

A. Where there is greater capacity, more care is delivered – whether or not it is warranted

Health care utilization varies enormously across the United States. For instance, the number of days spent in hospitals during the last six months of life varies markedly across regions in the U.S. as does the number of physician visits. Medicare decedents in some regions spent less than 6 days in the hospital and averaged about 14 physicians visits during the last six months of life, while decedents in other regions spent twenty days in the hospital and averaged more than 55 physicians visits over the same period. These differences cannot be explained by differences in the conditions afflicting these patients.[7]

Rather, several researchers, most notably those at the Dartmouth Atlas Project led by Dr. Jack Wennberg, have demonstrated that much of the variation in care across regions stems from differences in hospital capacity.[8] Figure 1 below shows the relationship between hospital beds per 1,000 people and hospital discharges per 1,000 people among Medicare enrollees in 306 regions.[9] The relationship between capacity and use is quite clear – more capacity implies more use.[10] If high capacity produced much lower prices, this relationship would be just the outcome we'd want. Excess supply would drive down prices and encourage use. But that's not what's happening. We know this because this relationship arises despite regions facing roughly constant prices (the Medicare reimbursement rates). Since the prices faced by regions are the same, utilization should not vary systematically with capacity.

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[5] The phenomenon became known as Roemer's Law. Roemer, M.I. "Bed supply and hospital utilization: a natural experiment." Hospitals. 1961 Nov 1;35:36-42.

[6] Dartmouth Atlas, 2007. Supply-Sensitive Care. www.dartmouthatlas.org/topics/supply_sensitive.pdf

[7] Ibid.

[8] Dartmouth Atlas Project, www.dartmouthatlas.org

[9] This figure is taken from the Dartmouth Atlas' "Supply-Sensitive Care". See footnote 7.

[10] The green dots at the bottom show the relationship between capacity and hospital discharges for hip fractures. There is essentially no relationship because, for ailments like hip-fractures, there are clear medical guidelines for treatment. The variation in health care use across regions is driven by "supply-sensitive" services. Supply-sensitive services are those whose frequency of use is not clearly established by medical theories and medical evidence (e.g., physicians visits, diagnostic tests, or hospitalizations). With these supply-sensitive services, patients also lack sufficient information to determine what they need (or even want). Patients simply want to feel better and will largely do whatever their doctor tells them to do until they reach that point – especially if they are covered by generous insurance and do not pay the much (if any) of the marginal cost of their health care.

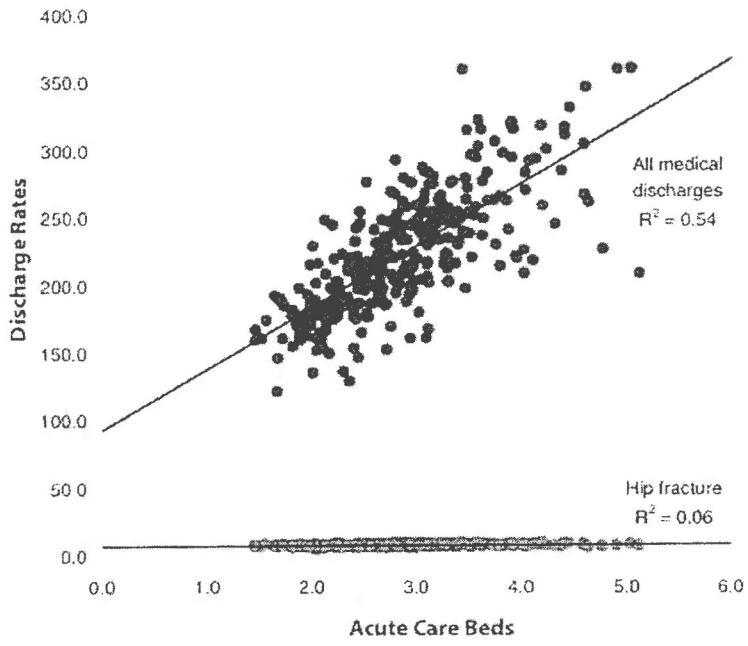

Figure 1. Association between hospital beds per 1,000 (1996) and discharges per 1,000 (1995-96) among Medicare enrollees in 306 hospital referral regions

High use could also be justified if it produced better health outcomes. However, it does not. A study led by Dr. Elliott Fisher followed patients over 5 years and found that patients from high-intensity regions were no more functional and no more satisfied than the patients from low-intensity regions.[11] Worse, mortality rates for the patients in the study were higher in the high-intensity regions than in the low-intensity regions.

Thus, high-intensity use alone does not improve health care outcomes, but it does significantly raise health care costs. All those extra physicians visits, diagnostic tests, hospital stays cost a lot. As part of a recent study of Medicare spending during the last two years of life at the 226 largest hospitals in California, researchers found that Medicare could have saved $1.7 billion over five years in Los Angeles alone had the care in L.A. mirrored that in Sacramento.[12]

B. Underused, duplicative capacity prevents hospitals from exploiting economies of scale and scope to lower costs

Building and operating a hospital requires firms to spend significant sums on facilities and technology. These costs are incurred up front, i.e., before patients are admitted. As patients arrive, and as their numbers increase, the per unit costs of caring for them fall.

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[11] Dartmouth Atlas, 2007. Supply-Sensitive Care. www.dartmouthatlas.org/topics/supply_sensitive.pdf

[12] Ibid.

When these per unit costs, these average costs, decline as use increases, economists say the firm is realizing economies of scale. Economies of scale allow hospitals with high patient loads to charge lower prices for these services and still earn profits. However, when two nearby hospitals duplicate services, neither hospital attracts sufficient numbers of patients and costs do not fall.

Similarly, a single hospital providing a full range of services can provide health care services at lower costs than several hospitals each providing only a few services. When costs fall as the range of services grows, economists say the firm is realizing economies of scope. The cost of providing hospital services falls if emergency surgery and treatment of heart attacks occur at the same hospital rather than at two separate hospitals. Entry of new hospitals in the market, though, forces hospitals to specialize (because there are not enough patients to spread across both hospitals efficiently), inefficiently duplicate services, or, as discussed above, create demand for their services among patients who otherwise might not need them. All of these potential outcomes lead to higher costs.

Several studies indicate that these effects are real. Hospital costs fall when hospitals merge and eliminate duplicative.[13] E.g., a study by economists David Dranove and Richard Lindrooth found that when hospitals merged and eliminated duplicative services, their costs fell by 14% two, three, and four years after the merger.[14] However, as we discuss below, these cost savings are frequently not passed on to consumers.[15]

Failure to realize economies of scale and scope by adding duplicative hospital capacity not only raises costs, it also lowers quality. First, as discussed above, excess capacity can lead to over-treatment that may harm health outcomes. For instance, a 2002 study in the New England Journal of Medicine found that installing neo-natal intensive care units in suburban hospitals led to their overuse and put infants at risk.[16] Second, in medicine, practice makes perfect. Infants in need of ICU treatment perform better when treated at an NICU that has an average of more than 15 patients per day.[17] Similarly, surgical outcomes are significantly better in hospitals were the surgeons perform many surgeries.

C. Hospital construction may increase hospital costs by allowing existing hospital systems to increase their market power

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[13] However, falling costs to the hospital are not necessarily passed on to consumers. See Vogt, W.B. and R. Town. How has hospital consolidation affected the price and quality of hospital care? www.rwjf.org/pr/synthesis/reports_and_briefs/pdf/no9_policybrief.pdf

[14] Dranove, D and R. Lindrooth. Hospital Consolidation and Costs: Another Look at the Evidence. *Journal of Health Economics*, November 2003; 22(6): 983-997.

[15] See Vogt, W.B. and R. Town. How has hospital consolidation affected the price and quality of hospital care? www.rwjf.org/pr/synthesis/reports_and_briefs/pdf/no9_policybrief.pdf

[16] Goodman, D.C., Fisher, E.S., Little, G.A., Stukel, T.A., Chang, C., Schoendorf, K. S. The Relation between the Availability of Neonatal Intensive Care and Neonatal Mortality *N Engl J Med* 2002 346: 1538-1544

[17] J.A. Rogowski, D.O. Staiger, and J.D. Horbar. Variations In The Quality Of Care For Very-Low-Birthweight Infants: Implications For Policy. *Health Affairs*, September/October 2004; 23(5): 88-97.

Recent years have seen rapid growth in hospital networks. In 1979, 31 percent of hospitals were part of systems of hospitals; by 2001, 54 percent of hospitals were part of systems, and an additional 13 percent were part of looser health networks.[18] While, in theory, the development of hospital systems may allow the hospitals to compete more efficiently by exploiting the economies of scale and scope discussed in the previous section, in reality, consolidated hospital systems increase hospitals' market power and allow them to demand higher prices from payors. In a recent report discussing the state of health care markets, the Federal Trade Commission noted, "Most studies of the relationship between competition and hospital prices generally find increased hospital consolidation is associated with increased prices."[19]

Because Providence Health & Services owns a large portion of the proposed Rock Creek Mixed Employment planning area and Providence drafted the proposed comprehensive plan and land use regulation texts that are now being considered by the Planning Commission, we may reasonably assume that any hospital proposed for the area would be a Providence facility. A significant expansion of the Providence health network into Happy Valley is likely to increase Providence's market power in the Portland area. Providence already controls a significant share of the medical facilities in the Portland area. E.g., 31% of the existing hospital beds in Portland are at Providence facilities. An expansion in Happy Valley would increase their market power, increase their bargaining position relative to payors, and increase the chances it could raise its prices. Because Providence Health & Services also markets heath insurance plans that require patients to pay different rates for "in-system" and "out-of-system" providers, an expansion in Happy Valley may also lead to higher out-of-pocket costs for Providence Health Plan patients at other area hospitals and physician providers, driving use away from existing hospitals and doctors' offices and to the new facilities in Happy Valley.

Thus, hospital construction that generates excess capacity and duplicative services does not result in the timely, orderly and efficient arrangement of health services that your comprehensive plan should achieve. Rather, excess hospital capacity raises prices and lowers quality.

III. New hospital construction may reduce low-income communities access to health care

New hospital construction also adversely affects health care access. In their article examining the effects of the hospital building boom, Gloria Bazzoli, Anneliese Gerland, and Jessica May argue, "people living in lower-income areas will continue to rely on hospitals with aging infrastructure and with limited resources for widescale upkeep and renovation."[20] This opinion is seconded in the March 2008 report of the Medicare Payment Advisory Commission. In discussing the growth in construction, they note, "much of the

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[18] Federal Trade Commission. Improving Health Care: A Dose of Competition http://www.usdoj.gov/atr/public/health_care/204694.htm

[19] Ibid.

[20] Bazzoli, G., A. Gerland, and J. May. Construction activity in U.S. hospitals. Health Affairs, May/June 2006: 25(3): 783-791.

added capacity is located in suburban areas and in particular specialties, raising the possibility that health care costs will increase without significantly improving access to services in lower income areas."[21]

While it is natural, and perhaps reasonable, for hospital corporations to chase profitable patients and focus on providing profitable procedures, this process of cream-skimming does not serve the community's best interest. It impairs the health of other hospitals in the area – particularly those serving low-income communities – leading them to either close outright or reduce the quality of care they provide (because they lack the resources to invest in upgrading their facilities and technology).

IV. New construction in the Portland area is likely to add to existing excess capacity

The Portland Metropolitan area is not facing a shortage of hospital beds. A 2005 report by my colleague at ECONorthwest, Randall Pozdena, found that there were 1,501 excess beds out of the 3,962 licensed beds in Portland.[22] Accounting for expected population growth and current and expected capacity expansions, this excess supply is not expected to decrease.

Looking specifically at the Happy Valley-Damascus-Boring area, there is significant excess capacity in facilities less than 9 miles from the proposed site. Of the 547 staffed beds in the area, on average only 358 of those beds were in use in during 2006.[23] While the population of the area will grow into the future, there appears to be sufficient existing or planned capacity to handle that population growth for the near future.

V. Government intervention is needed to correct these problems

In the near future, adding to hospital capacity in the Portland area is unlikely to produce lower health care costs or improved health care quality. Instead, given the excess supply of hospital beds in the area, expanding the supply of hospital services is very likely to produce the adverse effects discussed above: higher costs, lower quality, and diminished access.

When markets fail to produce desirable outcomes in terms of either market efficiency or equity, government intervention is frequently required to correct the problem. The development of zoning and planning laws was prompted by communities' recognition that the market, left to itself, frequently produced undesirable outcomes for residents.

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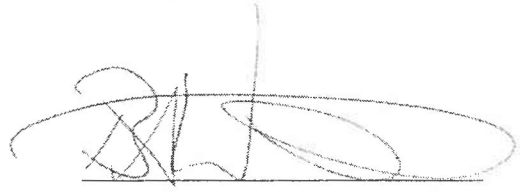
[21] See footnote 3

[22] Pozdena, R. The Market for Hospital Beds: Performance of Portland Versus Other Markets. ECONorthwest April, 2005.

[23] Hospital Databank, FY 2006, Office of Oregon Health Policy and Research; Office of Oregon Health Policy and Research, Hospital Databank 2006, occupancy = Grand Total Patient Days / (365 * Beds Available)

The importance of addressing health services through land use planning is explicit in State Goal 11, which includes health services among the public facilities and services that cities must plan for. According to Goal 11, to plan and develop a timely, orderly and efficient arrangement of health services, you should coordinate the types, locations and delivery of health services in a manner that supports existing and proposed land uses. Because the unregulated health care market fails to produce market efficiency and equity, you should provide in your land use regulations for review of specific proposals to determine if there is a need for the facility and to coordinate with nearby jurisdictions concerning the capacity and effciency of similar facilities to assure that health services are provided in a timely, orderly and efficient manner.

Happy Valley can serve the public interest and prevent residents, businesses, and taxpayers throughout the region from paying higher health care costs and suffering from diminished access and lower quality by simply not allowing hospitals (or other major medical facilities) without a review process designed to demonstrate that the facility serves a pressing community need. While to some extent need may be addressed through a state regulatory system, that system for numerous reasons may fail adequately to address local need and local efficiency. It is therefore important that the city of Happy Valley do so through its land use process in accordance with State Goal 11.



Bryce A. Ward, Ph.D.

LOCAL 49
SEIU
Stronger Together

Testimony of Lynn-Marie Crider
Before the Planning Commission of the City of Happy Valley
May 13, 2008

I am Lynn-Marie Crider. I am responsible for health care research and public policy for Service Employees International Union (SEIU), Local 49. I reside at 2353 NE 60th Ave., Portland, Oregon 97213.

SEIU, on behalf of all of its members, including those living in Happy Valley and surrounding communities, opposes the proposed text amendments to the comprehensive plan and land development ordinance and related amendments to the zoning map. By adopting the proposed zoning, the City would give up a great deal of control over the kind of development that occurs in the area in question without any reciprocal commitment from the beneficiaries of the proposed zoning changes. In addition, the City would permit the kinds of development that fuel the rising costs of health care to local residents without increasing their access to needed health services or to good paying jobs.

Through our attorney, David Noren, we are proposing an alternative approach that will better protect the interests of the community in efficient delivery of health services and in economic development. We urge you to delay final action on any planning and zoning for the Rock Creek area until further planning work is done for the rest of Happy Valley and Damascus, and we urge you to incorporate our alternative approach when you do complete your planning, to assure a healthier local economy and more efficient health care.

The Service Employees International Union (SEIU)

Service Employees International Union is the largest union in the United States. The union's Oregon locals represent more than 52,000 workers. Most of the Oregon locals' members live and work in Oregon, a few hundred in Washington. Of the total, 29,184 members vote in the Portland metropolitan area. Of these, 2,060 live in Clackamas County, 35 of them in Happy Valley.

SEIU's members belong to two local unions:

- SEIU Local 49 represents 7,000 members who work for private sector employers; most of them live and work in the Portland Metropolitan area either in the health care industry (for Kaiser Permanente and Legacy Health System) or as janitors employed by manufacturing firms or janitorial contractors. Local 49's mission is to assist workers employed by hospitals and property services companies in Oregon to organize for the purposes of improving working conditions for themselves and raising standards in these industries. The union is currently working with employees of Providence Health & Services (primarily at Providence Portland Medical Center and Providence St. Vincent Medical Center) to help them form a union.

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ATTACHMENT # 113-9

- SEIU Local 503 represents more than 45,000 members. Most work for public sector employers, although many provide in-home or nursing home care or child care for individual Oregon residents. Local 503's members are located throughout of the state. Local 503's mission is to assist workers employed in the public sector and in the long-term care industry to organize for the purposes of improving working conditions for themselves and raising standards in these industries.

SEIU and its members have been leading advocates for health care reform and containing the cost of health care for many years.

SEIU has made it a priority to ensure that our members, their families and everyone in our communities have access to high quality health care at prices they can afford. To achieve that goal, we have taken a leading role in advocating for policy initiatives that will reduce the ever-increasing cost of health care in our state. Our healthcare work has included the following:

- SEIU has been a longtime participant in the leading health care advocacy organizations in Oregon—the Oregon Health Action Campaign (OHAC) and Oregonians for Health Security. Two of the last three presidents of OHAC been members of SEIU.

- SEIU was a founding member of the Make Health Care Work Coalition, which has advocated for incorporating assessments of health care need in the land use planning process. The Make Health Care Work Campaign's first effort was to persuade the Metro Council to bring the community together to assess health care needs; to identify what facilities and services are lacking and what our community has in excess; and to evaluate proposed new facilities to determine whether they fill community needs or whether the proposed capital spending will simply drive up the cost of health care—keeping it out of the reach of low income residents, including many of the union's members and their families.

- SEIU Local 49 published and distributed the report, "Costly Silence: How failing to have a community voice in health care planning is a plan for failure" to explain why our community cannot count on hospitals to provide the services we need at a fair price. (A copy of the report is attached to this testimony.)

- SEIU has advocated legislative proposals to require hospitals to charge fair rates[1] and to provide financial assistance to those who need it,[2] to strengthen systems of state oversight of planning health care facilities to improve quality and avoid redundancy,[3] and to provide access to tax-exempt financing only for health care facilities that demonstrably meet community needs.[4]

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[1] SB 502 in 2005 and HB 3088 in 2007
[2] SB 504 in 2005 and HB 3088 in 2007
[3] SB 503 in 2005 and SB 948 in 2007
[4] SB 614 in 2007.

- SEIU Local 49 president, Alice Dale, serves on the state's Health Policy Commission.

- Two SEIU Local 503 staffers, Rich Peppers and Paul McKenna, serve on the Public Employee Benefits Board, which oversees provision of health care benefits for all state employees.

- Two SEIU Local 49 staffers, Felisa Hagins and I, serve on committees of the Oregon Health Fund Board, which was appointed by the Governor this year to develop a plan to ensure that all Oregonians are covered by a health insurance plan.

SEIU and its members have been advocates for good jobs in our communities.

SEIU has made it a priority to ensure that when public bodies invest public resources to create jobs, those jobs provide living wages for workers. We have done so both because we believe as a matter of principle that public resources should be invested in ways that improve the well-being of local residents and because many of our own members work in sectors of the economy that have traditionally paid substandard wages and benefits. In order to ensure that good jobs are available to our members and their neighbors, we advocate for economic development policies that support creation of those kinds of jobs.

For example, many janitorial jobs in the Portland metropolitan area pay minimum wage and do not provide health insurance. In addition to negotiating higher compensation standards for our members in that industry, SEIU worked with a community coalition and the Portland City Council to establish a new floor for compensation of employees working for city contractors, which includes a requirement to pay for employee health insurance.

At the state level, SEIU has worked with the Oregon AFL-CIO, the Oregon Education Association and others to urge the Legislature to undertake an evaluation of all tax breaks to ensure that they are achieving their objectives. Primary among these tax breaks are those that seek to bring family wage jobs to our community.

Why SEIU cares about the cost of health care.

SEIU Locals 49 and 503 negotiate collective bargaining agreements with employers. Those agreements address issues such as wages, hours, and health care benefits. All of the collective bargaining agreements entitle full-time employees to employer-paid health insurance for themselves. However, employees pay varying amounts out of pocket to enroll family members in health insurance programs.

SEIU Local 49's janitor members must pay the full cost of enrolling their families; as a consequence, most do without. Most of the union's health care industry members make a much more modest contribution to premium for coverage for their families. Regardless of the industry in which the employer competes, however, the ever-increasing cost of health care is always a subject of debate during contract negotiations; and employers frequently seek to shift more of the cost of insurance to employees.

SEIU Local 503's members who are employed by the state have fully paid coverage for their families. The local's members in the home care industry do not. Indeed, because health care is so expensive, until the workers formed a union, these workers got no health care benefits at all; they still do not receive family coverage.

What Oregon employers are spending for health care coverage for their employees is going up much faster than what they are spending for wages. The consequences are two-fold: First, wages have failed to keep pace with inflation for many workers because employers are ploughing what money they have for compensation into maintaining health care benefits rather than improving wages. Second, unions, such as ours, have been unable to negotiate family health care coverage for many low-wage workers—because it is too expensive for employers that must compete with non-union employers who do not provide any health care benefits at all.

Here are the facts:

- According to a report recently released by the prestigious Robert Wood Johnson Foundation, family health insurance premiums in Oregon increased 38.3% (adjusted for inflation) from 2001 to 2005, while the median income of the families covered by those policies declined 1.7%.

- State spending for health care for state employees represented by SEIU Local 503 increased 26% (adjusted for inflation) from 2004 to 2008, while worker hourly wages for those with greatest longevity with the state increased only 2% and wages for some workers actually declined, after inflation.[5]

- Janitorial contractor spending for health care for workers represented by SEIU Local 49 under the Master Janitorial Contract increased 21% (adjusted for inflation) from 2004 to 2007, while worker wages, for those with greatest longevity with their employers, actually declined 4.8%, after inflation.[6]

This situation is unsustainable. Employers cannot afford the increases in health care cost, and workers cannot afford reductions in real take-home pay. So, SEIU has found it necessary to work with others in our state and region to control increases in health care costs.

Unbridled expansion of hospital facilities in our community drives up the costs we pay for health services and health insurance.

One of the most important factors driving the rapid increase in what we spend for health care--as a community, as employers, and as families—is the fact that the few large corporations that provide hospital services in our community are pouring money into building new facilities, often duplicating the services already provided at other hospitals. These corporations tend to choose to

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[5] May 2008 e-mail exchange with Paul McKenna and Rich Peppers, members of the Public Employee Benefit Board, and review of collective bargaining agreements.
[6] May 2008 e-mail exchange with Alice Dale, trustee of the SEIU Local 49 Welfare Trust, and review of the applicable collective bargaining agreement.

build and expand facilities based on what will be most profitable for their individual businesses rather than based on what the community in fact needs. As a consequence, the community has excess capacity to provide the services that happen to make a lot of money for hospital corporations (like orthopedic, cardiac, and cancer treatment) and a dearth of desperately needed facilities to provide mental health and primary care services.

The costs of constructing whatever facilities hospitals choose to build are passed on to us in the form of higher prices for hospital care and health insurance premiums. Moreover, once built, hospitals are committed to maximizing the use of these facilities—even when that means encouraging patients to undergo diagnosis and treatment that is unlikely to improve their health or quality of life. This supply-driven demand likewise drives up what we pay for health insurance.

A new hospital on the 145 acres located north of Oregon Highway 212 and west of SE 162nd Avenue is likely to drive health care costs up.

SEIU is concerned that zoning land within the City of Happy Valley for construction of a new hospital could hurt union members and other residents of the Portland metropolitan area by driving up the cost of health care generally and threatening the quality of hospital care. A new hospital would compete for the already scarce supply of skilled hospital workers and reduce the volume of complex procedures done at all area hospitals, thereby undermining the ability of any one hospital to develop the expertise to deliver the best care to patients.

Excess supply of hospital beds increases cost without improving quality.

National research shows that when a community's supply of hospital beds exceeds a relatively low baseline level, additional beds are highly correlated to higher levels of hospital utilization and higher levels of health care spending. Moreover, the higher levels of utilization and spending do not seem to produce better health outcomes; if anything, over-treatment related to over-supply of health care facilities seems to produce worse results for patients! (In this regard, please see the discussion at page 4 of "Costly Silence" and the testimony of economist Bryce Ward.)

Our community has an ample supply of hospital beds that is likely to be sufficient for many years to come.

There is no current need for additional hospital facilities to serve this area of Clackamas County. Happy Valley residents are within easy travel distance to four hospitals, three of which have a great deal of under-utilized capacity. Willamette Falls Hospital in Oregon City and Providence's hospital in Milwaukie fill less than half of their available beds on the average day. Adventist Hospital in southeast Portland fills only 65% of its beds, and Kaiser Sunnyside Hospital, located at the northern edge of Happy Valley, although operating closer to capacity, is expanding its facilities. (See figure 1 below.)

Figure 1. Hospitals located near Happy Valley, Oregon

Hospital	County	Miles from Rock Creek site[7]	Staffed beds (2006)[8]	Occupancy rate (2006)[9]
Kaiser Sunnyside	Clackamas	4.0	182	80%
Willamette Falls	Clackamas	5.1	91	48%
Providence Milwaukie	Clackamas	7.4	60	49%
Adventist	Multnomah	8.5	214	65%

While the population of the Happy Valley-Damascus-Boring area is expected to grow substantially in the coming years, there is no reason to expect that additional hospital beds will be needed in the next 15 or 20 years.

The Oregon Department of Human Services, in its final order approving an application for a certificate of need for a specialized psychiatric hospital facility in Washington County, noted that based on the data supplied by the applicant, "in 2010 there will be a surplus of 1,026 beds in the [tri-county] area, by 2015 there will be a surplus of 621 beds, and that by 2020 there will still be a surplus of 126 beds in the tri-county area. Thus there is no demonstrable need within the planning horizon for adding an additional 77 inpatient beds to the area." *Ascend Health Corporation, CN #654 (May 5, 2008).*

A study published three years ago by EcoNorthwest, a regional economic consulting firm, reached the same ultimate conclusion. Whereas the Department of Human Services analysis examined the adequacy of currently available capacity to serve the region's projected future hospital bed needs, EcoNorthwest added planned hospital bed additions at existing hospitals to the equation. They concluded that there will be a large hospital bed surplus for the next 20 years and beyond—even if no new hospitals are built.[10]

Even Providence Health & Services, which is advocating zoning that gives them the privilege of building a hospital in the Rock Creek Area while excluding many other uses, has questioned the need for new hospital beds in the Portland Metropolitan area. In a March 2006 letter to the State Department of Human Services contesting Kaiser Permanente's application to build a hospital in Washington County, Providence noted that 700 new hospital beds would come online in the region in the next two years and urged the state to take a close look at whether there was need for additional beds. Unless Providence was simply trying to block a competitor, they share SEIU's skepticism about the need for new facilities in our region. (See attached letter of Russ Danielson dated March 16, 2006.)

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[7] Calculated with great circle formula using radians; addresses from http://maps.google.com; conversions to latitude/longitude from http://www.batchgeocode.com/lookup/

[8] Hospital Databank, FY 2006, Office of Oregon Health Policy and Research.

[9] Office of Oregon Health Policy and Research, Hospital Databank 2006, occupancy = Grand Total Patient Days / (365 * Beds Available).

[10] Randy Pozdena and Robert McGuirk, "Market for Hospital Beds" (EcoNorthwest 2005). The Executive Summary to this report is attached.

The predictable consequences of unnecessary hospital construction in our community are grave.

Inasmuch as the supply of hospital beds is sufficient for now and the foreseeable future, building a new hospital in our community will have one or more of the following grave consequences for our community:

- The costs to all of us for health services and health insurance will go up when the costs of constructing and equipping a new hospital are added to the high prices already paid by area residents. As Bart McMullan, MD, President of Regence BlueCross/BlueShield of Oregon put it in a recent panel discussion, excessive hospital construction is a "hidden tax" on consumers and employers.[11] If Providence actually builds a hospital the size of St. Vincent Hospital here in Happy Valley, that tax bill will exceed $600 million in 2007 dollars.[12]

- The cost of health care will increase further when all area hospitals, with which the new hospital competes for the same patients, seek to maintain their current utilization levels by encouraging patients to use more services than necessary—just to maintain their revenue streams. It's natural and, as noted above, it is a documented phenomenon around the county.

- The new hospital will compete with Willamette Falls, Providence Milwaukie, Adventist Hospital, Kaiser Sunnyside, and other metro area hospitals, drawing away patients as well as physicians and other skilled hospital professionals from those facilities. In the words of Shari Kinghan, a spokesperson for Willamette Falls Hospital, "Providence's claim that the project will create 4,000 *new* jobs is not an accurate assessment. It would simply shift the medical work force, drawing from existing staff in other facilities from across the region, accelerating the labor shortage, and driving up medical costs for patients and employers across the board."[13] If one or more of the existing area hospitals were to downsize or close as a consequence of this financial squeeze, our community would experience a loss of hospital jobs and services and, in the case of Willamette Falls, the loss of an independent community hospital with a unique commitment to our community.

Local jurisdictions cannot count on the state's certificate of need program to protect the interests of local residents in efficient provision of health services

SEIU has consistently supported the state of Oregon's certificate of need program and advocated legislative action to strengthen it. The program, however, is not strong enough to protect the interests of Oregonians in access to efficient delivery of health services.
First, the program does not have enough of a track record to inspire confidence in its ability to protect the public. For the last two decades, the Legislature has repeatedly cut back on the scope of the program; as a result, the agency has ruled on only four hospital applications in the last

[11] Comments delivered at the Oregon Health Forum's Third Annual Insurance CEO Roundtable (10/26/05).
[12] See page 9 of "Costly Silence."
[13] Oregon Health News, February 2006.

twenty years—all in the last three years. Second, the program is one of the weakest in the country in that it allows a great deal of hospital construction to occur without review. See Piper, "The CON Matrix of Relative Scope and Review Thresholds (2007) (attached). Third, the program has been resourced very poorly: One part-time employee is responsible for reviewing all applications submitted by both hospitals and long-term care facilities from around the state. Fourth, the program can easily be gamed. For example, the multi-state hospital corporation that operates 423-bed Sacred Heart Hospital in downtown Eugene was able to build a brand new 362-bed hospital at a cost of over $350 million dollars and to close the downtown hospital without applying for a certificate of need because the new facility was within the old hospital's "service area." So, the most expensive hospital construction program in Oregon history is taking place with no state regulatory oversight at all.

The proposal to zone the 145 acres located north of Oregon Highway 212 and west of SE 162nd Avenue to allow a hospital as a permitted use should be rejected.

The proposed zoning of the 145 acres located north of Oregon Highway 212 and west of SE 162nd Avenue should be rejected. The proposal would give Providence Health & Services a blank check to build whatever kind of hospital facility they choose whenever they choose without any reciprocal commitment from Providence to build a facility that meets community needs—or indeed any commitment from them to build in Happy Valley at all. Providence Health & Services is a multi-state hospital system with an ever-changing business strategy. The system is committed to its own bottomline—not to any particular community. It is not in the interest of Happy Valley, its residents, or residents of the surrounding communities to approve a lopsided deal that gives the community no guarantees.

We urge the Planning Commission to recommend a different kind of zoning that permits a set of uses better calculated to bring new jobs to the region. If the new zone allows a hospital, it should allow a hospital as a conditional use and require an applicant for a conditional use permit to establish that the hospital facility they intend to build will satisfy demonstrated health care needs of this community without driving up health care costs. Such zoning would empower the City to protect its stake in bringing the right set of health care services to the community.

Thank you.

Executive Summary

The Market for Hospital Beds:

Performance of Portland Versus Other Markets

Randall Pozdena, PhD, Managing Director, ECONorthwest
Robert McGuirk, Principal, RM Healthcare Consulting

Background:

News stories in the metro area the past few years have suggested that perhaps more hospitals will be needed in the foreseeable future. The facts contradict this claim.

The adequacy of hospital bed capacity is central to public policy toward health care in Oregon in general, and the Portland metropolitan area specifically. If the market for health care services operated like the theoretical, competitive economic paradigm, one could rely on private decisions by providers in determining the appropriate supply of hospital beds. Consumers of health care services, in such a hypothetical model, would be paying for their care directly and the resulting consumer discipline on provider costs would ensure that the observed supply of beds was economically efficient. That is, consumer sovereignty would elicit the appropriate balancing of consumer benefits and provider costs.

In fact, however, in the post-war period, the mechanism changed by which consumers of health care services paid for the services. In general, the proliferation of employer- and government-provided health insurance made the consumer become less cost-conscious. Indeed, whereas in the immediate post-war period government was primarily concerned that there were too few hospital beds, in more recent years, government has become concerned about over-expansion of hospital capacity.

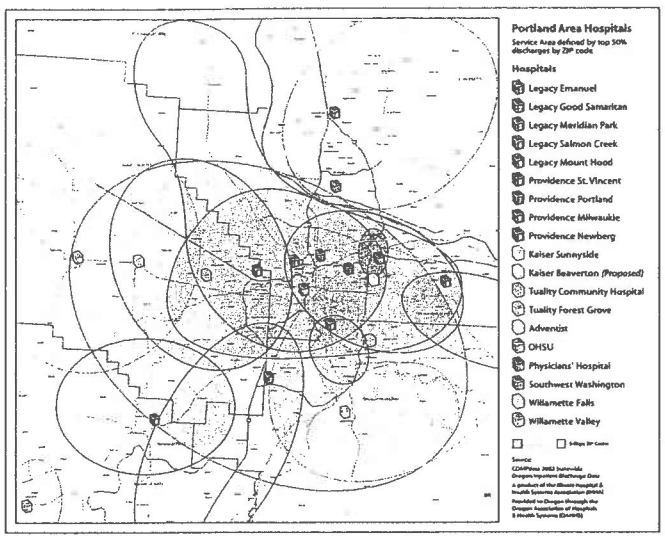
Methodology:

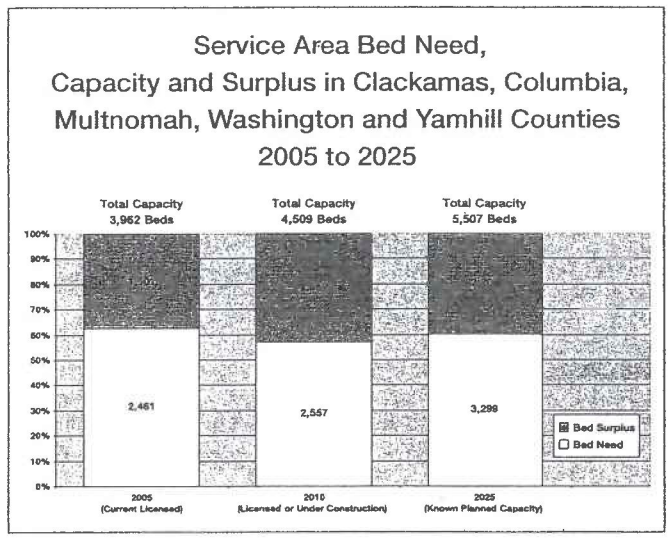
This report analyzes the metro hospital service area (Clackamas, Clark, Multnomah, Washington, and Yamhill counties) from two empirical perspectives. First from the published actual current licensed beds, plus those currently under construction, and future known capacity of existing facilities versus the demand for hospital beds generated by population growth and aging through the year 2025, including a summary of current applicable Oregon Certificate of Need (CON) law. And secondly, as a comparison of Portland metro area hospital bed supply versus similar urban areas nationally to further test that current supply trends are within expected limits. Also included is a statistical analysis of the impact of the concentration of hospital ownership locally among a few large corporations and its affect on health care costs and Certificate of Need regulation. The findings of both analyses have broad implications for future public policy at the city, region, and state level as it relates to new hospital construction and abating rapidly rising health care costs.

Findings:

- All metro communities are presently served by multiple hospitals *(see map on reverse)*.
- Existing hospitals have the capacity to meet all foreseeable future demand *(see table & graph on reverse)*.
- The concentration of hospital ownership contributes to higher costs.
- Excess hospital beds lead to increased utilization and cost.
- CON is less effective in areas with large influential hospital systems.
- Expanding existing hospitals costs half that of building new ones.
- Hospital expansion tends towards communities with higher income/insurance rather than need.

April, 2005





Metro Area Bed Supply By Hospital

(Known hospital expansion plans[1]—licensed, under construction & shelled/planned capacity—2005-2025)

HOSPITAL	2005	2010	2015	2020	2025
CLACKAMAS COUNTY					
Kaiser Sunnyside Medical Center	196	328	328	328	328
Legacy Meridian Park Hospital	150	150	210	210	270
Providence Milwaukie Hospital	77	77	77	77	77
Willamette Falls Hospital	143	143	213	283	283
Subtotal	**566**	**698**	**828**	**898**	**958**
COLUMBIA COUNTY					
Columbia County Health District	0	15	15	15	15
Subtotal	**0**	**15**	**15**	**15**	**15**
MULTNOMAH COUNTY					
Adventist Medical Center	302	302	453	453	604
Legacy Emanuel Hospital & Hlth Ctr	554	554	554	554	554
Legacy Good Samaritan Hosp & Med Ctr	539	539	539	539	539
Legacy Mount Hood Medical Center	115	115	115	115	115
OHSU Hospital	582	702	702	702	702
Physicians' Hospital[2]	39	39	39	39	39
Providence Portland Medical Ctr	483	623	623	623	623
Subtotal	**2,614**	**2,874**	**3,025**	**3,025**	**3,176**
WASHINGTON COUNTY					
Kaiser Washington County	0	0	80	196	196
Providence St Vincent Medical Ctr	451	591	591	591	591
Tuality Healthcare	215	215	335	335	455
Subtotal	**666**	**806**	**1,006**	**1,122**	**1,242**
YAMHILL COUNTY					
Providence Newberg Hospital	36	36	36	36	36
Willamette Valley Med Ctr	80	80	80	80	80
Subtotal	**116**	**116**	**116**	**116**	**116**
TOTAL	**3,962**	**4,509**	**4,990**	**5,176**	**5,507**

NOTE: For purposes of Oregon CON analysis. Does not include SW Washington Medical Center's 442 beds or Legacy Salmon Creek's 165 beds.

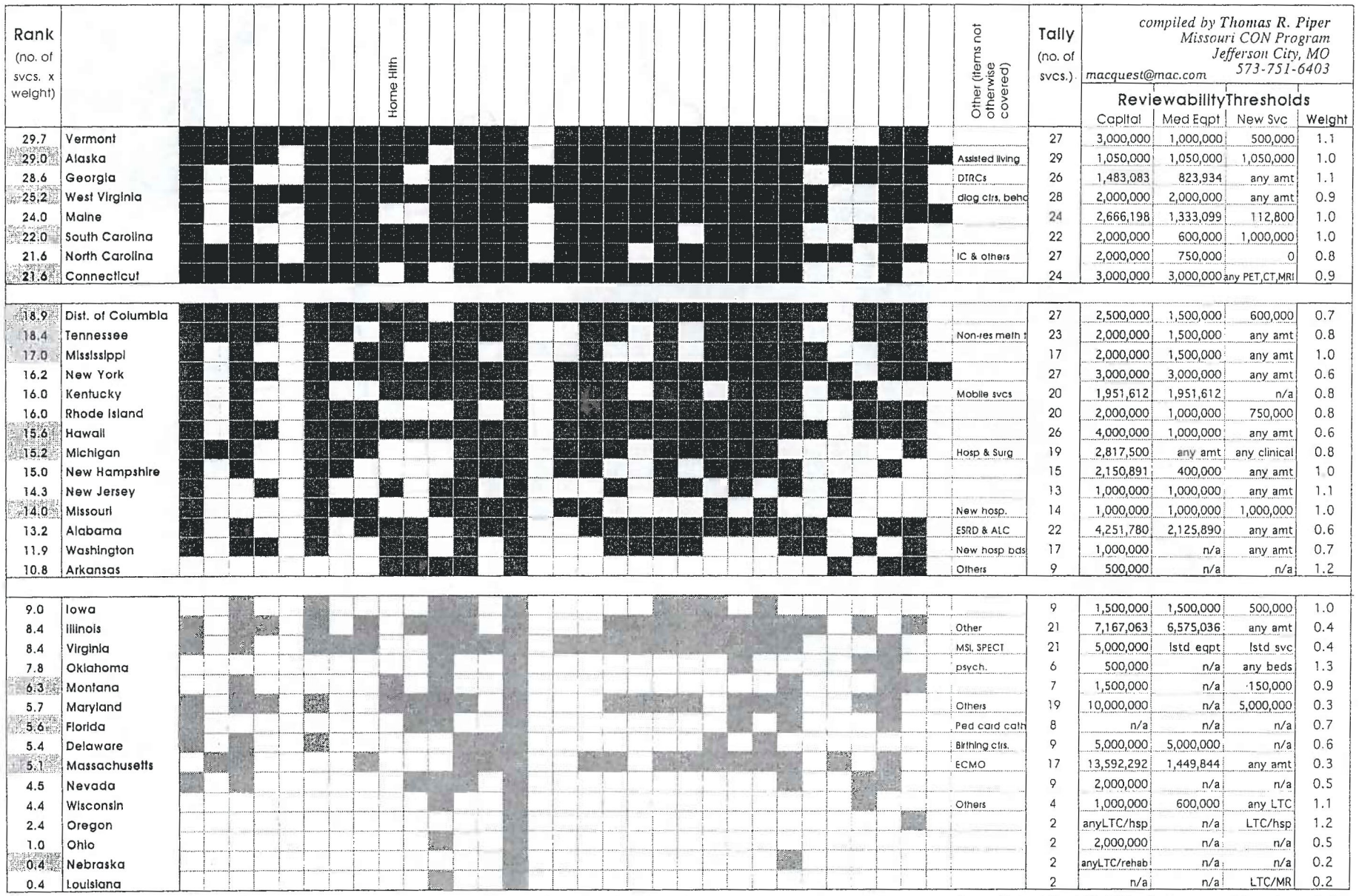
In 2003, 30% of hospital care for residents of Clark County, Washington, was provided by Portland metro area hospitals. This is expected to decline with the current expansion of beds in Clark County.

1. Future site capacity is not reported for Providence Milwaukie, Providence Newberg, Willamette Valley Medical Center, Legacy Good Samaritan, Legacy Emanual and Legacy Mount Hood.
2. Physicians' Hospital is currently licensed for 39 beds, but was previously at 209 before Woodland Park closed.

The CON Matrix of
2007 Relative Scope and Review Thresholds: CON Regulated Services by State

(summarized from 2007 information collected by email directly from Certificate of Need directors -- also see related map depicting relative levels of regulation across the United States)

compiled by Thomas R. Piper
Missouri CON Program
Jefferson City, MO
573-751-6403
macquest@mac.com

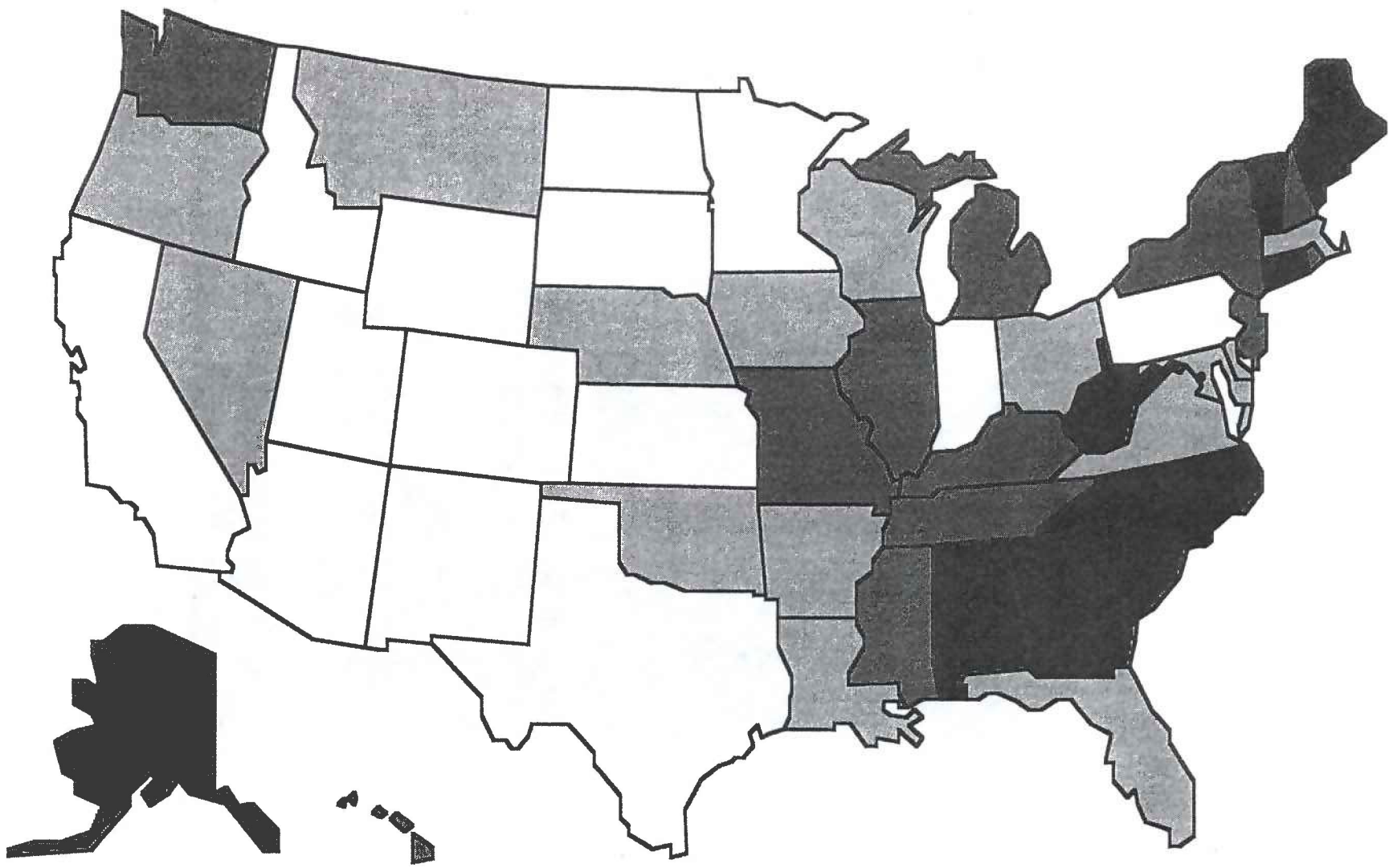


Rank (no. of svcs. x weight)		Home Hlth	Other (items not otherwise covered)	Tally (no. of svcs.)	ReviewabilityThresholds Capital	Med Eqpt	New Svc	Weight
29.7	Vermont			27	3,000,000	1,000,000	500,000	1.1
29.0	Alaska		Assisted living	29	1,050,000	1,050,000	1,050,000	1.0
28.6	Georgia		DTRCs	26	1,483,083	823,934	any amt	1.1
25.2	West Virginia		diag ctrs, behc	28	2,000,000	2,000,000	any amt	0.9
24.0	Maine			24	2,666,198	1,333,099	112,800	1.0
22.0	South Carolina			22	2,000,000	600,000	1,000,000	1.0
21.6	North Carolina		IC & others	27	2,000,000	750,000	0	0.8
21.6	Connecticut			24	3,000,000	3,000,000	any PET,CT,MRI	0.9
18.9	Dist. of Columbia			27	2,500,000	1,500,000	600,000	0.7
18.4	Tennessee		Non-res meth t	23	2,000,000	1,500,000	any amt	0.8
17.0	Mississippi			17	2,000,000	1,500,000	any amt	1.0
16.2	New York			27	3,000,000	3,000,000	any amt	0.6
16.0	Kentucky		Mobile svcs	20	1,951,612	1,951,612	n/a	0.8
16.0	Rhode Island			20	2,000,000	1,000,000	750,000	0.8
15.6	Hawaii			26	4,000,000	1,000,000	any amt	0.6
15.2	Michigan		Hosp & Surg	19	2,817,500	any amt	any clinical	0.8
15.0	New Hampshire			15	2,150,891	400,000	any amt	1.0
14.3	New Jersey			13	1,000,000	1,000,000	any amt	1.1
14.0	Missouri		New hosp.	14	1,000,000	1,000,000	1,000,000	1.0
13.2	Alabama		ESRD & ALC	22	4,251,780	2,125,890	any amt	0.6
11.9	Washington		New hosp bds	17	1,000,000	n/a	any amt	0.7
10.8	Arkansas		Others	9	500,000	n/a	n/a	1.2
9.0	Iowa			9	1,500,000	1,500,000	500,000	1.0
8.4	Illinois		Other	21	7,167,063	6,575,036	any amt	0.4
8.4	Virginia		MSI, SPECT	21	5,000,000	lstd eqpt	lstd svc	0.4
7.8	Oklahoma		psych.	6	500,000	n/a	any beds	1.3
6.3	Montana			7	1,500,000	n/a	150,000	0.9
5.7	Maryland		Others	19	10,000,000	n/a	5,000,000	0.3
5.6	Florida		Ped card cath	8	n/a	n/a	n/a	0.7
5.4	Delaware		Birthing ctrs.	9	5,000,000	5,000,000	n/a	0.6
5.1	Massachusetts		ECMO	17	13,592,292	1,449,844	any amt	0.3
4.5	Nevada			9	2,000,000	n/a	n/a	0.5
4.4	Wisconsin		Others	4	1,000,000	600,000	any LTC	1.1
2.4	Oregon			2	anyLTC/hsp	n/a	LTC/hsp	1.2
1.0	Ohio			2	2,000,000	n/a	n/a	0.5
0.4	Nebraska			2	anyLTC/rehab	n/a	n/a	0.2
0.4	Louisiana			2	n/a	n/a	LTC/MR	0.2

Disclaimer: Rank order relates to volume of items reviewed, NOT intensity of analysis or conclusions which are based on Criteria and Standards and decisions

Source: Updated March 22, 2007, using most recent information available

a Map of the
2007 Relative Scope and Review Thresholds: CON Regulation by State
(a geographic illustration of the CON matrix)



revised March 22, 2007

Weighted Range of Services Reviewed (see left side of matrix)

no CON | 0-9.9 | 10.0-19.9 | 20.0-44.0

1235 N.E. 47th Avenue
Suite 299
Portland, OR. 97213

March 16, 2006

Received
MAR 17 2006
Public Health

Jana Fussell, Coordinator
Certificate of Need Program
Department of Human Services
800 NE Oregon Street
Portland, OR 97232-2162

Dear Ms. Fussell,

Providence Health System (Providence) has had an opportunity to review the Certificate of Need application from Kaiser Foundation Hospitals for a new hospital in Washington County. In addition, we have reviewed the Dec. 23, 2005 request from the Department of Human Services, outlining 18 areas in the application that required further explanation or data.

We would like to focus our comments on contributing to a thorough, transparent knowledge about health care resources in the Washington County and Portland metro areas. Providence continues to be committed to health care discussions that focus on: (1) providing the greatest good for the community, and (2) providing forthright discussions with the patients and the communities we serve.

Enclosed is information that merits attention in this Certificate of Need process. This information is consistent with the provisions of OAR 333-545-0000, which apply to potential health care capital investment during a concurrent review of the most appropriate, highest quality services to the public. We trust that the enclosed information will assist the department in its analysis of Kaiser's application and also contribute to an informed and thorough public dialog.

Providence asks the department specifically to consider the following:

a) Kaiser Foundation Health Plan of the Northwest has contracted with Providence St. Vincent Medical Center (Providence St. Vincent) for the hospitalization of its enrollees needing tertiary cardiac care, tertiary perinatal and neonatal care, and behavioral health services for approximately 20 years. Additionally, Providence St. Vincent has served as the exclusive general acute care hospital for Kaiser's Westside patients since 1996. In 2005, of the 37,550 discharges at Providence St. Vincent, 8,599 – or 23 percent – were Kaiser enrollees.

   In 2003, Kaiser notified Providence that when the current contracts expire (12/31/06 for cardiac services and 12/31/07 for all other services) it would no longer contract with Providence St. Vincent other than by interim agreement. As a

result of this contract change, we expect that patient days at Providence St. Vincent will decline by more than 33,000, or approximately 22 percent, in a transition period that begins in January 2007. This ultimately will result in approximately 90 additional beds available to serve the community from Providence St. Vincent.

b) Kaiser's application failed to consider the **700 new beds** being added to the Portland metro area in the next two years, prior to the opening of the proposed new facility:

- Providence St. Vincent is adding 72 new beds to its current hospital. These beds will be operational by the end of 2006.
- Providence Portland Medical Center will add 54 new beds (net increase) on its campus in January 2008.
- Kaiser is adding 156 new beds (per KFH CN application, pg. 26) at Kaiser Sunnyside Medical Center in 2007.
- Oregon Health & Science University is adding 120 new beds in 2007.
- Legacy Health System recently opened a new 216-bed hospital in Salmon Creek in Vancouver. Southwest Washington Medical Center is adding a net increase of 82 beds. Although in a different state, the bed capacity of these two hospitals definitely will reduce occupancy rates of existing Portland providers. Furthermore, bed capacity in Vancouver is relevant to this discussion, since Kaiser's membership numbers include Clark County enrollees.

c) Kaiser's proposed Westside Hospital patient day projections and financial feasibility of the proposed hospital are predicated on its projected enrollment data contained in CN Form 5 (per KFH CN application, pg. 61). This data depicts the most recent five-year history of flat-to-slightly-declining enrollment. In its future projections, however, Kaiser increases enrollment from 472,523 enrollees in 2005 to 590,617 in 2010 – a significant increase of 25 percent, or 5 percent annually. The metro area population (including Clark County) is projected to increase by only 1.3 percent annually during this period. Kaiser then projects another 10 percent increase between 2010 and 2013. All of these membership projections from Kaiser represent a significant departure from its recent five-year history. There is no accompanying data to support how Kaiser would achieve such an optimistic increase.

d) On the issue of charity care, Kaiser's record is vague. Other metro area health systems regularly provide data about their levels of charity care – Providence Health System in Oregon, for example, provided $55 million in direct charity care costs in 2005 (included in this is $18.2 million from Providence St. Vincent).

Kaiser, however, has failed to provide data on its direct charity care costs. Absent that critical information, the community is unable to ascertain Kaiser's contributions to charity care. Furthermore, Kaiser has not provided its financial assistance policy for public reporting. Kaiser currently participates in the Oregon Health Plan (OHP) as a Physician Care Organization (PCO), not as a Fully Capitated Health Plan (FCHP), which means Kaiser assumes risk for physician care and pharmacy services only – not for hospital care. There has never been a more important juncture in our region's history to address the issue of caring for the poor and vulnerable. Consider the following statistics for Washington County:

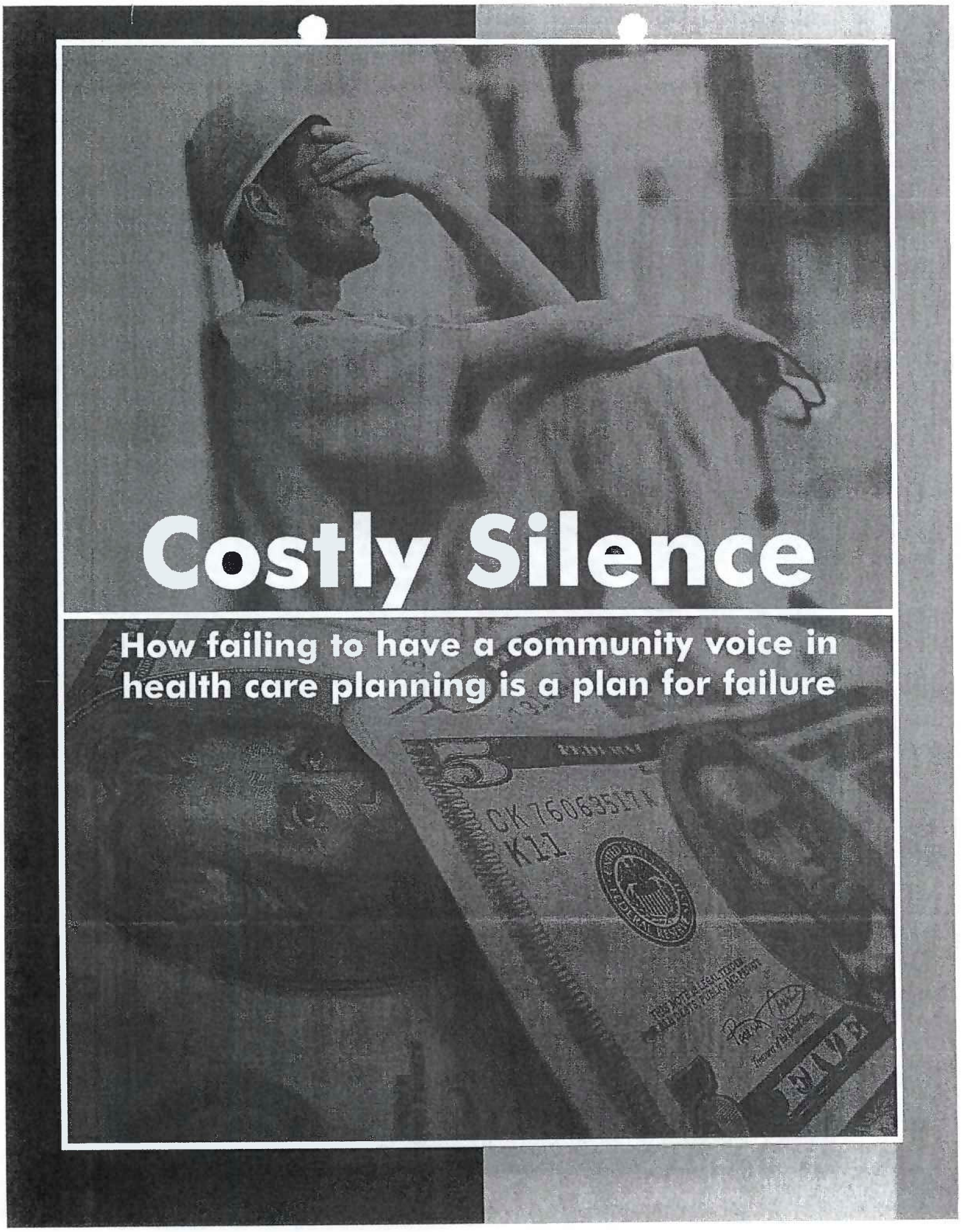
- Between 2000 and 2003 Washington County's population increased by 7.7 percent (Washington County Health & Human Services).
- In 2000, the estimated uninsured in Washington County was 8.8 percent of the population (Office of Oregon Health Policy & Research).
- In 2002, the rate of uninsured in Washington County had reached 12.8 percent – a 40 percent increase from two years earlier (OHPR report, Oregon's Uninsured: Summary of Findings from the 2002 Oregon Population Survey).
- By January 2005, the uninsured rate in Washington County had reached 16.5 percent, or nearly 80,000 people (OHPR).

e) Kaiser's Oregon Health Plan (OHP) enrollment is currently about 5,000, compared to its total metro-area enrollment of 467,089 (Oregon Insurance Division, 3rd quarter 2005). Its enrollment is presently limited to Clackamas, Marion, Multnomah and Polk counties. Kaiser has chosen not to care for OHP patients in Washington County, the geographic location for its proposed new hospital. Kaiser's Medicaid enrollment (according to the State Insurance Commission) has declined from more than 35,000 in December 2000 to only about 5,000 (according to the Oregon Office of Medical Assistance Program) in January 2006.

To summarize, Providence's primary concerns with the current Certificate of Need application from Kaiser focus on: (1) the need for additional beds, considering there are 700 new beds already in place or being planned, (2) the need for realistic and data-supported Kaiser membership projections, and (3) the need for Kaiser to share the responsibility of covering the growing number of uninsured patients in Washington. Providence is deeply committed to the patients and communities we serve – and greatly appreciates the opportunity to participate in this important public discussion.

Sincerely,

Russ Danielson
Chief Executive
Providence Health System - Oregon


Costly Silence
How failing to have a community voice in health care planning is a plan for failure

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"Costly Silence" was prepared for the Make Health Care Work Campaign by Service Employees International Union (SEIU), Local 49. The Make Health Care Work Campaign is a coalition of caregivers, health care advocates and community leaders working to give the community a voice in health care planning. Learn more about our plan and how you can help at: www.MakeHealthCareWork.org.

Introduction

A failure to plan for our health care needs has resulted in a failing health care system here in Oregon and across America. Health care businesses spend millions of our dollars – our tax dollars, our insurance premium dollars, our paychecks – on expensive new buildings, high-end equipment and duplicative services focused in affluent communities. Yet they leave more and more Oregonians without basic health services, without primary care physicians who will see them, without access to mental health services and without timely access to emergency rooms.

A lack of planning or accountability has led to excess capacity for profitable services like surgery, cancer treatment and diagnostic radiology – built at our expense – and glaring deficits in capacity for unprofitable services like psychiatric care. It results in higher prices for the well-insured who cover the tab of those who can't pay, and less access to some services, especially for the uninsured and underinsured. It results in money being shifted away from direct patient care to fund new construction that communities don't need in order to help health care companies increase their market share. The only ones who benefit from this lack of community-based planning are the health care businesses who increase hospital costs and insurance companies who pass along those costs in the form of higher premiums.

None of this should be surprising. We have no process in place to determine what our community health care needs are, no voice in deciding whether health care facilities meet these needs, and no way to hold health care companies accountable to spending our health care dollars wisely. It is no wonder that the system doesn't meet our needs.

For half a century, economists have been telling us that health care markets are unusual. Because patients depend on physicians to decide what they need and because insurance insulates both patients and physicians from cost, the rules of supply and demand do not work to give us what we need at a price we can afford. We have ignored these economists and hoped that the health care industry would act in our best interests without an organized community to counteract the defects in the market system.

This lack of planning isn't the Oregon way. In Oregon, we protect our quality of life by planning for livable communities that meet our needs. All levels of government engage citizens in planning to protect farm and industrial land, to address transportation needs and to anticipate future growth. It is time to plan for our health as well.

As the population in the Portland metropolitan area grows, so will our need for hospitals, clinics, nursing homes, and other services. Rather than wasting our health care dollars by paying for each of the Portland metropolitan area's major hospital systems to duplicate the same profitable services and fill the same need, consumers, purchasers and caregivers should come together to plan for what health care facilities and services we need and where we need them—and to demand that our money not be spent to build what our community already has or doesn't need.

We pay more and more for a health care system we don't control and that doesn't self-regulate

Tax dollars fund our health care system, yet we have no input

Our Oregon state government spends more for health care than for schools or roads.[1] The federal government's Medicare and Veteran's health programs pay Oregon hospitals, doctors and other health care providers even more money than the state spends. In total, government, employers and individuals spend more than $17 billion a year on health care bills in Oregon, and more than $5 billion of it on hospitals.[2]

Nationally, between private and government payments, we now spend 16 of every 100 dollars on health care, more than any other nation.[3] If historical trends continue, says Brookings Institution economist Henry Aaron, health care spending as a portion of the GDP could double to more than 30% in the next quarter century or so.[4]

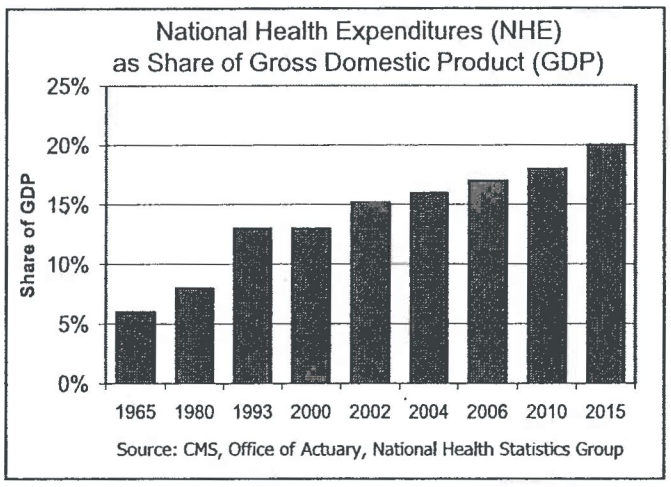


FIGURE 1

Health care spending is also rising as a percentage of Oregon's gross state product, yet more Oregonians are without insurance than at any time since 1992.[5] We seem to be paying more and getting less access to care in return.

Our tax dollars – through Medicare, Medicaid, and other public programs – pay 44% of all health care services bills, and 56% of hospital bills (Figures 2, 3).[6]

In addition to directly paying health care bills with public tax dollars, the public subsidizes the health care industry in two other ways. Most Oregon hospitals and many hospital-owned clinics are considered non-profit,

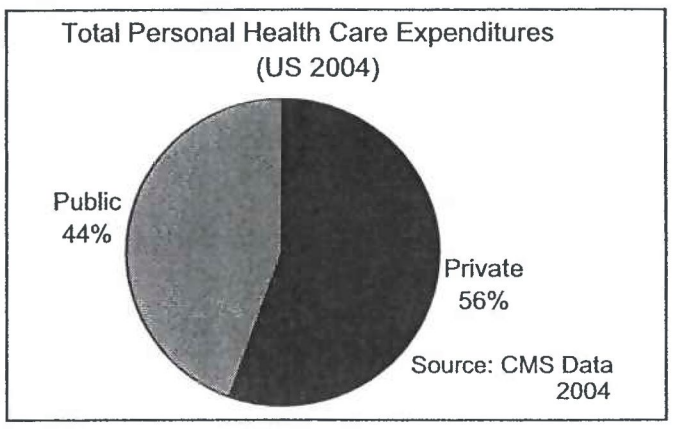


FIGURE 2

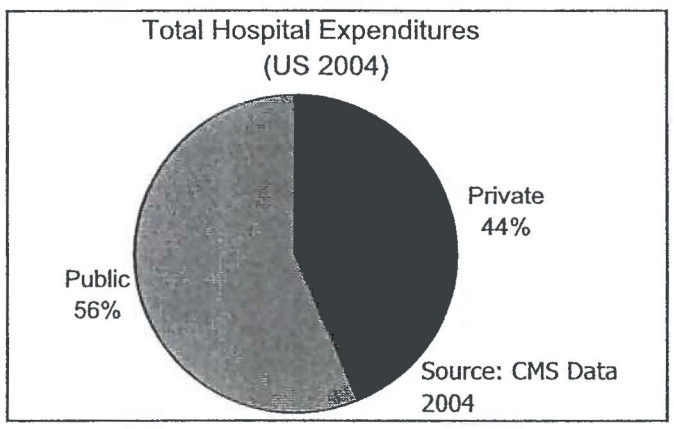


FIGURE 3

which means they are not obligated to pay taxes. But that doesn't mean they don't earn a profit – their revenues do exceed what they spend to operate. By allowing them to operate as non-profit organizations, we relieve them of the burden of paying taxes in return for which they are expected to provide a public benefit. This shifts their share of the burden of supporting public services to other businesses—and to individual taxpayers. The other way we subsidize non-profit health systems is by issuing tax-exempt bonds that allow them to finance expansion more cheaply than they could by borrowing on Wall Street. Again, the public pays this in the form of lost tax revenue.

As taxpayers, we pay for our health care system, yet we have no voice in it. Health care businesses decide unilaterally how to spend our money. Too often, they spend on services that feed their bottom lines, instead of services that meet our health care needs.

With other services our tax dollars fund, we have a say in how our money is spent. Through our elected representatives, we decide as a community how much to

spend for schools and roads, where to put them and how to run them. We decide how often to collect the trash, when to build a library, whether our public safety dollars will pay for more fire fighters or better equipment.

Yet the billions of dollars we spend each year on our biggest budget item, health care, buys little influence over how that money is spent. Health care executives decide, away from the public eye, what services to provide and where to put them, which health care needs to meet and which to ignore. This lack of accountability is a recipe for out-of-control spending. No one is responsible for ensuring we spend health care dollars where they will do the most good for people. Even if health care companies want to fill the gaps in community health care infrastructure, there is no vehicle for identifying community needs and whether they are being met.

An increasing amount of our health care dollars are spent on building new facilities

Hospital systems have become the leading force behind soaring health care costs, surpassing even insurance and pharmaceutical companies. Growth in hospital spending accounted for 38% of the total increase in personal health care spending last year.[7] As we have documented in previous studies, this problem is particularly acute here in Oregon, which has become the second most expensive state in which to spend a day in a hospital.[8]

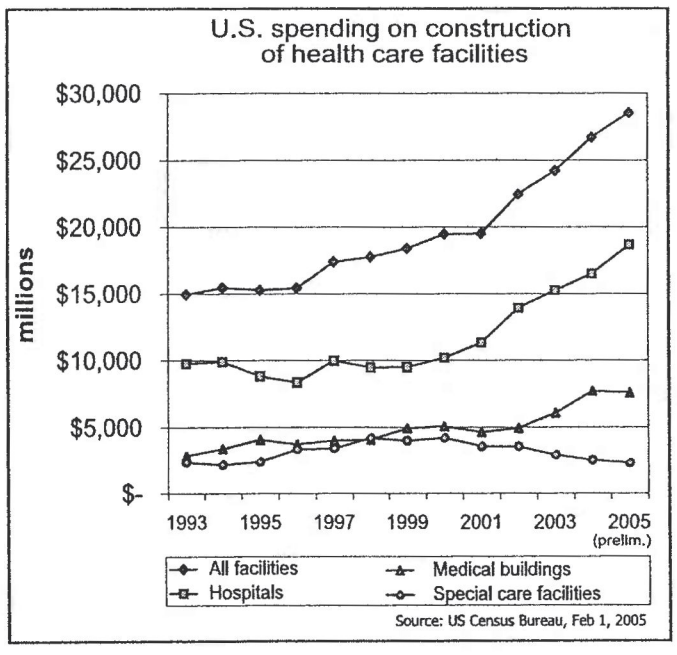


FIGURE 4

Hospital and health system expansion is a major culprit. The private health care industry spent 33% more on building new private facilities from 2000-2004 than in the previous five years—with hospital construction accounting for 75% of that increase. Total public and private construction spending on health care facilities in 2005 was predicted to reach $36.7 billion.[9]

Oregon Spending on Health Care Construction

Calendar years	Length of period	Health care construction spending [10]	Mean spending for this period
1999-2002	4 years	$386 million	$96.5 million/year
2003-2004	2 years	$793 million	$397 million/year

Source: Oregon Health News, 3/2005

FIGURE 5

In Oregon, the construction boom is even bigger than it is nationally. Annual hospital construction spending has quadrupled in the last few years, according to the Oregon Health News, averaging almost $400 million per year in 2003 and 2004.[11]

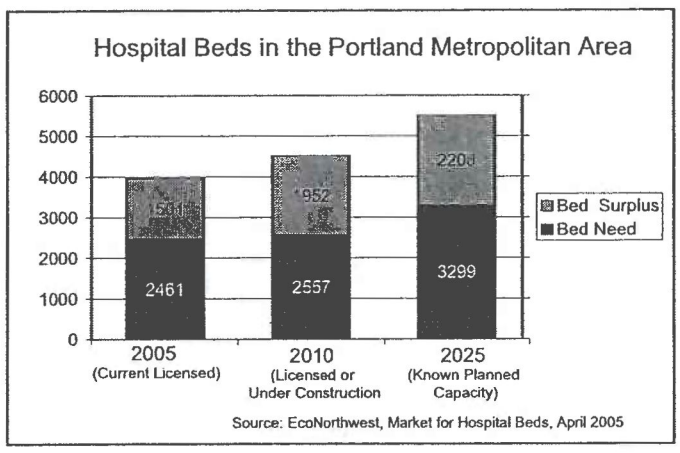
Much more spending looms ahead:

- PeaceHealth and McKenzie-Willamette Hospital will spend more than $600 million between them to build two new hospitals and rebuild an existing one in Lane County.
- Kaiser plans to spend $260 million to build a hospital in Washington County to provide general inpatient services for its growing west-side membership.
- Providence Health and Services plans to spend $1.1 billion system-wide on capital projects over three years, much of it in Oregon.[12] Oregon projects are likely to include medical centers, eventually including hospitals, in both Washington and Clackamas counties. [13]

Is this construction boom in the community's best interest? Probably not. While hospital administrators and public health advocates report bed shortages in certain specialty facilities, such as intensive care and psychiatric units, Oregon Association of Hospital and Health Systems records show that nearly 1 in 3 hospital beds operated in the Portland metropolitan area are unused on any given day.[14]

A recent report by a leading economic consulting

firm found that we currently have 1,501 excess hospital beds out of a total of 3,962 licensed beds in the Portland metropolitan area. The study projected the additional need for beds through 2025, based on population growth and the aging of the population. Even taking those factors into account, it found that the bed surplus is likely to grow to 2,208 by 2025 based on projected construction.[15]



Some hospitals are close to capacity. In 2005, Kaiser Sunnyside Hospital and Providence St. Vincent Medical Center reported 80% occupancy and OHSU reported 79% occupancy. However, most hospitals have relatively low occupancy rates. The Portland metropolitan area's other 10 hospitals had an aggregate occupancy rate of only 63%. The three non-Kaiser hospitals in Clackamas County, focus of a proposed large-scale expansion plan by Providence, had an occupancy rate of only 51%.[16]

Building more hospital beds, especially ones we may not need, is costly. Hospitals are spending an average of $1,290,000 per bed for new facilities and $500,000 per bed for additions to existing ones.[17] From the community's perspective, filling existing beds instead of building new ones would save millions of dollars.

Bart McMullan, MD, President of Regence BlueCross BlueShield of Oregon, charges that when hospitals expand their facilities, it is the consumer who pays. "I counted up last December how much money hospitals have already agreed to pay for capital expenditures, and they all have stories about their need. And I understand that. But in none of those cases did they go to their communities and ask for a vote. And communities are paying what I call a hidden tax and it's called premiums. And until we can begin to connect with each other about whether we as community members want to see those kinds of dollars—and they are our dollars—spent, I don't think we're going to get a good handle on it. The same thing holds true for other issues, such as the growth, the proliferation of diagnostic imaging centers and outpatient surgical centers. We're just passively, without understanding what we're doing, implicitly fueling an ever-rising cost of healthcare." [18]

The health care market is not a self-regulating market

Conventional wisdom tells us that the laws of supply and demand will ensure that suppliers provide what consumers want and that more competition equals lower prices. Why doesn't this work for health care?

Health care is, in the words of Business Week economics columnist Robert Kuttner, a "sick market," not a "free market." The "sellers" of health care services have "a degree of market power that compromises the competitive model – and raises prices." Consumers have neither the freedom to choose their insurers nor the knowledge needed to intelligently select the best health care "product." This creates a set of "perverse incentives" which may lead providers and insurers to sell us care we don't need or deny us necessary care.[19]

In a classic competitive market, demand creates pressure to increase supply. In health care, supply generates demand. Suppliers drive the demand for health care.[20] As a consequence, far more patients are hospitalized and undergo surgery and other medical treatments where there are many physicians and hospitals per capita than where there are few.[21]

"Most medical conditions are supply-sensitive," explains John E. Wennberg, lead researcher at the Dartmouth Atlas of Health Care. There is little variation in rates of hospitalization for conditions such as hip fracture for which medically appropriate best practice is well-defined. For conditions where the best practice is not as clearly defined or agreed upon, the rate of hospitalization increases as the number of available hospital beds per thousand increases. Essentially, when there are empty hospital beds, doctors are more likely to fill them. Sadly, while rates of hospitalization vary, mortality rates do not. So while higher hospitalization rates increase health care spending, they do not necessarily improve patient health.[22]

The prevalence of insurance enhances the supply-side pressure. Insurance performs the essential function of reducing the likelihood that patients will be denied the care they need due to the high cost of a treatment, but it

also makes both providers and patients less price sensitive. "Whereas the entrepreneur in a perfect market or nearly-perfect market maximizes profits by minimizing costs, the medical entrepreneur...maximizes profits by inflating costs or increasing volume... The consumer's impulse to argue is stifled by the fact that insurance pays."[23] Physician-driven demand for more costly services is hence unchecked by individual decisions.

Finally, in a classic market, competition among providers drives prices down and drives inefficient providers out of business. In health care, however, particularly in hospital care, competition does not serve to curb supply or drive down prices. As Paul Ginsburg, an economist with the Center for Studying Health System Change, recently told USA Today, "Unlike the telecommunications industry, where excess capacity leads to great prices for consumers...in health care, excess capacity often means the costs get folded into the rates everyone pays."[24]

The upshot is that hospitals and other providers compete by striving for greater market share, not by operating more efficiently and attracting patients by offering better quality for a lower price. As David Lansky, then-president of the Foundation for Accountability in Portland, put it to the Oregonian, "Doing more doesn't necessarily produce better health; it produces more revenue...And we just write the check."[25]

Lack of accountability leads health systems to provide the most profitable services in the most lucrative markets

Unmanaged growth and lack of accountability allow health systems to seek the best combination of services, facilities and locations for their bottom line. They harm our communities by:

- competing to provide services to the most lucrative mix of patients;
- providing an excess of profitable services and a deficit of less profitable services; and
- spending our money on a construction arms race designed to improve their market share.

Hospitals compete to provide services to the most lucrative mix of patients

Winning lucrative business means providing services for which government and private insurance pay significantly more than the cost of providing care. It also means attracting insured patients while avoiding uninsured patients and patients covered by Medicaid.

Oregon's largest public and largest non-profit health care institutions have been surprisingly blunt about their drive for highly profitable business. OHSU's strategic plan emphasizes efforts "to win a more profitable patient mix," make money on "cutting-edge treatments" and expand other "financially attractive markets such as cancer, women's health and cardiology" while "dialing back money-losing services and hiring specialists in lucrative departments such as orthopedics" all to get to a six percent bottom line.[26] In publications aimed at bond investors who fund hospital expansion, Providence has been surprisingly explicit in describing a similar business strategy. Providence Health System CFO Mike Butler stated last year that his company's business plan includes focusing capital investment on the company's "tertiary market medical centers and top five operating income-producing service lines."[27]

Indeed, OHSU and Providence appear to be locked in a competitive struggle which has more to do with market share and prestige than patient care. OHSU has been expanding its cancer treatment facilities (including partnering with Tuality Healthcare to open a new center in Hillsboro), while Providence Health & Services opened a competing radiologic oncology center at St. Vincent Medical Center in 2002 and is building a new cancer treatment facility at Providence Portland Medical Center.[28]

Not to be outdone, in 1999 Legacy Health System announced its intention to compete for cardiac patients by setting up a heart program with its cardiologists and cardiac surgeons as co-owners. "Legacy's Good Samaritan has long been a leader in cardiac care, and its cardiologists and surgeons recognized for their strength in research," wrote the Portland Business Journal at the time, "But in the lucrative specialty of cardiac care, Legacy runs second to powerhouse Providence Health System."[29] Since then, Legacy has added cardiac catheterization labs at Legacy Meridian Park and Legacy Mt. Hood Medical Center, its two small suburban hospitals, even though such services are already available in all of the area's larger hospitals.[30]

The quest for profitability involves the search for profitable patients, as well as profitable service lines. Three patients who receive identical hospital treatment, one privately insured, the second covered by Medicare, and the third by Medicaid, create very different business opportunities: private insurance will almost always provide the highest payment and Medicaid the lowest with Medicare somewhere in between.

Not surprisingly, hospitals avoid patients who are uninsured or covered by Medicaid and seek out patients covered by private insurance and Medicare. They further these objectives by locating in relatively affluent communities, and by delivering services provided primarily to patients who are more likely to have private insurance or Medicare coverage.

The number of hospital beds in the city of Portland is declining while growth is taking place in the suburbs. Bess Kaiser Hospital shut its doors in north Portland in 1997, when a very large surplus of hospital beds made it possible to provide cost-effective care for Kaiser patients at non-Kaiser hospitals in the metropolitan area.[31] Woodland Park and Eastmoreland hospitals, both located in east Portland, closed in 2004. Although Woodland Park Hospital reopened as Physician's Hospital without an emergency department the same year, the others have not been replaced.[32] Instead, new hospital construction is occurring in the suburbs, where there tends to be a more profitable payer mix.

Legacy built its Salmon Creek facility in suburban Vancouver. Kaiser is building in Hillsboro. Providence proposes to build a large new hospital in Happy Valley, a community with a median household income nearly

double the Portland-Vancouver metropolitan area average. [33] This trend toward building in the suburbs, even as the urban core maintains a high population and need for services, may foreshadow an increasing lack of access for urban residents if the community does not intervene.

"The current prevailing 'successful' business model in health care is one of consolidation – merger, acquisition and expansion to populations of affluence. What results is an industry in which key sectors – pharmaceuticals and hospitals especially – compete to control information to purchasers rather than to compete on the best outcomes or the best price. In fact, significant efforts are made to conceal meaningful outcomes and actual prices. The most successful drug companies and successful hospital systems are the best at doing this. We should not be surprised that others follow their lead, including physicians. Until we insist on a different approach we should not be surprised that the results remain the same," says John Santa, MD, Assistant Director for Health Projects at the Center for Evidence-based Policy at OHSU.[34]

"The current prevailing 'successful' business model in health care is one of consolidation – merger, acquisition and expansion to populations of affluence.... Until we insist on a different approach we should not be surprised that the results remain the same."
- John Santa, MD.

Health care construction serves the drive to expand profitable services

The expansion projects undertaken by health systems in the Portland metropolitan area have reflected the pursuit of competitive advantage and profitability that their strategic plans envisioned. Indeed, a reputable study of hospital profitability is probably a more accurate predictor of medical investment decisions than any health care need study.

Figure 7 (pg. 8) illustrates this point by examining the larger Portland metropolitan area health care remodeling and new construction projects reported to the state from 2002-05 in terms of their predicted profitability. The profitability of each project is rated based on a classification system of national indicators developed by Jill Horwitz and published in Health Affairs. Horwitz classified common medical procedures as relatively profitable and relatively unprofitable after reviewing the peer-reviewed literature, including studies such as those of the Medicare Payment Advisory Commission (the agency responsible for advising Congress and the President on setting Medicare reimbursement rates), and interviewing hospital administrators.[35]

This qualitative analysis takes into account the key factors that make a service profitable—the cost of providing services compared to what is charged for them; the likely coverage of patients seen for the particular type of service (commercial insurance, Medicare, Medicaid, or none); and the relationship between charges and actual payments (after contractual discounts) for each category of coverage. Horwitz also takes into account important secondary factors that affect hospital profitability, such as the perceived capacity of certain health services to attract a more attractive payer mix to a hospital.

Figure 7 shows that Portland metropolitan area hospitals are building facilities to house what their national counterparts expected to be profitable: high-end diagnostic, cardiac catheterization, laboratory, and surgical procedures. While hospitals are also upgrading and expanding emergency and nursing facilities, the figure suggests that Portland metropolitan area construction is skewed toward services of above-average profitability, rather than below-average profitability – by a ratio of almost 3 to 1.

This evaluation conservatively estimates the degree to which profitable services outpaced unprofitable services in recent expansion of projects because Horwitz, while stating unequivocally that almost all surgical and related services are "widely known to be hospital profit centers," only included two types of surgery in the list of services that is the basis of figure 7. (See Appendix).

Hospital systems are driving out the competition – at huge expense to consumers

Because treating some patients is much more profitable than treating others, hospital systems often expand in ways designed to take existing profitable business from competitors – even if there is no community need for that expansion – rather than expand in ways that fill gaps in access to health care. Such profit-driven expansion imposes a kind of medical monopoly tax on the whole community. Examples of efforts to monopolize profitable markets abound.

Since 1987, Providence has been absorbing small community hospitals, including hospitals in Hood River, Seaside and Newberg.[37] When Providence approached

Figure 7: Profitability of health services and incidence of acute care capital spending projects in the Portland Metropolitan Area – 2002-05 [36]

Hospital Service	Number of expansion projects (costing $1 million or more) involving this service
Relatively Profitable	**29**
Angioplasty	0
Birth room	0
Cardiac catheterization lab	1
CT Scanner	4
Diagnostic radioisotope facility	0
Extracorporeal shock-wave lithotripter	0
Fitness Center	0
MRI	5
Neonatal intensive care	2
Open-heart surgery	1
Orthopedic surgery	4
Pediatric intensive care	1
Positron emission tomography	0
Sports medicine	1
Ultrasound	8
Women's center	2
Relatively Unprofitable	**10**
AIDS services	0
Alcohol/drug inpatient	0
Alcohol/drug outpatient	0
Burn treatment	0
Child/adolescent psychiatric	0
Emergency room	5
HIV test	0
Obstetrics	3
Psychiatric inpatient	2
Psychiatric emergency services	0
Trauma center	0

Sources: Relative profitability data from Jill Horwitz, "Making Profits and Providing Care: Comparing Nonprofit, For-Profit, and Government Hospitals," Health Affairs (May-June 2005); expansion projects data from records of the Health Facilities Planning Office of the state of Oregon

Tuality Healthcare, which operates community hospitals in Hillsboro and Forest Grove, about a merger, Tuality said no.[38] Providence then made plans to build a 104-bed hospital facility near Tuality's Hillsboro campus.[39] Providence's plan was to start with a lucrative outpatient facility, with no inpatient beds or emergency room, leaving Tuality the essential but costly responsibility for emergency care in the area. Tuality officials opposed the plan as wasteful and duplicative.[40] Ultimately, the city council rejected Providence's proposal because of land use issues relating to the proposed site.[41]

More recently, Providence announced plans to build a hospital and medical office complex in Clackamas County, which may also be based more on a strategic imperative to increase profitable market share than based on a community need for new facilities. The eastside facility is projected to begin as a medical office complex and grow to include a biotech complex and a hospital the size of Providence St. Vincent or Providence Portland Medical Center.[42] Based on the projected costs of other new hospital construction, such a hospital would cost $600 million in today's dollars. Four hospitals are already located in Clackamas County. Three operate at only about 51% capacity,[43] and the one operating near capacity, Kaiser Sunnyside, is currently building an additional 132 beds.[44]

"A facility the size and scope Providence has proposed is likely to be destabilizing for the regional health care system,"
- Willamette Falls Hospital
Oregon Health News 2/2006

Given the vacancy numbers in Clackamas County hospitals, nurses at Willamette Falls Hospital have questioned whether a new hospital in the area will attract new patients and create new jobs or simply take patients and jobs away from Willamette Falls, the county's only locally-controlled community hospital.[45]

Willamette Falls officials also worry about how such a large scale expansion will impact the shortage of health care workers.

"A facility the size and scope Providence has proposed is likely to be destabilizing for the regional health care system," Shari Kinghan, a spokesperson for Willamette Falls Hospital, told the Oregon Health News. "Providence's claim that the project will create 4,000 new jobs is not an accurate assessment. It would simply shift the medical work force, drawing from existing staff in other facilities from across the region, accelerating the labor shortage, and driving up medical costs for patients and employers across the board." [46]

Providence planners counter that the Portland metropolitan area will need an additional 700 hospital beds by 2012.[47] Absent a publicly-controlled planning process, no one in our community is charged with determining whether Providence or Willamette Falls is right.

Equally troubling scenarios are playing out around Oregon. The most egregious example is unfolding in the Eugene-Springfield area.

For fifty years, the area has been served by two hospitals. Sacred Heart Hospital is located in Eugene and owned by the PeaceHealth system. It is the larger of the two hospitals, with 423 staffed beds, and provides a full-range of services. McKenzie-Willamette Hospital is located in Springfield and has 101 staffed beds, and was a small community-based hospital until it was bought out by a for-profit company – Texas-based Triad Hospitals – during the course of this dispute.

The two companies went through a five-year fight that spilled out in multiple arenas and was punctuated by many changes in business plans on each side. The result is an expensive game of musical chairs subsidized by taxpayers.

PeaceHealth will spend $350 million to build a brand-new hospital in the highest-income part of McKenzie-Willamette Hospital's service area as well as remodel its Sacred Heart facility in downtown Eugene at a cost of $23 million. McKenzie-Willamette Hospital will spend $225 million to build a brand-new hospital in north Eugene, in addition to spending $22 million to remodel its existing Springfield facility. The Springfield facility will stop providing hospital services once the new hospital is built.

When the dust clears there will only be an additional 77 inpatient beds in the community at a total cost of about $620 million dollars--more than $8 million per bed.[48]

Oregon communities have been horrified as they watch these fights for market dominance play out, but under the current system, there is little they can do to hold hospital corporations accountable to the public.

Unmanaged expansion leaves vital needs unmet and threatens patient care

Lack of planning leaves vital health care needs unmet

While record sums are spent to build new acute care hospitals, surgicenters and imaging facilities, critical shortages of services are increasingly apparent in other parts of the health care system. County health department annual plans identify three major unmet health care needs in the Portland metropolitan area: primary care, dental services and mental health services, primarily for the uninsured, underinsured and those on the Oregon Health Plan.[49] None of the counties identifies a lack of hospital, diagnostic or surgical facilities as a public health issue.

"There is no way to make money on psych beds. In fact there is almost no way not to lose money on psych beds."
- Laura Grandin
Washington County Department of Health and Human Services.

According to Sandy Leybold of the Tri County Safety Net Enterprise, Portland's hospital emergency departments are overcrowded due to shortages in mental health, primary care and critical care services. "[Emergency departments] are experiencing steady increase in the demand for their services, partly because they function as the 'safety net for the safety net.' EDs are designed for urgent and emergent care... If emergency departments are overcrowded with patients who are there because of access barriers elsewhere in the system, this is neither optimal for the patient nor cost-effective for the ED. And we also run the risk of not having that resource available in the event of a disaster or other community emergency."[50]

The number of acute inpatient mental health beds in the Portland metropolitan area has declined to 163, roughly half the number available four years ago and about a quarter the number available 10 years ago.

A national study of emergency departments, done for the American Hospital Association, found that emergency departments in the Portland metropolitan area were diverting patients to other hospitals for 15.3% of the observation period. Lack of critical care beds and emergency department overcrowding explained 90% of the diverts. [51]

The number of acute inpatient mental health beds in the Portland metropolitan area has declined to 163, roughly half the number available four years ago and about a quarter the number available 10 years ago.[52] "There is no way to make money on psych beds," says Laura Grandin, Acting Director of the Washington County Department of Health and Human Services. "In fact there is almost no way not to lose money on psych beds, there just isn't."[53] So there is no incentive to provide them. Currently, only Kaiser, which is contractually obligated to provide for their membership needs, is increasing inpatient psychiatric care capacity.

Those 163 acute psychiatric beds are filled beyond capacity. Local mental health advocates report complaints about psychiatric patients warehoused in hospital emergency rooms.

Heather Knight, an emergency department technician at Legacy Emanuel Hospital, is not surprised. Emanuel has some psychiatric beds, but when those beds are full and no bed can be found in the local area, patients are transported to hospitals as far away as Klamath Falls or held in special rooms in the emergency department—often overnight. "We have only two rooms in our emergency department that are designed to hold psychiatric patients. We had to have four more rooms fitted with locks on the doors and drawers so we can secure the room to use for psychiatric patient overflow. When mental health therapists are available, they sit with the patients while they wait for an inpatient bed, provide some treatment and assist with de-escalating them. When therapists aren't available, security officers and emergency department technicians like me watch the patients. We do not have the proper training to perform these tasks. It is not safe and it is not providing good patient care." [54]

The safety net clinics, which were established to provide outpatient services to patients without alternatives, find themselves turning away patients. "Ask any of the clinics," says Tracy Gratto, administrator of the Community Coalition of Clinics, "they'll tell you that they are turning people away every day because they are full or they lack the scope of services to provide the care needed. They are often sending people to the emergency department because patients are in a health crisis when they arrive at their doors."[55]

The emergency department is increasingly the safety

net for the insured as well as the uninsured because there is not enough access to primary care providers in our community. Nancy Near, a Member Intake Specialist at Kaiser Sunnyside's emergency department, sees it every day. "Most of the patients we see are not emergent – they may need care for colds, flu or minor injuries. Some come to the emergency room because they have no insurance. Others come because they have insurance but can't get in to see a doctor and there aren't enough urgent care facilities, leaving the Emergency Department as their only option."[56]

These examples illustrate the failure of economic incentives to ensure access to the basic services our community needs. As the system breaks down for the middle class as well as the poor, we need to assess what services are lacking and what we can do to redirect public resources toward the things that our community needs – not only the things health systems deem profitable.

"Most of the patients we see are not emergent – they may need care for colds, flu or minor injuries. Some come to the emergency room because they have no insurance. Others come because they have insurance but can't get in to see a doctor..."
- Nancy Near
Member Intake Specialist, Kaiser Sunnyside

Cutting corners at existing facilities threatens quality of patient care

Not only is excessive, uncontrolled capital spending expensive for our communities, it is dangerous to our health. This unmanaged race for market share has an adverse effect on two of the best-documented contributors to quality patient care: the maintenance of safe staffing levels and the concentration of complex medical procedures in high volume centers of excellence. Thus, the building boom may threaten lives as well as pocketbooks.

Excessive capital investment can threaten the quality of health care at existing facilities by stretching budgets too thin, especially when the budget cuts impact the ratio of staff to patients.

A report last year from Wall Street bond analysts FitchRatings said Providence was stretching its financial capacity to fund a "sizeable three-year capital plan of $1.1 billion."[57] A few months later, a statement from Providence Portland Medical Center (PPMC) made this abstract warning concrete. In September, the hospital notified employees that it would cut spending on operations in order to meet profit targets dictated by the hospital's capital spending plan. A memo from PPMC CEO David Underriner said the hospital would freeze spending on minor equipment and stop filling vacancies "in departments not meeting productive hours targets." "Through August," he wrote, "we are $4.2 million below budget for net operating income at PPMC. This poses an (sic) difficult challenge for us as we need to sustain our budgeted net income to support the development of our new facilities, investment in new technologies and programs and sustainability of our current programs and services."[58]

This decision to tighten budgets came at a time when Providence was making above average profits for the Oregon service region. In 2004, Providence Health System – Oregon made a profit of $162 million, more than Legacy Health System and OHSU combined.[59] The memo was followed by cost-cutting at both of Providence's two large Portland metropolitan area hospitals.

Providence Portland night shift mental health therapist Annette Lybecker reports that "supervisors have told the mental health unit staff that our department is losing money, and since we're not making a profit we can't replace staff who leave the unit." Lybecker worries about the impact on patients. "Working short-staffed could have an adverse effect on both worker and patient safety. It also means working harder and providing less for the patients," she said.[60]

Matt Fries, a certified nursing assistant (CNA) at St. Vincent Medical Center, also sees the impact of reduced staffing to meet budget goals. "Four day shift CNAs are assigned to care for as many as 60 patients on my floor," he says. "Until recently, if I was pulled off my regular assignment to provide constant, one-on-one attention for a patient requiring close observation, an on-call CNA was brought in to care for my patients. Now the staff on my floor has been told that even if three of us are assigned to do one-on-ones, no one will be brought in to help. Instead, one CNA will care for all of our regular patients. It is an impossible assignment, but management explained that the new policy is necessary because our floor is over budget and Providence Oregon lost money last year. We know Providence did not lose money last year, but apparently they did not make as much money as they had hoped to make. My co-workers and I are organizing because we think that hospitals should not short us on staff when it means we cannot get our jobs done and cannot provide the best patient care."[61]

Decisions to save money by reducing staffing run counter to a growing body of rigorous research which consistently points to a strong and significant link between staffing levels and patient outcomes.[62] A recent study published in Health Affairs questioned what would happen if all hospitals increased registered and licensed nurse staffing to the level found in the best-staffed 25% of U.S. hospitals. Their dramatic conclusion was that such staffing improvement would save the lives of more than 6,700 patients annually and avoid more than 70,000 incidents of harm to patients.[63]

Competing to provide complex procedures at more hospitals threatens patient outcomes

Excessive building can put hospital quality at risk by spreading patient volume among too many facilities. Studies show that the quality of specialty care increases with the volume of procedures performed. That is, patients undergoing specialized procedures at hospitals that do a high volume of the procedure do better than patients who undergo the same surgery at hospitals that do a low volume of the procedure.[64] Essentially, practice makes perfect – or at least improves outcomes. When facilities in the same community compete to provide the same complex medical procedures, none are likely to achieve the volume needed to maximize healthy outcomes and minimize patient deaths. Yet this is what we are seeing as Portland metropolitan area hospitals race to perform high-end cardiac, oncology and other profitable procedures.

Many Portland metropolitan-area hospitals are performing procedures at low volumes that are sub-optimal for patient outcomes. For example, according to the Office for Oregon Health Policy and Research, thirteen Portland metropolitan area hospitals performed carotid artery plaque removal procedures in 2004 and nine performed abdominal aortic aneurysm repair procedures, but only one area hospital performed them at the high volumes associated with improved outcomes, according to the report. On the other end of the spectrum, only two area hospitals do pediatric heart surgery—and both do it in volumes that the medical literature suggests are sufficient to produce high quality results for patients.[65]

Health care planning in the form of certificate of need laws designed to concentrate specialized procedures in a few hospitals has been shown to be effective in improving patient outcomes. For example, a study recently published in the Journal of the American Medical Association showed that open heart surgery death rates are 22% higher in states, such as Oregon, where there is no requirement that health care facilities obtain a certificate of need before adding open heart surgery services.[66, 67]

Community health care planning should be part of our regional planning program

We have the opportunity to make health care work in our community

We are paying for a health care delivery system that takes more and more of our earnings every year but fails to provide the services that people need to stay healthy. We can rail at the insurance companies and drug companies and the hospitals and the physicians for taking too big a cut out of our health care dollar. Or we can blame ourselves, as the consumers of health care, for having an insatiable appetite for health care services. But the blame will not take us to a solution.

We have an opportunity to take hold of the health care delivery system in our own community and to make it work for us. To do so, we must come together as a community to decide what health care facilities and services we need and where we need them in order to assure access to necessary services by everyone in our community. We must also decide together what facilities and services we do not need if we want to stop hemorrhaging community resources toward unnecessary construction. Only when we have built that vision, can we take action to hold the health care industry accountable to it.

Too often, when state and federal governments set out to solve the twin problems of health care cost and coverage, they assemble groups of "stakeholders" by which they mean representatives of all the major businesses that make money on health care. In order to create a plan that works for our community, the plan must be built by the people who pay for health care services, the people who rely on health care services and the people who directly provide health care services -- not simply those making money off the status quo. That's what the Make Health Care Work Campaign is about.

Community planning is the Oregon way

Oregon's land use planning system was put in place more than 30 years ago by visionary Oregonians to enable us to attain "the highest possible level of liveability in Oregon."[68] Oregon developed a land use planning culture that puts a premium on bringing people together at a local and regional level to decide what kind of community they want and to plan accordingly. That citizen-driven planning provides the framework for a much-needed health care planning process.

Goal 11 of Oregon's land use planning law requires comprehensive plans to "plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."[69] The rule can be read to require planning to provide for urban services, including health services, appropriate for the needs of the area served. The Land Conservation and Development Commission has not required plans to include planning for health care facilities, and, generally, local communities have not taken up the invitation implicit in the rule to address health services in their plans. But they could and should.

Health care is a regional issue. Residents of the Portland metropolitan area often cross city and county boundaries to see a physician or go to a hospital. Thus the Metro Council is the ideal entity to take the lead in health care planning. Metro has decades of experience planning facilities, services, space and transportation to meet community needs now and in the future. Metro can bring together representatives of the community from across the Portland metropolitan area and assemble the expertise of government agencies, health care advocates and health care professionals to plan for our current and future health care needs. In doing this, Metro can add a better-working health care system to what makes the Portland metropolitan area more livable for area residents.

The Make Health Care Work Plan: planning for and meeting our health care needs

Under the Make Health Care Work Plan, Metro would begin the planning process by appointing a Community Health Care Needs Board comprised of citizens from all parts of the Portland metropolitan area. This group would represent consumers of health care, purchasers of health care including employers and unions, and frontline caregivers who provide health care.

This board would develop a comprehensive community health plan. In doing so, they will work with Metro planning staff and rely on expertise and resources that already exist in the community: the county health departments, the State Department of Human Services, the Tri-County Safety Net Enterprise, local universities, and a host of healthcare advocates and providers.

The comprehensive health plan should:

- map health care facilities and services currently available in the community;
- identify the mix of facilities and services that would make health care physically accessible to all Metro residents while avoiding unnecessary expenditures that drive up cost and create financial barriers to access;
- identify service and facility deficits that should be addressed; and
- identify service and facility oversupply which should not be exacerbated.

Once completed, the plan would be submitted to Metro for approval. The comprehensive plan would then become the blueprint for health care in our community.

The board would have the ongoing task of generating concepts for expansion to meet unfilled needs. In addition, the board should be notified of plans to open, close or expand existing facilities or services in order to continuously update the map. When a health care company plans to open, expand or close a major facility, such as a hospital, or plans to expand or contract key services that have been identified as lacking in the community, the board would study the proposal and issue a health care impact statement.

While a favorable impact statement would not assure a project would materialize and a negative impact statement would not necessarily block a project, the statements would serve to inform local and regional governments, health care providers and the community as a whole whether the proposed project was in keeping with community needs. This information could be used to encourage development of facilities and services consistent with community needs. When opening a proposed facility requires state issuance of a certificate of need by the state, the impact statement would provide Metro with the information necessary to act as the community's spokesperson as the state seeks to determine whether or not to issue a certificate of need.

Conclusion

This report has shown that health care expenses, especially hospital expenses, are out of control, consuming more and more of our national income. Although the public funds our health care system, we have little or no control over what kind of services are available to residents of the Portland metropolitan area. Further, since health care is not a "classic" market commodity, we cannot expect the health care system to adjust to provide what we need at an affordable price.

Lack of planning health care services has led to chaos. Health care is more costly than it should be, and an increasing number of Oregonians are falling through its service gaps. Even more disturbingly, quality of care is being compromised by health care companies that focus their business plans on market share and profits rather than on providing the best possible care to patients.

As the expression goes, when you fail to plan you plan to fail. It should therefore come as no surprise that our health care system fails our communities when there is no plan for determining what our needs are and no plan for holding health care companies accountable to meeting those needs.

We do not claim to know what our community health care needs are, nor do we claim that enacting the Make Health Care Work Plan will solve all of our health care problems. We do believe that as our federal and state governments fail to find a clear solution to the health care crisis, the time has come to act at the regional level. As Oregonians, we have a history of coming together as a community to find creative solutions. As we face growing chaos in our health care system, it is time to stop complaining and start planning a better way. It is time to give our communities a voice.

Appendix

Health facilities‡ construction projects over $1 million in Portland Metro area, 2002-2005		
Facility and total project cost	Services to be offered	Profitability (per Horwitz study)
Providence Portland Medical Center - North Pavilion $119,200,000	MRI	High
	CT scan	High
	Ultrasound	High
	PACU/recovery	High*
	Operating rooms	High*
	Nursing/patient beds, short stay, cancer imaging, radiation oncology, special procedure rooms, gamma knife, cancer research labs, vivarium (cancer/animal research), oncology clinic, infusion rooms - chemotherapy	Unknown
	Café, retail space	N/A
Oregon Health Sciences University - River Campus Building One $103,340,437	CT scan	High
	MRI	High
	Ultrasound	High
	Sports medicine	High
	Cosmetic surgery	High*
	Day surgery	High*
	Dermatology surgery	High*
	Neurosurgery	High*
	Surgical oncology	High*
	Fluoroscopy, ophthalmology, fertility, urology, family medicine, cardiodiagnostics, spine, neurophysiology/neurology, infusion, medical oncology, pharmacy, endoscopy, digestive health, gastroenterology, bone densitometry, ENT, dermatology, pathology lab, physical therapy, wellness, nuclear testing, general radiology, phlebotomy	Unknown
Kaiser Sunnyside Medical Center - New Tower 3 $58,606,916	Operating rooms - delivery/C-section	High*
	Critical care unit - neonatal	High
	Perinatal unit	Low†
	Labor and delivery	Low†
	Inpatient mental health	Low
	Newborn nursery	Unknown
	Cardiovascular intensive care unit	Unknown
Oregon Health Sciences University $40,000,000	Center for Women's Health	High
	Mammography including ultrasound	High
	Adult, inpatient & trauma surgeries	High*
	Intensive care unit, medical oncology, inpatient beds	Unknown
Providence St. Vincent Medical Center $25,710,200	Psychiatric care/behavioral health	Low
	Medical-surgical nursing unit	Unknown
Kaiser Sunnyside Medical Center - Sunnybrook Medical Office Building & ASC $13,584,133	Orthopedic surgery	High
	Other surgeries including general, plastic, head & neck, urology, podiatry, endoscopic, gynecological, and neurosurgeries and other procedures requiring anesthesia	High*
	X-ray	Unknown
Kaiser Sunnyside Medical Center $11,509,000	Infrastructure Phase II (medical vacuum pump, air compressor, underground medical gas piping)	N/A

Appendix

Health facilities‡ construction projects over $1 million in Portland Metro area, 2002-2005		
Facility and total project cost	Services to be offered	Profitability (per Horwitz study)
Willamette Falls Hospital $8,912,000	CT scan	High
	Ultrasound	High
	Women's Center	High
	Emergency	Low
	Radiography	Unknown
Oregon Health Sciences University, Doernbecher Children's Hospital $8,460,000	Pediatric intensive care	High
	Hematology oncology, bone marrow transplant	Unknown
OHSU-operated units at Portland Veterans' Administration Medical Center $4,783,570	Inpatient units	Unknown
Kaiser Sunnyside Medical Center $4,500,000	Infrastructure Phase III (tank farm, emergency oxygen inlet, master alarm extension, routing in hospital of new medical gas piping)	N/A
Tuality Community Hospital - 7th Avenue Medical Plaza $3,463,000	Cardiac catheterization lab	High
	Surgery, pre-op, and recovery	High*
	Pre-Admit surgery services	High*
	Cardiac pre-op and recovery	High*
	Laboratory, imaging & imaging support services, sterile processing	Unknown
Providence St. Vincent Medical Center $3,266,737	Oncology	Unknown
Oregon Health Sciences University $3,000,000	Food services	N/A
Providence St. Vincent Medical Center $2,900,000	Generator upgrade (to support new East Tower)	N/A
Kaiser Sunnyside Medical Center $2,879,000	Post-partum/gynecology	Unknown
Providence Milwaukie Hospital $2,750,000	MRI	High
	Emergency	Low
Kaiser Sunnyside Medical Center $2,560,000	Nursing	Unknown
Oregon Health Sciences University $2,375,000	Intensive care units	Unknown
Kaiser Sunnyside Medical Center $2,200,000	Utility infrastructure improvements	N/A
Providence Portland Medical Center $2,100,000	Nursing unit	Unknown
Providence Portland Child Center $2,000,000	Kitchen and support space	N/A
Peterkort Centre – West Hills Gastroenterology $1,989,525	Gastroenterology	Unknown
Center for Specialty Surgery $1,643,425	Orthopedic surgery	High
Legacy Emanuel Central $1,500,000	Pediatric dental, short stay	Unknown
Legacy Good Samaritan Medical Center $1,475,000	Medical procedures unit	Unknown
Jiva Medical Office Building - Northwest Surgery Center $1,439,900	Orthopedic surgery	High
Tanasbourne Diagnostic Imaging (Providence Health Systems) $1,400,000	MRI	High
	Ultrasound	High
	Other outpatient diagnostic imaging services (including mammography, bone densitometry)	Unknown
The Oregon Clinic – ASC $1,338,207	Endoscopic surgery	High*

Appendix

Health facilities‡ construction projects over $1 million in Portland Metro area, 2002-2005		
Facility and total project cost	Services to be offered	Profitability (per Horwitz study)
Gresham Station Surgery Center $1,235,787	Ambulatory surgery	High*
Providence St. Vincent Medical Center $1,200,000	Rapid response laboratory	Unknown
Legacy Meridian Park Medical Office Building $1,200,000	MRI	High
	Ultrasound	High
	Radiology	Unknown
Providence St. Vincent Medical Center - $1,172,500	Endoscopic ultrasound	High
	Trans-esophageal echogram, colonoscopy, endoscopy, bronchoschopy, percutaneous esophageal gastronomy, ERCP, EGD with photodynamic therapy, ph monitoring, manometry, pain procedures, thorocentesis, trach change, perc trach	Unknown
Adventist Medical Center $1,100,000	Operating rooms	High*
Providence St. Vincent Medical Center $1,035,870	Emergency - pediatric & low acuity	Low§
Providence St. Vincent Medical Center $1,000,000	Neonatal intensive care unit	High
	C-Section	High†
Physicians' Hospital LLC Unknown	CT scan	High
	Ultrasound	High
	Orthopedic surgery	High
	Neurosurgery	High*
	Psychiatric care beds	Low
	Emergency/urgent care	Low
	Obstetrics	Low
	Intensive care, lab, pathology, physical therapy, radiology, nuclear medicine, xero mammography, short stay, cysto, vascular lab, patient beds	Unknown
	Food services	N/A
Providence Portland Medical Center Unknown	Emergency and triage	Low
	Security	N/A
	total highs	46
	total lows	11

Sources:
Relative profitability data from Jill Horwitz, "Making Profits and Providing Care: Comparing Nonprofit, For-Profit, and Government Hospitals," Health Affairs (May-June 2005). Expansion projects data from records of the Health Facilities Planning Office of the state of Oregon. The universe of capital spending projects considered for this analysis includes all capital spending projects (except those relating to long-term care) exceeding $1 million; located in Washington, Multnomah or Clackamas County; and submitted to the Health Facilities Planning Office of the state of Oregon for plan review.

Notes:
‡ excludes long-term care facilities
* Horwitz lists orthopedic and cardiac surgery as relatively profitable, and writes, "Like almost all surgical and related services, cardiac services—including cardiac catheterization labs, angioplasty, and coronary artery bypass graft (CABG)—are widely known to be hospital profit centers." (792) She does not rate operating rooms generally, or C-section or endoscopy procedures particularly.
† Horwitz does not list beds for high-risk pregnant mothers. She describes "birthing rooms" as relatively profitable and "obstetrics" as relatively unprofitable. She says having a baby at a hospital tends to bond the mother to the hospital for future services, making these services desirable to build regardless of profitability.
§ Horwitz does not rate pediatric and low-acuity emergency services separately from emergency services generally. She lists emergency services as relatively unprofitable.

Endnotes

1. The State of Oregon spent $6.65 billion in total funds for K-12 Education, $2.72 billion for transportation, and $6.81 billion for health care services administered by the Department of Human Services (including Medicaid, alcohol and drug addiction services, the state hospital, and other small programs) and the Family Health Insurance Assistance Program. The cost of providing health insurance for inmates in the adult and juvenile correctional system and for more than 47,000 state employees and their families is not included in the health care spending figures except to the extent that state employees administer the health services and long term care programs. Legislative Fiscal Office, Analysis of the 2005-07 Legislatively Adopted Budget (December 2005). Available online at http://www.leg.state.or.us/comm/lfo/home.htm.
2. Centers for Medicare and Medicaid Management, State Health Accounts. The most recent Oregon-specific personal health care spending and hospital spending numbers are for 2000. The numbers here are derived by assuming that Oregon spending increased since 2000 at the same rate as national spending.
3. The Economist, January 28, 2006.
4. Modern Healthcare, January 16, 2006.
5. In 1992, before the 1993 implementation of the Oregon Health Plan, 18% of Oregonians were uninsured; by 1994, the figure had dropped to 13.6%. In 2004, the number had risen to 17%. "Oregon Uninsured '04 Snapshot," Office for Oregon Health Policy and Research (rev. 12/05), citing the Oregon Population Survey. Available online at http://egov.oregon.gov/DAS/OHPPR/RSCH/docs/OPS-healthinsurance2004.pdf.
6. Centers for Medicare and Medicaid Management, National Health Expenditure data.
7. Centers for Medicare and Medicaid Management news release (January 10, 2006).
8. See discussion in "Behind Oregon's Health Care Crisis," Oregonians for Health Security (2005). For updated cost figures see Kaiser Family Foundation, State Health Facts, available online at http://www.statehealthfacts.kff.org/cgi-bin/healthfacts.cgi.
9. US Census Bureau, "Construction Spending," http://www.census.gov/const/www/c30index.html, 2/1/05. The Census Bureau did not begin publishing data on public spending for construction of health care facilities until 2002; thus it is not possible to describe the long-term trend in all health care construction spending.
10. "Construction booms," Oregon Health News, March 2005, p. 9.
11. "Construction booms," Oregon Health News, March 2005, p. 9. Counts only projects with price tags over $250,000; includes new construction, renovations, and remodels.
12. Business Wire, 6/29/05.
13. The Oregonian, 6/23/05, 11/24/05.
14. Oregon Association of Hospitals and Health Systems, Oregon Hospital Utilization (2005).
15. Randy Pozdena and Robert McGuirk, "The Market for Hospital Beds" (ECONorthwest 2005). Note that Pozdena and McGuirk define the Portland Metro area to include Columbia and Yamhill counties, in addition to the three large metropolitan counties. Note also that the bed estimates assume no new hospital is built by Providence before 2025.
16. Oregon Association of Hospitals and Health Systems, Oregon Hospital Utilization (2005).
17. Per bed cost to open a new hospital facility are based on Kaiser Permanente's certificate of need application estimates for its Washington County hospital ($260 million to build a 138-bed hospital) and press reports estimating PeaceHealth will spend $350 million for a 362-bed hospital and McKenzie-Willamette will spend $225 million for a 148-bed hospital. By comparison, ECONorthwest estimates the cost of adding beds to existing hospitals at $500,000 per bed based on Kaiser's experience adding to its Sunnyside facility. Randy Pozdena and Robert McGuirk, "The Market for Hospital Beds" (ECONorthwest 2005).
18. Comments delivered at the Oregon Health Forum's Third Annual Insurance CEO Roundtable (10/26/05).
19. Kuttner, Robert, excerpt from The Limits of Markets, page 5, available at http://www.prospect.org/printer-friendly/print/v8/31/kuttner-r.html
20. Rajiv Sharma and Renu Gehring, "How the Healthcare Market Differs form other Markets," Oregon's Future (Fall 2004) Available online at http://www.willamette.edu/centers/publicpolicy/projects/oregonsfuture/PDFvol5no2/health_matters.pdf.
21. John E. Wennberg, "Variations in Supply-Sensitive Services?" The Dartmouth Atlas; see also, Rajiv Sharma and Renu Gehring, "How the Healthcare Market Differs form other Markets," Oregon's Future (Fall 2004) Available online at http://www.willamette.edu/centers/publicpolicy/projects/oregonsfuture/PDFvol5no2/health_matters.pdf.
22. Elliott S. Fisher, "Health Care in America: Is More Better?" a lecture available online at www.dartmouthatlas.org/atlases/lecture.shtm.
23. Robert Kuttner, Everything for Sale: The Virtues and Limits of Markets, pages 120-21 (1996).
24. USA Today, 1/3/06.
25. "Building on a Medical Future," The Oregonian, 4/11/04.
26. The Oregonian, 2/6/05.
27. Green Sheet, November 2003.
28. The Oregonian, 8/7/02 and 2/1/05.
29. The Portland Business Journal, 8/13/99.
30. The Oregonian 12/12/02, Legacy Health Systems press release, 12/14/04.
31. The Portland Business Journal, 5/12/00.
32. "Oregon's Acute Care Hospitals—Capacity, Utilization, and Financial Trends 1995-2003," Oregon Health Policy and Research (2004).
33. US Census Bureau, Summary File 3, Decennial Census (2000).
34. Interview with John Santa, 2/21/2006.
35. Jill Horwitz, "Making Profits and Providing Care: Comparing Nonprofit, For-Profit, and Government Hospitals," Health Affairs (May-June 2005).
36. The universe of capital spending projects considered for this analysis includes all capital spending projects (except those relating to long-term care) exceeding $1 million; located in Washington, Multnomah or Clackamas County; and submitted to the Health Facilities Planning Office of the state of Oregon for plan review. The list of projects and descriptions of them is included in the Appendix.
37. The Oregonian, 11/18/02.
38. The Oregonian, 11/24/02.
39. The Portland Business Journal, 8/2/03 and 9/4/03.
40. The Oregonian, 11/18/02, 10/23/03.
41. The Oregonian, 10/23/03.
42. The Oregonian, 1/25/06; 2004-05 Fiscal Year Business Recruitment and Retention Report, Clackamas County Economic Development.
43. Oregon Association of Hospitals and Health Systems, Oregon Hospital Utilization (2004).
44. Randy Pozdena and Robert McGuirk, "The Market for Hospital Beds" (ECONorthwest 2005).
45. In a 10/14/05 letter submitted at a Community Forum on the Rock Creek Draft Concept Plan, the Oregon Nurses Association, speaking on behalf of Willamette Falls RNs wrote, "We do not feel this is a good

Endnotes

location for a new hospital given the proximity of other health care facilities in the area; and we do not feel this will create new jobs inasmuch as it will draw employees away from our facility and others in the area."

46. Oregon Health News, February 2006.
47. The Oregonian, 4/11/04.
48. The Eugene Register Guard, 11/14/01, 11/28/01, 2/3/02, 7/13/02, 8/7/02, 9/15/02, 12/4/02, 12/18/02, 1/20/03, 2/3/03, 8/21/03, 12/11/03, 4/20/04, 7/4/04, 3/5/05, 4/13/05, 4/17/05, 9/17/05, 11/16/05, 11/23/05, 1/14/06; McKenzie-Willamette Medical Center certificate of need application submitted 12/13/05, pages 9-11; Oregon Association of Hospitals and Health Systems, Oregon Hospital Utilization (2004).
49. Washington County Health and Human Service Annual Plan FY 06, pages 14-15; Clackamas County FY 2005-06 Annual Plan Update, page 6; Multnomah County Health Department Annual Plan: 2005/2006, pages 42-43.
50. Interview with Sandy Leybold, 2/6/06
51. The Lewin Group, "Hospital Capacity and Emergency Department Diversion" (2004) available online at http://www.lewin.com/Lewin_Publications/HospitalsandHealthSystems/HospitalCapacityandEDDiversion.htm.
52. The Portland Tribune, 12/23/05.
53. Interview with Laura Grandin, 2/9/2006.
54. Interview with Heather Knight, 2/28/2006.
55. Interview with Tracy Gratto, 2/8/2006.
56. Interview with Nancy Near, 2/15/2006.
57. Business Wire, 6/29/05.
58. Underriner e-mail to staff, 9/26/05.
59. Audited Financial Statements of Oregon Hospitals 2004, Office for Health Policy & Research.
60. Interview with Annette Lybecker, 2/28/2006.
61. Interview with Matt Fries 2/28/2006.
62. For references to many of the key studies on this subject, see Michael B. Rothberg, et. al. "Improving Nurse-to-Patient Staffing Ratios as a Cost-Effective Safety Intervention," Medical Care, August 2005, esp. pp. 789-791.
63. Jack Needleman, Peter I. Buerhaus, Maureen Stewart, Katya Zelevinky and Soeren Mattke, "Nurse Staffing In Hospitals: Is There a Business Case for Quality?" Health Affairs, January-February 2006.
64. See Anne Elixhauser, Claudia Steiner, and Irene Fraser, "Volume Thresholds and Hospital Characteristics in the United States," Health Affairs, March-April 2003; Linda Wang, "The Volume-Outcome Relationship: Busier Hospitals Are Indeed Better, But Why?" National Cancer Institute (May 2003).
65. "Oregon Hospital Quality Indicators," Office of Oregon Health Policy and Research (2005). Available online at http://egov.oregon.gov/DAS/OHPPR/HQ/HospReports.shtml. This chart summarizes the volume data for surgical procedures performed in Portland area hospitals in 2004 and included in the OHPR report on hospital quality:

Procedure	Number of hospitals performing procedure	Percentage of hospitals performing procedure at high enough volume for best patient results
Balloon Angioplasty	6	50%
Carotid Artery Plaque Removal	13	8%
Esophogeal Resection	3	67%
Coronary Artery Bypass Graft	6	50%
Pancreatic Resection	3	33%
Pediatric Heart Surgery	2	100%
Abdominal Aortic Aneurysm Repair	9	11%

66. Vaughn-Sarrazin, et ol, Journal of the American Medical Association 10/16/02. For a comparison of state certificate of need laws see American Health Planning Association, National Directory of Health Planning, Policy and Regulatory Agencies (2005).
67. Oregon law requires a certificate of need only when a new hospital is built outside the hospital's service area. ORS 442.315.
68. ORS 197.010.
69. OAR 660-015-0000(11).

make health care work

Make Health Care Work Campaign
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MEMORANDUM

TO: **Michael Walter /** City of Happy Valley

FROM: **Tim Finley** / Water Environment Services

DATE: May 15, 2008

SUBJECT: **Rock Creek Mixed Employment** / Planning File No PUD-01-08
Tax Lots 22E01A 00500 & 22E01A 00505

Water Environment Services (WES), a Department of Clackamas County, has reviewed the application for the above development. WES manages and operates Clackamas County Service District #1 (CCSD#1). CCSD#1 provides sanitary sewer collection and treatment for the urbanized areas of north Clackamas County including the City of Happy Valley.

The proposed Rock Creek Mixed Employment area is <u>not</u> inside CCSD#1 boundaries and is required to Annex to the District (CCSD#1) PRIOR to submitting plans for review.

<u>Sanitary Sewer</u>

This application appears to be timely for sanitary sewer connections. The sanitary sewage collection system is available through service to the Rock Creek Interceptor. Connection *can be made available through improvements completed* by the applicant. Sanitary sewer capacity at the wastewater treatment plant is currently under review and available but availability is subject to changes due to outside influences.

<u>Storm Drainage</u>

The Rock Creek Mixed Employment area encompasses 145 acres of undeveloped land. Currently, storm water either infiltrates into the site soils or runs off-site in natural drainages. New impervious areas will be created with the construction of the new streets, sidewalks, driveways, and buildings. Significant impacts to the Rock Creek watershed's functions/values and natural areas are expected if growth and development is not built and managed in a sustainable manner. Planning for functional and attractive traffic, park, architectural, pedestrian, and open space is not enough to maintain this watershed's health and sustainability. A truly "comprehensive" development plan should include planning for a functional storm water system that will effectively protect the receiving stream from the adverse impacts of increased stormwater runoff. New development should improve the quality of Clackamas County's streams, lakes, waterways and groundwater which also protects the quantity and quality of drinking water supplies. Planning and designing for functional landscapes and integrating these into a low-impact development storm water system to protect the watershed should be submitted early in the Land Use Application stage.

Projects of this size need to address storm water and resource protection early in the planning stages in order to minimize stormwater runoff, water pollution, siltation, soil erosion and flooding. Low Impact Development principles involve knowing and assessing a site to: 1) preserve native soils and vegetative communities; 2) reduce and soften the effective impervious footprint area; and 3) control stormwater volume and runoff and associated pollutants at their source. This requires decentralizing the stormwater system and can best be implemented through functional landscapes throughout the development site. It is far better to plan a

ATTACHMENT # 11C-11

functional storm water system early on than it is to fit storm water into the development after all the land has been carved up for streets, sidewalks and buildings. A storm water master plan can address these storm water issues early by incorporating low impact development techniques into site design and transportation planning. In order to do this, the Rock Creek Mixed Employment area needs to implement a Sustainable Development Goal and Plan.

One potential Sustainable Development plan for this area could be to protect existing valuable natural resource functions and values; such as wetlands, riparian and upland habitat, drainages and creeks, while incorporating sustainable development into the design of buildings, streets, parking areas, pedestrian paths and parks. Many cities are implementing low-impact development in an attempt to mimic natural hydrology and to counter the urban heat island effect. The term "heat island" refers to urban air and surface temperatures that are 2 to 10°F hotter than nearby rural areas. Elevated temperatures can affect communities by increasing peak energy demand, air conditioning costs, air pollution levels, and heat-related illness and mortality. Elevated stream temperatures are one the highest priority limiting factors for watershed health and a targeted 'pollutant' of concern. Happy Valley and WES, as designated management agencies, recently submitted a Temperature Total Maximum Daily Load (TMDL) Implementation Plan to the Oregon Department of Environmental Quality (DEQ) that outlines management strategies to address heat loading including the Rock Creek drainage.

Parking lots – Large areas of asphalt that surround big commercial developments and wide roadways represent significant additional impervious area. The transportation roadways are the single largest generator of urban stormwater runoff and pollutant loading to rivers and streams. Because such additional impervious area generates excess stormwater runoff and heat, an effort should be made to infiltrate the runoff from these surfaces into the ground to replenish the ground water table, cool the storm water runoff, and sustain summer low base flows in our rivers and streams. Parking lots should incorporate landscape swales to separate parking. Pervious pavement should be used whenever feasible and appropriate to infiltrate and clean water prior to allowing it to naturally return to the ground. Parking areas should incorporate and be surrounded by shade trees in order to reduce the level of heat generated on storm water. Existing tree canopy should be retained to the greatest extent possible.

Green roofs consist of vegetation and soil planted over a waterproofing membrane. In various locations around the region, many public buildings and planned unit developments are subject to green roof standards, which vary by building type and purpose and by zoning district. The City of Portland offers builders a density bonus for installing rooftop gardens and eco-roofs in the central city area.

Landscaping standards should be designed to serve environmental as well as aesthetic functions. Native landscaping should be incorporated into parking lots swales with water tolerant plants to encourage infiltration of storm water back into the ground. Landscaping near buildings can provide aesthetic value and serve as stormwater runoff infiltration areas. The landscape regulations should include a list of locally viable and easily maintained plants developed by a landscape architect or other expert familiar the local plants. By incorporating stormwater infiltration into landscape design, developers may be able to reduce the amount of stormwater infrastructure that is required for the site thus reducing their overall costs.

Development Standards for Low Impact Development - Developers are typically required to provide the infrastructure necessary to serve the new development. Wider roads may handle more traffic, but they are also the primary source of stormwater runoff and associated pollutant loads. Roads are designed by engineers who perform detailed calculations of how large a pipe must be to provide adequate water conveyance away from the site. The master plan should encourage developers to infiltrate the storm water back into the ground wherever feasible to control and manage cumulative chronic high flows within the watershed and incorporate Green

street design in the plans. If you want to protect the watershed then narrower roads or permeable pavement should be encouraged where practical and feasible. Potential locations for pervious pavement include employee parking lots, churches, schools, parks, sidewalks, isolated smaller residential streets, and other lesser traffic areas.

Low-Impact Development sets this area aside as a distinctive place that incorporates special architectural and natural elements. Design standards for development and construction in a "Green Design and Habitat-Friendly" approach should be required.

Incorporate Business centers with walkable street and habitat-friendly natural resource protection areas. The planning process should encourage construction of places that are within an easy and safe walk for a community resident or employee to access on a regular basis. Walkable neighborhoods invite pedestrian to use the walking areas. Provide a streetscape that serves a variety of users -- pedestrians, bicyclists, transit riders, and automobiles as well as functional for stormwater management... Walkable neighborhoods allow persons to substitute walking, bicycling or other non-auto modes for short trips, thus contributing to reduced congestion and better air quality.

Sustainable development does not necessarily mean increased costs. While it may cost more to initially install, there is typically less 'life-time" associated asset management and maintenance cost. If performed correctly on appropriate site locations, there is typically less grading required and infrastructure necessary to implement sustainable development practices. Use of a swale in parking areas to convey storm water decreases the cost of installing storm pipe and catchbasins, plus it allows for infiltration into the soils and can decrease the size of a detention pond.

Wetlands

A Wetland delineation / sensitive area assessment should be a requirement included in the LDO language. Particular attention should be made to protect Rock Creek and its tributaries and wetlands in a buffer or conservation easement. Intermittent drainages should be identified and protected. The City of Happy Valley should reference the Local Wetland Inventory (LWI) and Stream Reach Assessment reports that were completed in the fall of 2007. The LWI is currently being reviewed by the Department of State Lands and is expected to be approved during 2008.

Floodplains, Wetlands, Steep Slopes and Woodlands. Protect these sensitive lands entirely from development. New development could be designed to protect environmental functions and features and incorporate them as amenities in a proposed development. Clearing, grading, and removing all critical environmental features and functions should be discouraged. Drainages should be protected rather than redirected through underground pipes. Happy Valley's proposed adoption and implementation of Title 13 (Goal 5) requirements should be referenced.

Rock Creek is an extremely important and sensitive aquatic resource. Recent fish surveys conducted by the Oregon Department of Fish and Wildlife during the spring of 2008 revealed the lower reaches of Rock Creek (above and below Hwy. 212/224) have relatively large numbers of native fishes and threatened salmonid species including Chinook and Coho salmon; and Cutthroat and Steelhead trout. Habitat inventories and an Index of Biotic Integrity (IBI) will be completed and a final report is expected by September, 2008. Past studies have indicated that the lower reaches of both Rock Creek and Trillium Creek have the best habitat and IBI in comparison to other streams within Clackamas County Service District No. 1. Rock Creek was the only creek out of 16 that WES surveyed that contained sustaining salmonid populations. These surveys and expected report should be referenced.

WES is proposing to complete the Rock Creek Sustainability Initiative (RCSI) by December 2008. The purpose of the RCSI is to compare traditional stormwater management methods with new "low impact" or "sustainable" methods. The RCSI involves a multidisciplinary watershed vulnerability analysis. The goal of the project is to provide acceptable low impact development design standards available for immediate implementation within the study area. Other tasks that will be completed include:

- Model two stormwater management system concepts: one assuming traditional stormwater management, and a second using LID techniques;
- Evaluate and compare the hydrologic impacts produced by the two stormwater management concepts;
- Develop standard details for public and private (e.g., parking lot) improvements to reduce impervious area impacts on the natural environment; and
- Develop cost comparisons evaluating both initial and long-term maintenance costs for traditional and LID stormwater management concepts.

WES is also proposing to complete the Rock Creek Watershed Action Plan by the spring of 2009. The Action Plans will combine both Asset Management principles with Watershed Health. Watershed Assessments will be a crucial component of the Action Plans. They will be conducted to provide a comprehensive assessment of the current conditions and where appropriate predict the future trends. The goal of the watershed assessment is to identify, prioritize, and sequence specific projects and actions necessary to address factors that are limiting watershed health. The Action Plans will recommend site specific and reach oriented solutions and management programs for the significant, and often, interrelated, problems related to flooding, erosion and deposition, water quality, and habitat. One of WES's main goal and outcomes of the Action Plan is to be able to prioritize what stormwater management actions and activities should be conducted in specific sub-basin areas, such as where to assist the operations and maintenance program in targeting specific activities in various locales. The main goal of the Watershed Action Plan is to protect, restore, and enhance the health and function of the watershed.

The Code revisions should require the applicant to submit plans early on in the planning process that are designed to assess the natural functions and features of a site that are critical from a stormwater management perspective and make the watershed and its sustainability as important as traffic, architecture, parking lots and pedestrian paths. One of the goals should be to create a viable functional landscape and development that will attract business, livability, and provide adequate protection for the Watershed's attributes as a part of the Master plan process. If the above items are implemented new development can improve fish habitat and support recovery of aquatic species.

Recommended additions to the Rock Creek Mixed Employment Comprehensive Plan Text Amendment:

Page 5
Table 16.12.150-2: Development Standards (RC-Me)
Add
Low-impact Development

Provide a plan for implementation of low-impact strategies including pervious pavement, infiltration swales, green roofs, landscaping, habit protection, and protection of natural resources.

Page 5
Item 3.a. 7th sentence in the paragraph

Add after building and landscaping material lists; **"low-impact development strategies;"**

Also add

A detailed storm water management plan and report for each phase of the development and at full build out is required, that shows how the site will implement storm water management and not adversely impact watershed health.

Page 7
Item 4.b.i.

Add item

(F) Concept stormwater plan: preliminary drainage report, on-site infiltration, water quality, landscaping and other measures to reduce overall stormwater runoff using low-impact techniques

(G) Concept low-impact development

a. Proposed street design, pervious pavement, on-site infiltration, retention of native species, maintaining existing tree canopy, utilization of swales in parking areas etc.

b. Explain how effective impervious areas be minimized

Page 8
Item 4.b.v.

Add item

(F) Low-impact development design standards

Page 9
Item 5.a.iii.

Add item

(I) Concept stormwater plan

(J) Concept low-impact development plan

Completeness:
Add a paragraph:

Page 9
Item 4.c. Master plans shall be considered for completeness when the Planning Director of the City of Happy Valley has received detailed information on Items 4a.i thru 4.a.vi and 4.b.i thru 4.b.x. The Master Plan shall be deemed incomplete if the applicant fails to submit these items in their entirety.

Beery Elsner & Hammond LLP

MEMORANDUM

TO: Michael Walter, AICP, Planning Services Manager

FROM: Christopher Crean

SUBJECT: Proposed Rock Creek Mixed Employment Comprehensive Plan Amendment and Zone Change; Letter From David Noren

DATE: May 21, 2008

You asked me to review the letter submitted by David Noren on behalf of SEIU in opposition to the legislative amendment to the City's Comprehensive Plan and Land Development Ordinance proposed by Providence Hospitals (CPA-03-08/LDO-03-08). In essence, Mr. Noren argues that the proposed amendment is inconsistent with Goal 11 and Metro Title IV. After reviewing Mr. Noren's letter and related statutes, rules and case law, it is my conclusion that none of the objections he raises constitute legal error.

Goal 11

Mr. Noren first argues that the application is "inconsistent" with Goal 11, apparently because the City does not have a coordinated plan for "health services." This argument lacks legal merit because Goal 11 does not require the City to plan for health services.

Goal 11 requires cities to "plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development." Goal 11 is implemented through LCDC's Public Facilities Planning Rule, OAR chapter 660, division 11. These rules define a "public facility" as "water, sewer, and transportation facilities, but does not include buildings, structures, or equipment incidental to the direct operation of those facilities." OAR 660-011-0005(5). This definition is consistent with the definition in Goal 11 of a "public facilities plan" as a "plan [that] describes the water, sewer and transportation facilities to support the land uses designated in the appropriate comprehensive plan."

Significantly, neither of these definitions includes "health services." Mr. Noren's argument apparently arises from the definition of "urban facilities and services" in Goal 11, which includes such things as police protection, planning services, energy and communication

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BEH ATTACHMENT # 11C-21

services, and "health services." The only language in Goal 11 regarding "urban" facilities and services is found in the planning guidelines:

> "5. A public facility or service should not be provided in an urbanizable area unless there is provision for the coordinated development of all other urban facilities and services appropriate to that area."

This provision directs local governments to not allow public facilities in urbanizable areas until there are sufficient urban services available to the area. In other words, under Goal 11, the City may not extend sewer, water or transportation facilities (i.e. "public" services) to an area until adequate urban services (e.g. police, fire, health services) are also available to the area. Properly understood, Goal 11 applies to a decision to extend sewer or water lines to an area and may involve consideration of the availability of urban services in the affected area; it does not apply to a decision to allow health services in the same area. Indeed, to the extent public facilities (roads, sewer, water) are already available in the Rock Creek area, the lack of health services within a reasonable proximity could be interpreted as inconsistent with Goal 11 and approving this application, which will provide such health services, is *more* consistent with the Goal's requirements, not less. In any event, Goal 11 simply does not apply to a decision to zone the area to allow health care services and Mr. Noren does not provide any authority to the contrary.

Metro Title IV

As Mr. Noren points out, the Damascus Boring Concept Plan encompasses this area and specifically designates the Rock Creek area for "mixed employment." The proposed Rock Creek Mixed Employment designation and zone is consistent with this designation because it allows a range of health care and employment-related uses. Notwithstanding this, and based on a report by Joe Cortright, Mr. Noren argues that hospitals do not, in fact, generate new employment and, therefore, cannot be considered either an employment or industrial use. For this reason, he argues, the proposed zone does not comply with Title IV.

The City circulated a copy of the proposed plan designation and zoning text to Metro for its review and comment. Shortly before the May 13 hearing, the City received a letter from Ray Vallone, Metro's Principle Planner, stating that the proposed plan designation and zone text comply with the Concept Plan and, correspondingly, with Title IV. After reviewing the proposed zone text and the requirements of Title IV and the Damascus Boring Concept Plan, I agree with Mr. Vallone.

Ultimately, there is substantial evidence in the record, including the evidence submitted by the applicant and the letter from Metro, that the proposed zone complies with the requirements of Title IV. The City Council may rely on this evidence to conclude that the proposal is consistent with the requirements of Title IV.

I hope this is helpful. Please let me know if you have any questions.

Sincerely,

Christopher Crean

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May 23, 2008

VIA EMAIL

Mayor Rob Wheeler
Happy Valley City Council
12915 SE King Road
Happy Valley, OR 97236

Re: City of Happy Valley File No. CPA-03-08/LDO-03-08, Rock Creek Mixed Employment Design Type Area Implementation of Damascus-Boring Concept Plan

Dear Mayor Wheeler and City Council Members:

This office represents Providence Health System-Oregon ("Applicant"). The Happy Valley Planning Commission unanimously recommended that the City Council approve this request. I am writing concerning the legislative hearing to be held Tuesday, June 3, 2008 regarding implementation of a portion of the Damascus-Boring Concept Plan (the "Concept Plan") area. As you know, the area that is the subject of this application is the Rock Creek Mixed Employment Design Type Area containing 146 acres. **(Exhibit 1)**. Pursuant to the Happy Valley City Council's instructions, Providence has submitted an application to implement the Concept Plan for this area.

The City and Metro have approved the Concept Plan. City of Happy Valley Resolution No. 06-014 adopted the Damascus-Boring Concept Plan. **(Exhibit 2)**. This adoption demonstrates the City's acceptance of the Concept Plan. This application simply implements a small part of the concept Plan area. Further, the Metro Council approved the Concept Plan in its Resolution No. 06-3676. **(Exhibit 3)**.

This letter addresses several issues:

° Applicable Metro Code ("MC") requirements.

ANCHORAGE BEIJING BELLEVUE BOISE CHICAGO DENVER LOS ANGELES MENLO PARK
OLYMPIA PHOENIX PORTLAND SAN FRANCISCO SEATTLE SHANGHAI WASHINGTON, D.C.
Perkins Coie LLP and Affiliates

ATTACHMENT # 11 C-3

- Likely arguments to be raised in the event the Service Employees International Union ("SEIU"), an opponent to this and other Providence applications, testifies.
- Other issues that may arise at the hearing.

1. **This application complies with applicable Metro Code requirements.**

Although Metro does not make the decision on this application, it is important to this planning effort that the City of Happy Valley, the applicant and Metro successfully coordinate on the application. The City provided notice of the application to Metro pursuant to MC 3.07.820.A. Although provided late, the applicant and the City have coordinated with Metro and Metro had adequate time to review the application.

The May 8, 2008 letter from Mr. Ray Valone, principal planner with Metro, supports this request. Mr. Valone is the Metro liaison for the City, was the project manager during the Concept Plan process, and is a member of the review team for the East Happy Valley Comprehensive Plan, implementing the remainder of the Concept Plan area. Mr. Valone's letter states "I am very familiar with and understand the planning history of this Rock Creek site. Based on my knowledge and additional internal review, we [Metro] conclude that this proposal fulfills the intent of the DBCP [the Concept Plan] and complies with Title 4 of the [Metro] Functional Plan." Earlier in the letter, Mr. Valone concluded that the application, if adopted, would comply with the Urban Growth Management Functional Plan (Title 3.07 of the Metro Code). While others may argue that the application does not satisfy applicable requirements of the Metro Code, not only are they substantively incorrect, but the individual in the best position to make that conclusion has found that the application does comply.

Second, MC 3.07.440.A is a relevant approval criterion. **(Exhibit 4).** This provision requires that the application provide adequate opportunity for employment and industrial lands (Title 4 of the Metro Functional Plan). The applicant's May 5, 2008 letter explains in detail how this criterion is satisfied.

Third, MC 3.07.450.B is a requirement that the Metro Chief Operating Officer ("COO"), upon approval by the City, conform Metro's Title 4 maps to the City's action. **(Exhibit 5)**. The COO's action is ministerial because it is clear and objective (it does not involve discretion because the MC provision provides that the COO "shall" conform the maps), is not a land use decision (because it does not meet the definition of a land use decision contained in ORS 197.015(10)), is not appealable and does not require a public

hearing. Although others may argue that the COO's conformance of Metro's Title 4 maps to the City's action provides another opportunity to appeal, not only Metro but the Oregon Land Use Board of Appeals would disagree.

In this case, the site that is the subject of this application was added to the Portland Metropolitan Urban Growth Boundary and was designated Industrial. This MC provision expressly provides that after completion of Title 11 planning by the responsible city (in this case, the approval of the Damascus-Boring Concept Plan by the City of Happy Valley), Metro's Chief Operating Officer "shall issue an order to conform [Title 4] map to the boundaries established by the responsible city." In other words, this MC provision recognizes that notwithstanding the original designation, upon implementation of the Concept Plan through completion of the Title 11 planning, the Chief Operating Officer has a ministerial duty to conform the Title 4 map to the city's action. In this case, the Metro planner most knowledgeable about the concept planning activity has confirmed that the proposed designation is consistent with Title 4 and with the Concept Plan.

2. **The opposition of SEIU to this application is not exclusively concerned with the proper application of the laws nor with the benefit to this area.**

SEIU has unsuccessfully opposed other Providence projects. Some of the issues they may present to you have nothing to do with the land use process or with this site in particular, but instead represent part of a larger campaign opposing Providence. Please keep this in mind when you hear their testimony.

First, they have argued that the proposed hospital use in the Rock Creek Mixed Employment District ("RC-ME") should be a conditional use permit. There is no need for this. In this case, as the City Council knows, the RC-ME District is intentionally designed to provide for a hospital, associated medical uses and collaborative businesses that will provide important employment opportunities to Happy Valley. There is nothing inappropriate about the hospital use at this location, and a conditional use permit process would be both superfluous and unnecessary.

Conditional uses, as the Oregon Supreme Court noted, have historically been employed as a device to permit discretionary decisions on certain uses. *Anderson v. Peden*, 284 Or 313 (1978). In this case, where the creators of the Damascus-Boring Concept Plan anticipated that a hospital would be a major component of that design type, where the City has approved the Concept Plan, where Metro has approved the Concept Plan and where the proposed ordinance makes a hospital a permitted use but subject to Master Plan

and Design Review approval, there is no policy or legal reason to make the use a conditional use permit which would simply require another discretionary level of review.

HDVC 16.16.220 is entitled "Conditional Use". Subsection A is entitled "Purpose" and provides in part: "A conditional use is that use which, by virtue of special circumstances surrounding its use and development, cannot be effectively placed in any development district as an allowable use permitted by right. The specific uses may have significant impacts on traffic, school enrollments, public services, surrounding land uses in neighborhood or community to the extent that those impacts create adverse effects in the generally established patterns and trends; therefore, those uses must be carefully considered and, if necessary, have the impacts and operating circumstances controlled and directed by some conditions of approval."

The very rationale for this district is to provide for, among other uses, a hospital. The impacts of that use are considered in the establishment of this district. This use will precede the other uses in the surrounding area. Therefore, it is not possible for this use to have adverse impacts on surrounding uses because those uses do not yet exist. Finally, the discretion to judge the impacts of the use versus the use itself are available to the City through the Master Plan and Design Review processes. For this reason, the City Council need not categorize this use as a conditional use.

Second, the City has substantial discretionary review even after this request is adopted. First, the proposed RC-ME text requires a master plan which is subject to an exhaustive public process. Additionally, the City's Design Review process in Happy Valley Development Code ("HVDC") Chapter 16.32 is a public process which concerns the appearance of the buildings and their layout on the site. These two (2) reviews are more than sufficient to assure that the public and the City decision-makers have an opportunity to determine how the site develops.

The opponents also argued that this matter should be deferred and that the Concept Plan for this site should be implemented with the rest of the East Happy Valley area. First, this site contains just 146 acres out of an approximate total of 2,500 acres of the East Happy Valley Comprehensive Plan area of the Concept Plan. The Happy Valley City Council previously determined that it made sense to implement the Concept Plan ahead of the remainder of the Concept Plan area for this discrete area. Second, nothing in applicable provisions of the Metro Code, the HVDC or the Happy Valley Comprehensive Plan prohibits the City from doing this. Had Metro believed that the Metro Functional Plan or some other relevant criterion prohibits this action, it would have said so.

Mr. Noren's letter asserts that allowing medical centers as a permitted use outright in the proposed zoning district is inconsistent with Metro Functional Plan Title 4, the adopted and approved Damascus-Boring Concept Plan and Statewide Planning Goals ("Goal") 9 and 11. Not only does Mr. Noren fail to support his assertions but, in fact, a close examination of the relevant law shows that he is wrong.

First, the Concept Plan has been approved by both the City of Happy Valley City Council and the Metro Council. The approved Concept Plan shows this site as "Mixed Employment" which will implement the Title 4 designation of "Employment". The designation is consistent with the Clackamas County health care strategy. Proponents of this application submitted the Clackamas County health care strategy to the Planning Commission.

Second, Metro disagrees that the proposed text and map amendments are inconsistent with Title 4. Mr. Ray Valone submitted a letter to the City stating that the proposal is consistent with the Metro Functional Plan.

Mr. Noren asserts that one of the reasons the proposal is inconsistent with the Concept Plan is that it is not "premised upon a hospital, independent of the research and development campus...." May 13, 2008 letter at Page 4. Ironically, Mr. Noren cites the supporting Rock Creek Employment Area study submitted by the applicant which describes the proposed uses in the design type as including a regional hospital. Moreover, the area proposed to be designated Rock Creek-Mixed Employment is 146 acres of which Providence controls only 70 acres. In other words, another 76 acres remains for other activities and uses.

Mr. Noren asserts that this legislative map and text amendment fails to satisfy Goal 9. However, Mr. Noren cites no provision of Goal 9 for the City Council to consider. Additionally, Mr. Noren cites no applicable provision of Goal 9 that would control the outcome of this decision. The record contains substantial evidence from a number of sources demonstrating that this application furthers the economy of the City of Happy Valley and the surrounding region.

Mr. Noren also argues that Goal 11 is not satisfied. Goal 11 is entitled "*Public* Facilities and Services") (emphasis added). This proposal is for private facilities which will support urban levels of development as required by Goal 11. The question is whether the City is required to have a plan for health services and the answer, based on the plain and express language of Goal 11, is "no". First, Goal 11 requires the City to adopt a public

facility plan which includes a provision for key facilities. (**Exhibit 6.**) Mr. Noren asserts at Page 2 of his letter that "key facilities" includes health services. Again, he is incorrect. **Exhibit 7** is the definition of "key facilities" from the Statewide Planning Goals. Key facilities are defined as follows: "Basic facilities that are primarily planned for by local government but which may also be provided by private enterprise and are central to the support of more intense development, including public schools, transportation, water supply, sewage and solid waste disposal." The Land Conservation and Development Commission ("LCDC"), which adopted Goal 11, knew how to use the phrase "health services" because it included the term "health services" in the phrase "urban facilities and services". LCDC's conscious choice not to include "health services" in the definition of key facilities means that health services is not one of the types of key facilities that must be included in the Public Facilities Plan.

The only mention of health services is in the definition of "urban facilities and services" but in the context of Goal 11, this is not a planning requirement. Goal 11 provides in relevant part: "Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served." Thus, health services are not required to be planned for by the City of Happy Valley through Goal 11 for two (2) reasons. First, the health services in this context are private, not public and, second, these health services are not included in key facilities or public facilities plan requirements. Moreover, Mr. Noren agrees at Page 3 of his letter that health services are not primarily provided by local government. Finally, in answering a question by Planning Commission Chair Klever, Ms. Crider told Mr. Klever that she was unaware of any other city in Oregon that had planned for health services. Thus, the applicant agrees with the City Attorney's memorandum dated May 21, 2008 in which he also concluded that health services are not a requirement to be planned for by the City. Nothing in Goal 11 requires that this urban facility be included in the City's planning efforts.

Finally, **Exhibit 8** is a letter from Mr. Terry Smith, Chief Operating Officer for Providence in Oregon. Mr. Smith's letter explains Providence's mission and its rationale for locating here.

4. **Conclusion.**

For all of the reasons contained in the application, the Planning Commission can find that this application satisfies the applicable approval criteria. Providence Health System – Oregon respectfully requests that the Planning Commission recommend that the Happy Valley City Council approve this application.

Very truly yours,

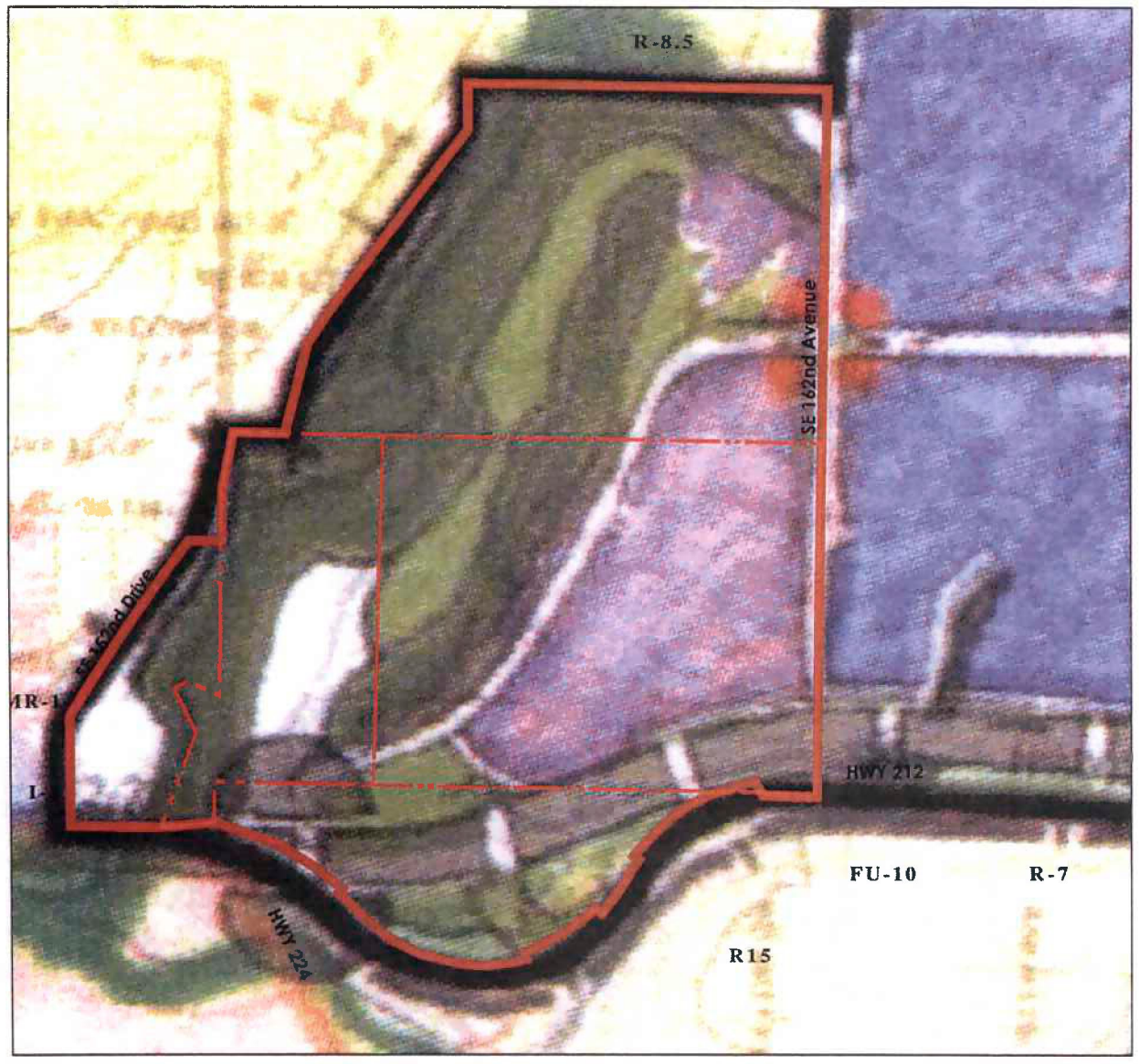
Michael C. Robinson

MCR:sv
Enclosures
cc: Mr. Michael Walter (via email) (w/encls.)
Mr. Chris Crean (via email) (w/encls.)
Ms. Bev Bookin (via email) (w/encls.)
Ms. Dana White (via email) (w/encls.)

EXHIBITS

Exhibit 1	Damascus Boring Concept Plan Area (2 sheets)
Exhibit 2	City of Happy Valley Resolution No. 06-14, adopted by the Happy Valley City Council on May 2, 2006
Exhibit 3	Metro Council Resolution No. 06-3676, adopted by the Metro Council on March 16, 2006
Exhibit 4	Metro Code 3.07.440.A
Exhibit 5	Metro Code 3.07.450.B
Exhibit 6	Statewide Planning Goals Definitions
Exhibit 7	Statewide Planning Goal 11, "Public Facilities and Services"
Exhibit 8	May 15, 2008 Letter from Terry Smith

Exhibit 1



KEY:

Proposed Comprehensive Plan and Zoning District

more dense — less dense **Residential**

Centers

mixed — industrial **Employment**

Transition Areas
very low density residential

Conservation Areas
baseline natural areas

Park
illustrative only, non site specific

School
illustrative only, non site specific

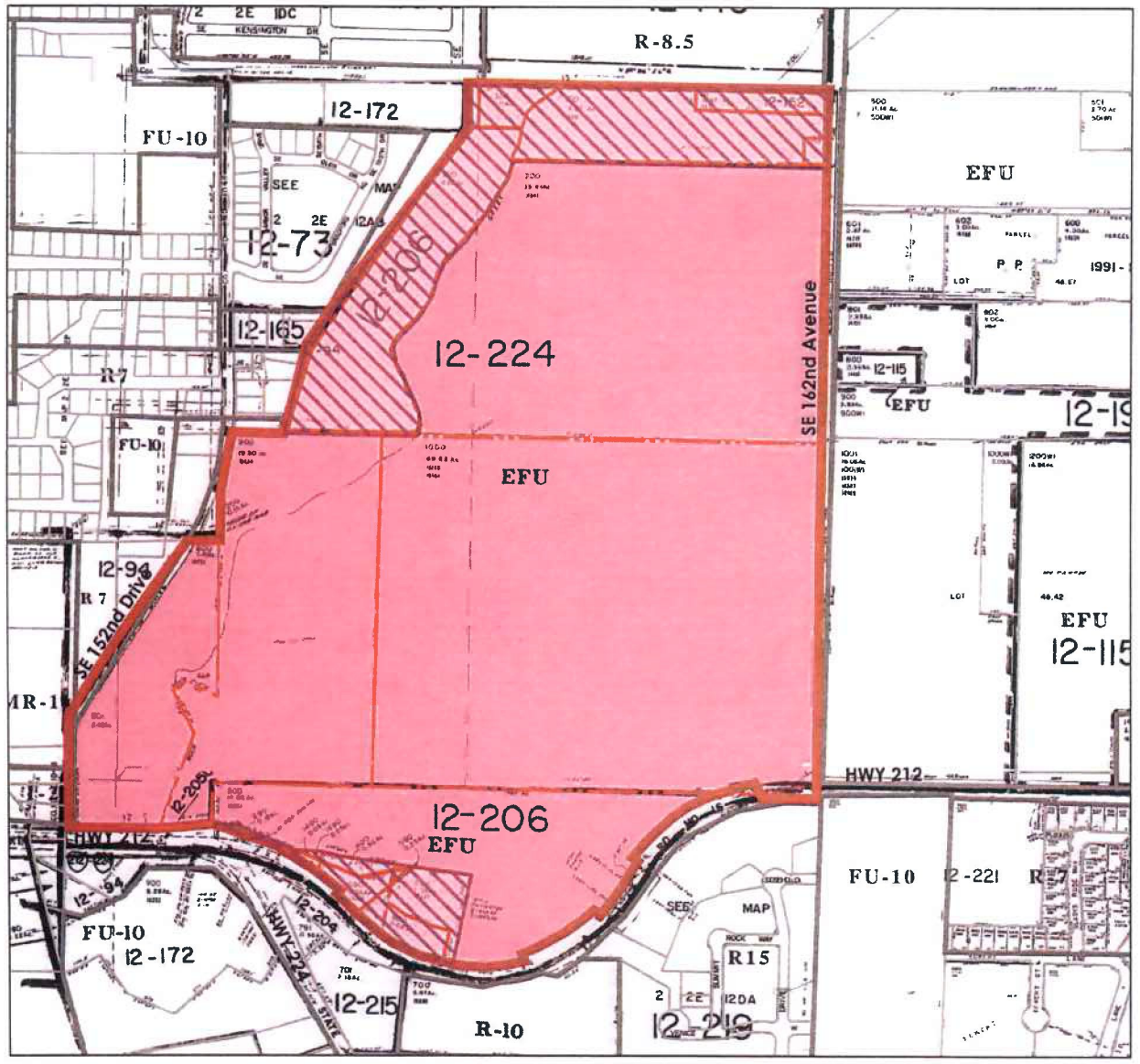
Parkway Corridor
(see note)

Damascus Boring Concept Plan

Rock Creek
Mixed Employment District

0 150' 300' 600' 1200'

May 13, 2008



KEY:

Proposed Comprehensive Plan and Zoning District

Areas not in the city of Happy Valley

RC-ME District

Rock Creek
Mixed Employment District

0 150' 300' 600' 1200'

May 13, 2008

CITY OF HAPPY VALLEY, OREGON
RESOLUTION 06-14

A RESOLUTION ACCEPTING THE DAMASCUS/BORING CONCEPT PLAN

WHEREAS, during 2003-2005, the City of Happy Valley participated with Metro, ODOT, Damascus, Gresham, and Clackamas County in the development of the Damascus/Boring Concept Plan (Concept Plan);

WHEREAS, the Concept Plan includes an approximately 2400 acres that will be part of Happy Valley;

WHEREAS, the Metro Council accepted the Concept Plan on March 16, 2006;

WHEREAS, the City of Happy Valley has started a Comprehensive Planning process to implement the Concept Plan;

WHEREAS, Exhibit A is an Executive Summary of the Concept Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Happy Valley, Oregon, that:

Section 1. The Happy Valley City Coucil accept the Damascus/Boring Concept Plan.

Section 2. This resolution is and shall be effective from and after its passage by the Council.

PASSED by the City Council on this 2nd day of May, 2006.

APPROVED by the Mayor on this 2nd day of May, 2006.

Eugene Grant
Mayor

Attest:
Marylee Walden
City Recorder

Exhibit 2

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ACCEPTING THE DAMASCUS/BORING CONCEPT PLAN AS RECOMMENDED BY THE DAMASCUS/BORING CONCEPT PLAN ADVISORY COMMITTEE	))))	RESOLUTION NO. 06-3676 Introduced by Councilor Rod Park

WHEREAS, the Metro Council adopted Ordinance No. 02-969B (For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code in Order to Increase the Capacity of the Boundary to Accommodate Population Growth to the Year 2022) on December 5, 2002, adding Study Areas 10 through 19, known as the Damascus area, to the urban growth boundary; and

WHEREAS, Title 11 of the Urban Growth Management Functional Plan (UGMFP) requires the completion of an urban growth plan diagram and policies that comply with the UGMFP and the 2040 Growth Concept design types assigned to the area by Ordinance No. 02-969B; and

WHEREAS, the Metro Council approved Resolution No. 01-3098A (For the Purpose of Amending the Metropolitan Transportation Improvement Program to Allocate FY 2004 - 05 Congestion Mitigation/Air Quality (CMAQ) and Surface Transportation Program (STP) Funds) in September, 2001, to amend the Metropolitan Transportation Improvement Program to allocate $2 million of Surface Transportation Program funds for concept planning for the Damascus area ($1.4 million) and to complete the Draft Environmental Impact Statement for the Sunrise Corridor Unit 1 ($600,000); and

WHEREAS, Metro entered into intergovernmental agreements with ODOT, Clackamas County, and the cities of Damascus, Happy Valley and Gresham to coordinate participation in the planning process; and

WHEREAS, the Damascus/Boring Concept Plan Advisory Committee, made up of area residents and property owners, neighborhood associations, business and environmental organizations and representatives from the cities of Damascus, Happy Valley and Gresham, Clackamas County, ODOT and Metro, guided the creation of a concept plan for the 12,200-acre Damascus/east Happy Valley/Boring area; and

WHEREAS, the Damascus/Boring Concept Plan Advisory Committee recommended a final concept plan map and implementation strategies on November 29, 2005, to assist the cities in complying with Metro Functional Plan Title 11 and to serve as guidelines for use in updating / developing their comprehensive plans; now therefore,

BE IT RESOLVED:

1 That the Metro Council accepts the Damascus/Boring Concept Plan as endorsed and recommended by the Damascus/Boring Concept Plan Advisory Committee on November 29, 2005, as shown on the Exhibit A, attached and incorporated herein.

2. That the Metro Council recognizes the Damascus/Boring Concept Plan as the basis for completion of Title 11 planning by the local governments responsible for comprehensive planning in the area.

EXHIBIT # "F"

Exhibit 3

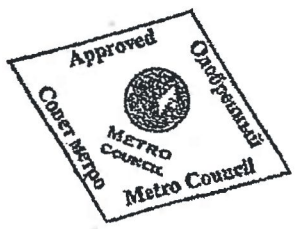
3. That the Metro Council will continue working with its regional partners to coordinate future planning and funding actions related to the Damascus/Boring Concept Plan.

ADOPTED by the Metro Council this 16th day of March, 2006.

David Bragdon, Council President

APPROVED AS TO FORM:

Daniel B. Cooper, Metro Attorney



parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed with uses described in subsection A of this section.

4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:

   a. To provide public facilities and services;

   b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;

   c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or

   d. To allow the creation of a lot for financing purposes when the created lot is part of a master planned development.

E. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floorspace and 10 percent more land area.

(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-969B, Sec. 5; Ordinance No. 04-1040B, Sec. 2.)

3.07.440 Protection of Employment Areas

A. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code Section 3.07.130, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.

B. Except as provided in subsections C, D and E, a city or county shall not approve a commercial retail use in an

Exhibit 4

B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in Section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.

C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by Title 4 upon a demonstration that:

1. The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;

2. The amendment will not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan, or the amount of the reduction is replaced by separate and concurrent action by the city or county;

3. If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;

4. The amendment would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("RTP"), or exceed volume-to-capacity ratios on Table 7 of the 1999 Oregon Highway Plan for state highways, unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses;

5. The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and

Exhibit 5

HEADLANDS. Bluffs, promontories or points of high shoreland jutting out into the ocean, generally sloping abruptly into the water. Oregon headlands are generally identified in the report on Visual Resource Analysis of the Oregon Coastal Zone, OCCDC, 1974.

HISTORICAL RESOURCES. Those districts, sites, buildings, structures, and artifacts which have a relationship to events or conditions of the human past. (See Archaeological Resources definition.)

HUMMOCK, ACTIVE. Partially vegetated (usually with beach grass), circular, and elevated mounds of sand which are actively growing in size.

HYDRAULIC. Related to the movement or pressure of water. Hydraulic hazards are those associated with erosion or sedimentation caused by the action of water flowing in a river or streambed, or oceanic currents and waves.

HYDRAULIC PROCESSES. Actions resulting from the effect of moving water or water pressure on the bed, banks, and shorelands of water bodies (oceans, estuaries, streams, lakes, and rivers).

HYDROGRAPHY. The study, description and mapping of oceans, estuaries, rivers and lakes.

HYDROLOGIC. Relating to the occurrence and properties of water. Hydrologic hazards include flooding (the rise of water) as well as hydraulic hazards associated with the movement of water.

IMPACT. The consequences of a course of action; effect of a goal, guideline, plan or decision.

INSURE. Guarantee; make sure or certain something will happen.

INTEGRITY. The quality or state of being complete and functionally unimpaired; the wholeness or entirety of a body or system, including its parts, materials, and processes. The integrity of an ecosystem emphasizes the interrelatedness of all parts and the unity of its whole.

INTERDUNE AREA. Low-lying areas between higher sand landforms and which are generally under water during part of the year. (See also Deflation Plain.)

INTERTIDAL. Between the levels of mean lower low tide (MLLT) and mean higher high tide (MHHT).

KEY FACILITIES. Basic facilities that are primarily planned for by local government but which also may be provided by private enterprise and are essential to the support of more intensive development, including public schools, transportation, water supply, sewage and solid waste disposal.

LCDC. Land Conservation and Development Commission of the State of Oregon. Seven lay citizens, non-salaried, appointed by the Governor, confirmed by the Oregon Senate; at least

Exhibit 6

PROTECT. Save or shield from loss, destruction, or injury or for future intended use.

PROVIDE. Prepare, plan for, and supply what is needed.

PUBLIC FACILITIES AND SERVICES. Projects, activities and facilities which the planning agency determines to be necessary for the public health, safety and welfare.

PUBLIC GAIN. The net gain from combined economic, social, and environmental effects which accrue to the public because of a use or activity and its subsequent resulting effects.

QUALITY. The degree of excellence or relative goodness.

RECREATION. Any experience voluntarily engaged in largely during leisure (discretionary time) from which the individual derives satisfaction.

Coastal Recreation occurs in offshore ocean waters, estuaries, and streams, along beaches and bluffs, and in adjacent shorelands. It includes a variety of activities, from swimming, scuba diving, boating, fishing, hunting, and use of dune buggies, shell collecting, painting, wildlife observation, and sightseeing, to coastal resorts and water-oriented restaurants.

Low-Intensity Recreation does not require developed facilities and can be accommodated without change to the area or resource. For example, boating, hunting, hiking, wildlife photography, and beach or shore activities can be low-intensity recreation.

High-Intensity Recreation uses specially built facilities, or occurs in such density or form that it requires or results in a modification of the area or resource. Campgrounds, golf courses, public beaches, and marinas are examples of high-intensity recreation.

RESTORE. Revitalizing, returning, or replacing original attributes and amenities, such as natural biological productivity, aesthetic and cultural resources, which have been diminished or lost by past alterations, activities, or catastrophic events. For the purposes of Goal 16 estuarine restoration means to revitalize or reestablish functional characteristics and processes of the estuary diminished or lost by past alterations, activities, or catastrophic events. A restored area must be a shallow subtidal or an intertidal or tidal marsh area after alteration work is performed, and may not have been a functioning part of the estuarine system when alteration work began.

Active Restoration involves the use of specific positive remedial actions, such as removing fills, installing water treatment facilities, or rebuilding deteriorated urban waterfront areas.

Passive Restoration is the use of natural processes, sequences, and timing which occurs after the removal or reduction of adverse stresses without other specific positive remedial action.

RIPARIAN. Of, pertaining to, or situated on the edge of the bank of a river or other body of water.

RIPRAP. A layer, facing, or protective mound of stones randomly placed to prevent erosion, scour or sloughing of a structure or embankment; also, the stone so used. In local usage, the similar use of other hard material, such as concrete rubble, is also frequently included as riprap.

Oregon's Statewide Planning Goals & Guidelines

GOAL 11: PUBLIC FACILITIES AND SERVICES

OAR 660-015-0000(11)

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served. A provision for key facilities shall be included in each plan. Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons. To meet current and long-range needs, a provision for solid waste disposal sites, including sites for inert waste, shall be included in each plan.

Counties shall develop and adopt community public facility plans regulating facilities and services for certain unincorporated communities outside urban growth boundaries as specified by Commission rules.

Local Governments shall not allow the establishment or extension of sewer systems outside urban growth boundaries or unincorporated community boundaries, or allow extensions of sewer lines from within urban growth boundaries or unincorporated community boundaries to serve land outside those boundaries, except where the new or extended system is the only practicable alternative to mitigate a public health hazard and will not adversely affect farm or forest land.

Local governments may allow residential uses located on certain rural residential lots or parcels inside existing sewer district or sanitary authority boundaries to connect to an existing sewer line under the terms and conditions specified by Commission rules.

Local governments shall not rely upon the presence, establishment, or extension of a water or sewer system to allow residential development of land outside urban growth boundaries or unincorporated community boundaries at a density higher than authorized without service from such a system.

In accordance with ORS 197.180 and Goal 2, state agencies that provide funding for transportation, water supply, sewage and solid waste facilities shall identify in their coordination programs how they will coordinate that funding with other state agencies and with the public facility plans of cities and counties.

A Timely, Orderly, and Efficient Arrangement – refers to a system or plan that coordinates the type, locations and delivery of public facilities and services in a manner that best supports the existing and proposed land uses.

Exhibit 7

Rural Facilities and Services – refers to facilities and services suitable and appropriate solely for the needs of rural lands.

Urban Facilities and Services – Refers to key facilities and to appropriate types and levels of at least the following: police protection; sanitary facilities; storm drainage facilities; planning, zoning and subdivision control; health services; recreation facilities and services; energy and communication services; and community governmental services.

Public Facilities Plan – A public facility plan is a support document or documents to a comprehensive plan. The facility plan describes the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plan or plans within an urban growth boundary containing a population greater than 2,500.

Community Public Facilities Plan – A support document or documents to a comprehensive plan applicable to specific unincorporated communities outside UGBs. The community public facility plan describes the water and sewer services and facilities which are to support the land uses designated in the plan for the unincorporated community.

Water system – means a system for the provision of piped water for human consumption subject to regulation under ORS 448.119 to 448.285.

Extension of a sewer or water system – means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer or water system, as defined by Commission rules.

GUIDELINES

A. PLANNING

1. Plans providing for public facilities and services should be coordinated with plans for designation of urban boundaries, urbanizable land, rural uses and for the transition of rural land to urban uses.

2. Public facilities and services for rural areas should be provided at levels appropriate for rural use only and should not support urban uses.

3. Public facilities and services in urban areas should be provided at levels necessary and suitable for urban uses.

4. Public facilities and services in urbanizable areas should be provided at levels necessary and suitable for existing uses. The provision for future public facilities and services in these areas should be based upon: (1) the time required to provide the service; (2) reliability of service; (3) financial cost; and (4) levels of service needed and desired.

5. A public facility or service should not be provided in an urbanizable area unless there is provision for the coordinated development of all the other urban facilities and services appropriate to that area.

6. All utility lines and facilities should be located on or adjacent to existing public or private rights-of-way to avoid dividing existing farm units.

7. Plans providing for public facilities and services should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land

conservation and development action provided for by such plans should not exceed the carrying capacity of such resources.

B. IMPLEMENTATION

1. Capital improvement programming and budgeting should be utilized to achieve desired types and levels of public facilities and services in urban, urbanizable and rural areas.

2. Public facilities and services should be appropriate to support sufficient amounts of land to maintain an adequate housing market in areas undergoing development or redevelopment.

3. The level of key facilities that can be provided should be considered as a principal factor in planning for various densities and types of urban and rural land uses.

4. Plans should designate sites of power generation facilities and the location of electric transmission lines in areas intended to support desired levels of urban and rural development.

5. Additional methods and devices for achieving desired types and levels of public facilities and services should include but not be limited to the following: (1) tax incentives and disincentives; (2) land use controls and ordinances; (3) multiple use and joint development practices; (4) fee and less-than-fee acquisition techniques; and (5) enforcement of local health and safety codes.

6. Plans should provide for a detailed management program to assign respective implementation roles and responsibilities to those governmental bodies operating in the planning area and having interests in carrying out the goal

Providence Health & Services
1235 N E 47th Ave., Suite 299
Portland, OR 97213

PROVIDENCE
Health & Services

May 15, 2008

Mayor Rob Wheeler
City of Happy Valley
12915 Southeast King Road
Happy Valley, Oregon 97086

Dear Mayor Wheeler:

As you are probably aware, Providence is very excited about the potential opportunity of providing health care services to the community of Happy Valley as well as the rest of Clackamas County at our site north of the intersection between Highways 212 and 222. I wanted to provide you with my comments from my testimony at the Planning Commission hearing that was held on Tuesday, May 13 to re-emphasize our commitment to developing this site as well as our site on 162nd and Sunnyside. My comments were as follows:

INTRODUCTION

- I'm very pleased to be here tonight talking with you about Providence Health & Services. I've dedicated my entire 35-year career to working with Providence, as I believe very strongly in the Mission and vision of the organization.
- Providence Health & Services in Oregon is a not-for-profit network of hospitals, health plans, physicians, clinics, home health services, and affiliated health services. We continue a tradition of caring that the Sisters of Providence began more than 150 years ago.
- Providence is guided by our Mission and core values, which are carried out by employees, physicians, nurses, volunteers and others who work together in a spirit of service.
- Our Happy Valley facility will be open to all patients, regardless of their ability to pay for their medical care.
- Our Mission is simple:
  As people of Providence,
  we reveal God's love for all,
  especially the poor and vulnerable,
  through our compassionate service.
- We strongly believe our Mission's calling to care for and give back to our community. In 2007, Providence Milwaukie Hospital, located here in Clackamas County, provided more than $9 million of community benefit, primarily to people in Clackamas County, with nearly half - $4.5 million – being direct charity care. In Oregon, Providence last year provided more than $63 million in free or reduced-cost patient care.

Exhibit 8

BRINGING HEALTH CARE TO HAPPY VALLEY

- In 2004, Clackamas County created a Healthcare Cluster Economic Development Roadmap which identified health care as the primary source of high-wage jobs in Clackamas County. Around that same time the County's Business and Economic Development team began working with Providence to identify a site in Clackamas County that would be suitable for a full-service medical campus. We were very pleased and excited to purchase 69 acres just north of Highway 212 between 152nd and 162nd, commonly known as the Switzer Farm, in Happy Valley. This property being one corner of what has been identified as the Rock Creek Employment Area, with a full service medical campus being the catalyst for the County's biomedical technology cluster strategy, and providing much needed medical services to the community.
- Providence has already begun the groundwork for serving Happy Valley as we prepare to break ground on a medical office building on 162nd and Sunnyside. While that site will bring up to 40 high-wage jobs to the city, over time our Rock Creek site could add several thousand high wage jobs. Health care has been identified as high economic multipliers, generating up to $2.69 for every dollar of income reports the Clackamas County's Business and Economic Development division.
- In addition to the economic benefit derived from a full service medical campus are the related services of doctors' offices, suppliers, and construction spending to name a few.

WRAP UP

- We anticipate the development on this property to mirror the growth of your community, with facilities and services being added gradually, perhaps over a 10 to 15 year span. This is just the beginning of a long partnership between Providence, the City of Happy Valley, and its growing community. Thank you for your time.

I am looking forward to meeting you at the City Council meeting on June 3rd.

Very truly yours,

Terry L. Smith
Chief Operating Officer – Oregon
(503) 215-4500
(503) 215-4703 Fax
Terry.Smith@providence.org

/mmm

Attorney at Law
217 E. Main P.O. Box 586
Hillsboro, Oregon 97123-0586
Telephone: (503) 640-2661 Fax: (503) 648-7216
e-mail: davidnoren@worldnet.att.net

May 23, 2008

Mayor and City Council
City of Happy Valley
12915 SE King Road
Happy Valley, OR 97086

Re: Rock Creek Mixed Employment Comprehensive Plan and Code Text
Casefile No. CPA-03-08/LDO-03-08

Dear Mayor Wheeler and City Councilors:

I represent Service Employees International Union Local 49. We are providing you, as a convenience, with a separate packet of the materials submitted to the planning commission on May 13, together with an executive summary. We will attend your meeting on June 3 to provide testimony and answer your questions. Our economics experts will also be available on June 3.

We urge you to carefully consider our request that you require a review through the conditional use process before a hospital, ambulatory surgery center or other major health care facility is approved in the Rock Creek Mixed Employment district. Applicants proposing to operate hospitals or major medical facilities in the employment district should be required to demonstrate that the proposed use creates jobs that grow the economy, meets a public healthcare need, and is in the public interest. They should show that the type, level and location of health services has been coordinated with those provided by other area providers. These proposed changes will support the orderly and efficient delivery of health services, for the benefit of Happy Valley and the surrounding area.

Thank you for your consideration.

Very truly yours,

David C. Noren

ATTACHMENT # "C-4"

EXECUTIVE SUMMARY: SEIU's Proposal to Modify Providence Health & Services' Proposed Zoning for the Rock Creek Area

The Providence proposal
Providence Health & Services, which owns about 69 acres in the Rock Creek area, has proposed a comprehensive plan designation and zoning regulations that would allow a hospital or an ambulatory surgery center or other major medical facility to be established as an outright permitted use. Providence is asking the city council to adopt the proposed amendments at its June 3, 2008 meeting, six months before the council will act on planning for the other areas that came into the UGB in 2002.

The effect of the Providence proposal
If Providence's proposal is approved, there will be no further opportunity for city review of whether new health care facilities at this location are needed, whether they serve the public interest, or whether they will create new jobs as an employment area should. Instead, future review would be limited to design and traffic issues. When a use is permitted outright, the Master Plan approval process does not allow the Planning Commission to consider whether the proposed use is generally beneficial or harmful to the community, as long as it meets the applicable standards in the code.

SEIU's concerns
At the May 13, 2008, planning commission meeting, attorney David Noren presented the legal and policy reasons to plan better for health care and jobs in Happy Valley. Lynn-Marie Crider of SEIU 49 provided testimony describing the organization's stake in health care planning and explaining SEIU's concern that allowing medical centers as a permitted use without any review for public need or public benefit will drive up health care costs. Economists provided expert analysis supporting our request that major health care facilities be subject to conditional use review with additional standards concerning public need and public interest.

- ***Goal 11 concerns:*** Allowing a new hospital and related facilities as an outright permitted use can drive up health care costs, because if the facility is not needed it will simply pull patients away from existing hospitals that already operate far below capacity. That is inefficient and costly. Economist Bryce Ward of ECONorthwest described the market for health care and why simple models of supply/demand and competition do not affect price and availability of health care as they might be expected to do. Requiring a showing of public need and public benefit allows orderly and efficient planning for health care services, as required by State Goal 11.

- ***Goal 9 concerns:*** Allowing hospitals and related facilities in the mixed employment zone, without a requirement that the hospital serve and support research and development and other primary uses that will create family-wage jobs appropriate to an employment district, will deprive the region of industrial land needed to create new jobs and support rising wages. The industrial and employment lands designated by Metro in justifying the urban growth boundary expansion and recognized in the Concept Plan should promote traded sector business, which creates jobs by exporting the goods or knowledge-based capital

created by medical research and development and related manufacturing. The written testimony from economist Joseph Cortright of Impreza Consulting explained that hospitals and related uses are local sector activities that meet a local market, and thus do not create any new jobs. Requiring a new hospital be tied to a primary research and development use will help ensure it does create new jobs, consistent with Metro requirements and Goal 9.

SEIU's proposed alternative

Service Employees International Union Local 49 requests the city council:

- To modify the Providence proposal to enable the Council to review specific proposals for hospital or other major health care facilities and to impose conditions on their approval, and
- To delay adoption of any plan or zoning provisions for the Rock Creek area until further planning for the Damascus-Boring Concept Plan area is completed.

The effect of SEIU's proposed alternative

The primary effect of the proposed modifications would be to make a "medical center" a "conditional use" rather than a "permitted use." Applicants proposing to operate hospitals or major medical facilities would be required to demonstrate that approval of the proposed use creates jobs that grow the economy, meets a public healthcare need, and is in the public interest, and that the type, level and location of health services has been coordinated with those provided by other area providers to allow for the orderly and efficient delivery of services.

CITY OF HAPPY VALLEY
ORDINANCE NO. 376

AN ORDINANCE ADOPTING THE "ROCK CREEK MIXED EMPLOYMENT COMPREHENSIVE PLAN"; ADOPTING CONGRUENT COMPREHENSIVE PLAN AND DEVELOPMENT CODE TEXT AMENDMENTS; AND, AMENDING OFFICIAL MAP EXHIBIT 11 OF THE CITY OF HAPPY VALLEY LAND DEVELOPMENT ORDINANCE NO. 97, AS AMENDED – COMPREHENSIVE PLAN MAP AMENDMENT/ZONE CHANGE FROM CLACKAMAS COUNTY EXLUSIVE FARM USE (EFU) TO CITY ROCK CREEK MIXED USE EMPLOYMENT (RC-ME) FOR SPECIFIC PROPERTIES.

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

WHEREAS, Application CPA-03-08/LDO-03-08 was initiated by a public-private partnership between the City of Happy Valley and Providence Health & Services – Oregon to adopt the "Rock Creek Mixed Employment Comprehensive Plan"; amend and augment existing Comprehensive Plan and Development Code text; and, amend the Development District Map (Official Map Exhibit 11 of Ordinance 97) by applying City RC-ME zoning to the properties known as Clackamas County Assessor Map Nos. 22E12A: Tax Lots 200, 304, 800, 801, 900 and 1000 and 22E12D: Tax Lots 200, 400, 500 and 600 as illustrated within Exhibit "A"; and,

WHEREAS a hearing was held before the City of Happy Valley Planning Commission on May 13, 2008; and,

WHEREAS, the Planning Commission unanimously recommended that said "Rock Creek Mixed Employment Comprehensive Plan" be implemented based on the submitted materials; that the Comprehensive Plan and Development Code Text Amendments be implemented; and that the Development District Map be amended as recommended in the Staff Report to the Planning Commission dated May 13, 2008; and,

WHEREAS, the City has timely forwarded a copy of the proposed amendment to the Department of Land Conservation and Development of the State of Oregon and Metro; and,

WHEREAS, the City Council of the City of Happy Valley, Oregon, has determined that it is reasonable, necessary and in the public interest to adopt the "Rock Creek Mixed Employment Comprehensive Plan"; incorporate the proposed Comprehensive Plan and Development Code Text Amendments; and, revise the Development District Map and upholds the Planning Commission's recommendation pursuant to the findings within the Staff Report to the Planning Commission dated May 13, 2008.

NOW, THEREFORE, based on the foregoing,

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

Section 1. The City of Happy Valley declares that the RC-ME district be applied to the ten properties described in Exhibit "A".

Section 2. The City of Happy Valley declares that the proposed Comprehensive Plan Policy be added to the City's Comprehensive Plan; and that the proposed amendments to Title 16 of the City's Municipal Code be

amended as set forth as part of Exhibit "B" and are fully incorporated herein.

Section 3. The City of Happy Valley declares that the Findings of Fact included within the Staff Report to the Planning Commission dated May 13, 2008 are hereby adopted in conjunction with this Ordinance.

Section 4. The City of Happy Valley declares that this Ordinance shall become effective thirty (30) days after approval by the City Council.

READ for the first time at the regular meeting of the City Council of the City of Happy Valley, Oregon, on June 3, 2008 and read for the second time on June 3, 2008, and adopted by a unanimous vote of the members of the City Council of the City of Happy Valley, Oregon.

CITY OF HAPPY VALLEY

_____
Mayor Rob Wheeler

ATTEST:

_____
Marylee Walden, City Recorder

ORDINANCE NO. 376

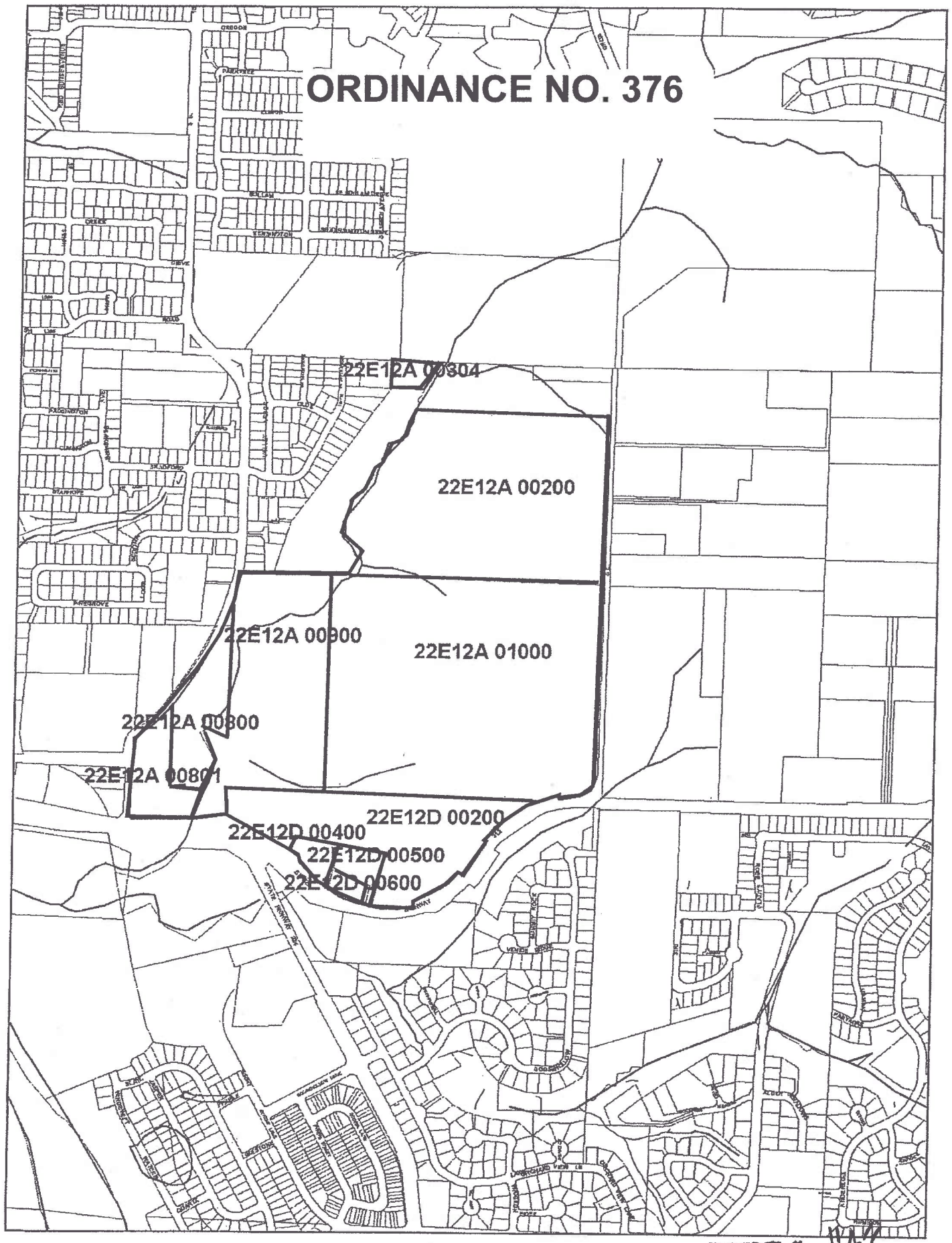


EXHIBIT # A

ADOPTED COMPREHENSIVE PLAN POLICY AND DEVELOPMENT CODE TEXT AMENDMENTS ASSOCIATED WITH ORDINANCE NO. 376

COMPREHENSIVE PLAN POLICY:

"Policy No. 55C

To plan for the creation of the Rock Creek Employment District.

The Rock Creek Employment District is an approximately 146-acre area located generally northwest of the intersection of Oregon Highway 224 and SE 162nd Avenue. The Area has historically been zoned Exclusive Farm Use ("EFU") pursuant to Clackamas County's acknowledged comprehensive plan and land use regulations while it was outside of the Portland Metropolitan Urban Growth Boundary ("UGB"). This area is subject to the Damascus-Boring Concept Plan ("Concept Plan") required by the site's 2002 inclusion within the UGB. The Concept Plan, approved by Metro and the Happy Valley City Council, established that this area will be an Employment Area implementing Metro Functional Plan Title 4, "Industrial and Other Employment Areas." However, the site is not subject to the Industrial or the Regionally Significant Industrial Area restrictions contained in Title 4.

To implement the Concept Plan vision for this site, the City intends to establish a Rock Creek Mixed Employment ("RC-ME") zoning district consistent with applicable provisions of the Happy Valley Comprehensive Plan and the Metro Functional Plan providing for a variety of employment-generating uses. The City shall implement the District by designating the area with a Rock Creek Mixed Employment comprehensive plan map and zoning map designation.

The City acknowledges that the area's transportation and ecosystems services infrastructure must be improved to accommodate the proposed uses. Accordingly, the implementing zoning ordinance text and map amendments shall address ecosystem services, including the implementation of low impact development strategies and include requirements that the area not be developed until there are adequate transportation facilities for proposed uses as determined by the requirements of the Oregon Transportation Planning Rule found in OAR 660-012-0060(1)-(3) and Statewide Planning Goal 12, 'Transportation" and consistent with Happy Valley Land Development Code requirements."

EXHIBIT # "B"

[insert at Page 232-1]
"Chapter 16.12
DEVELOPMENT DISTRICTS
[...]
16.12.150 Rock creek mixed employment (RC-ME)
[...]

[insert at Page 238-12e]
16.12.150 Rock creek mixed employment (RC-ME)

A. Purpose. The Rock Creek Mixed Employment (RC-ME) district permits land uses with high job densities that provide stable, family-wage employment within the City. This zone provides a mix of uses that are compatible with nearby residential uses and provide a buffer between residential and industrial areas. Permitted uses in the Rock Creek Mixed Employment Zone include office, creative arts, small-scale manufacturing, research and development, and medical centers. Commercial uses are limited to those serving the primary uses of the district. A limited number of residential uses, including pre-existing dwelling units, are permitted by right.

B. Permitted Uses. The following uses are permitted in the RC-ME district.

Table 16.12.150-1: Permitted Uses (RC-ME)
P=Permitted; C=Conditional Use; X=Prohibited

Land Use	RC-ME
Residential	
Single-Family dwellings - when pre-existing as of June 1, 2008.	P[1]
Home Occupations in pre-existing dwellings	P
Assisted Living Facilities	C[2]
Commercial - Retail	
Commercial Day Care	C
Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities.	C
Parking Lot (when not an accessory use)	X
Restaurant – Full Service	P[3]

Land Use	RC-ME
Retail – Sales	P[9]
Retail – Personal services	P[4]
Commercial – Office	
Professional and Administrative Offices	P
Medical Office Buildings	P
Industrial	
Industrial Services – fully enclosed	P[5]
Manufacturing and production - fully enclosed	P
Fabrication	P
Energy recovery systems	
Research and development facilities	P
Laboratories	P
Repair, finishing, and testing	P
Assembly	P
Distribution activities	P[6]
Warehousing and freight movement	P[6]
Institutional	
Basic utilities	P
Colleges	P[7]
Emergency services	P
Medical centers	P
Heliport	C
Postal service facilities	P[8]
Public parks and open space - pedestrian amenities	P
Public parks and open space – parks and recreation facilities	C
Public parks, usable open space	P
Other	
Agriculture – Animals/Horticulture when pre-existing as of June 1, 2008	P
Transportation facilities (operation, maintenance, preservation, and construction - in accordance with the City's Transportation System Plan	P
Wireless telecommunication facilities: Wireless telecommunication facilities are subject to the requirements of Chapter 16.59(Wireless Communication Facilities).	P

Land Use	RC-ME
Any accessory use or structure, not otherwise prohibited, that the Planning Official or designee finds to be customarily accessory and incidental to a permitted use.	P
Any use that the Planning Official or designee finds to be similar to one or more of those specified above.	P/C

1) Pre-existing dwellings are allowed to re-model or expand.
2) Assisted living and senior housing may include a range of housing type including single-family detached, single-family attached, assisted-living multi-family units, and congregate care facilities permitted on a single property to provide for a variety of dwelling units and continuous care for seniors of varying levels of health and independence.
3) Drive-through facilities are not permitted.
4) Maximum building size of 20,000 gross square feet.
5) Outdoor storage or outdoor fleet storage not permitted.
6) Permitted as an accessory use - may not exceed 20 percent of the total site area.
7) Use limited to public and non-profit institutions providing technology, health sciences or creative arts education and job training. No dormitories permitted.
8) Fleet parking or mail processing centers not allowed. Permitted use limited to direct consumer services.
9) Retail sales uses may not exceed 60,000 square feet of gross lease area in a single building; or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel; or, on contiguous lots or parcels, including those separated only by transportation right-of-way.

C. Master Plan Required. Within the RC-ME district, uses will provide high densities of employment. This district encourages creative development patterns that achieve these densities in a well-planned, urban environment. Development on sites of ten acres or larger shall require preparation of a master plan pursuant to Section 16.12.150.E of this Chapter. On sites smaller than ten acres, the preparation of a master plan shall be optional. However, if a master plan is not prepared, the development shall be subject to Chapter 16.32 (Design Review). As part of the Design Review application, the applicant shall provide a traffic impact analysis (TIA) as required by the City Engineer. The traffic impact analysis shall be consistent with the requirements of OAR 660-012-0060(1)-(3) and the requirements of Section 16.12.150.B.4.b.ix, below. Development will not be approved prior to submission and review of this analysis.

D. Development Standards.

1. Compliance Required. All of the applicable development standards contained in the underlying zoning district, except where the applicant has obtained variances pursuant to Chapter 16.28 (Variances), or adjustments in accordance with the RC-ME Master Plan process as contained in Section 16.12.150.E.

2. Development Standards. Development in the RC-ME district shall comply with all of the development standards in the table below and all other applicable standards in this title, except as modified through the RC-ME Master Plan provisions in Section 16.12.150.E.4.b.iv.

Table 16.12.150-2: Development Standards (RC-ME)

STANDARD	RC-ME
Minimum lot size	1 Acre[1]
Minimum lot width	100'
Minimum lot depth	100'
Minimum/Maximum Floor Area Ratio (FAR)	Maximum of 2:1 unless increased through a Master Plan
Minimum Setbacks	
• Front and Side facing street on corner and through lots	50 feet when abutting a highway or expressway, 20 feet when abutting an arterial, otherwise, setback equals zero feet.
• Side/Rear yard	50 feet when abutting a residential zoning district, otherwise setback equals zero feet.
Maximum building height	Established through Master Plan except for a maximum height of 70' within 100' of an abutting residential district.
Minimum Landscape/Open Space	15% of net site area shall be landscaped. Up to 1/3 of the required landscaped area may be used for active or passive recreational use or pedestrian amenities. Examples include walking/running paths, play areas, plazas, picnic areas, water quality facilities, open recreational facilities and natural existing landscaping.
Low Impact Development Standards	Plans for implementation of low-impact development strategies including

	pervious pavement; infiltration swales; green roofs; landscaping; habitat protection; and, protection of natural resources.

[1] Legal lots of record of less than one acre created prior to the adoption of these regulations shall be conforming for purposes of development.

E. Master plan requirements specific to the RC-ME district.

1. Purpose. The purpose of the RC-ME Master Plan is to allow large-scale, multi-phased developments to obtain approval of several projects at one time within the RC-ME district. The RC-ME Master Plan process allows the review authority to evaluate the cumulative impacts associated with the full-build out of the over-all development, to ensure that the impacts of such development are mitigated to the extent practicable and to coordinate the provision of future infrastructure.
2. Applicability. These provisions shall apply to all development on parcels ten acres in size or larger within the RC-ME district and may be used voluntarily for parcels smaller than ten acres.
3. Components of RC-ME Master Plans and Detailed Phasing Plans.
   a. Concept Master Plan. A proposed plan for development of the site at full build-out of the concept plan that contains the approximate building envelopes by use within a conceptual framework including pedestrian, bicycle and vehicular circulation, open space/natural resource and on-site utility plans. The concept plan also includes minimum and maximum development standards; architectural, landscaping and pedestrian design standards; building and landscaping materials lists; low-impact development strategies; and other information that will illustrate planned development. The plan also shall include a phasing plan and proposed schedule of development. For each phase of development and at full build-out, the applicant shall identify the total square footage by type of use; development density; parking and traffic generation; on-site utility requirements; and required off-site capital improvements for roads and other public infrastructure. A detailed traffic impact analysis (TIA) detailing traffic volumes at each phase of development and at full build-out is required. In addition, a detailed storm water management plan and report for each phase of the development and at full build-out is required, that will illustrate how the site will implement storm water management and not adversely impact watershed health.
   b. Detailed Phasing Plans. At the time of development of each

phase of development, the applicant shall present a detailed development plan including but not limited to the maximum size, location and use of specific buildings; size and location of parking facilities; building and parking structure elevations; location and design of on-site pedestrian, bicycle and vehicle circulation; design and location of open space and natural resource protection; and detailed utility plan. The applicant also shall confirm traffic impacts for the phase originally identified in the overall TIA required at the time of the concept plan approval. The proposed development shall substantially conform to the architectural and site design standards approved in the Concept Master Plan.

4. RC-ME Concept Master Plan submittal requirements.
   a. Existing conditions plan:
      i. Legal description of all parcels on the proposed site within the applicant's ownership or control.
      ii. Vicinity map that identifies abutting uses. For the purposes of these regulations, "abutting" means those properties sharing one or more property lines with the subject site.
      iii. Zoning map that identifies base and overlay zoning designations for the proposed site and abutting properties.
      iv. Site description for all property in the applicant's ownership and /or control including the following information provided in narrative, tabular and/or graphic formats:
         (A) Topography and natural resources including 100-year flood plain; drainage patterns and courses; wetlands, rivers, springs and other water bodies; significant stands of trees and individual trees with a caliper greater than 6" as measured 4' above grade; significant fish and wildlife habitat, and natural hazards such as steep slopes greater than 15% and unstable, impermeable or weak soils. The application must include a site plan with no greater than 2'-contours for slopes of 0–10% and no greater than 5'-contours for slopes greater than 10%;
         (B) Inventory of Goal 5 resources, including natural, cultural, historic and/or archeological resources on the site, if any;
         (C) Existing building inventory including use,

location and size, noting whether any existing buildings will be retained and incorporated into the final build-out of the site;

(D) Location and size of all public and private utilities on and immediately abutting the site including water, sanitary sewer, storm water retention/treatment facilities, and electrical, telephone and data transmission lines; and,

(E) Location of all public and private easements.

v. Detailed description of the existing roadway system within and adjacent to the site including:

(A) Street classification of all internal and adjacent streets;

(B) Transit service availability;

(C) Baseline traffic impact study within the vicinity of the site prepared by a licensed civil engineer to include information as required by the City's Engineer; and,

vi. Description and evaluation of capacity of existing infrastructure on and in the vicinity of the site.

b. Concept Master Plan.

i. A proposed plan for development of the site at full build-out at the conceptual level including:

(A) Master plan boundary;

(B) Approximate location and building envelopes by use;

(C) Pedestrian, bicycle and vehicular circulation plan;

(D) Open space/natural resource plan;

(E) On-site utility plan;

(F) Conceptual stormwater plan, including preliminary drainage report; on-site infiltration plan; water quality plan; and, landscaping and other measures designed to reduce ovarll stormwater runoff using low-impact development techniques and strategies;

(G) Conceptual Low Impact Development Plan that details how effective impervious areas have been minimized, including demonstration of low-impact development strategies such as innovative street designs, pervious pavement, on-site infiltration, retention of native species, maximization to the extent possible of existing tree canopy, utilization of bio-swales in off-

street parking areas, etc.

ii. Phasing plan and tentative schedule that establishes the likely order in which the site will develop. Such a phasing plan is presented for purposes of estimating roadway and public utility capacity, with the understanding that phases may be developed out of order and that timing is approximate.

iii. Calculations for each phase and at total build-out of the following:
   (A) Gross and net acreage, with the latter including deductions for public streets, natural resource corridors and other non-private development activities;
   (B) Maximum number of employees and anticipated number of patient and related visits on typical weekday;
   (C) Maximum development area, as expressed in gross square feet.
   (D) Maximum total floor-to-area (FAR) ratio;
   (E) Maximum building coverage, as expressed in percentage of total net site area;
   (F) Minimum open space, as expressed in percentage of total net site area;
   (G) Total number of employee and visitor parking spaces required.

iv. Minimum and maximum development standards, including but not limited to and as appropriate:
   (A) Minimum and maximum lot size;
   (B) Minimum and maximum setbacks;
   (C) Maximum height, which may vary throughout the site;
   (D) Maximum FAR at full build-out;
   (E) Maximum building coverage at full build-out;
   (F) Minimum open space requirements at full build-out;
   (G) Minimum and maximum vehicular and bicycle parking ratios by use;
   (H) Minimum number of loading bays.

v. Design standards including but not limited to:
   (A) Architectural design standards, including design illustrations and building materials boards;
   (B) Landscaping, including design standards and standardized plant list. Native plant materials

are preferred where practicable;

(C) Pedestrian facilities, including development standards, materials and street furniture;

(D) Bicycle parking facilities, including specifications;

(E) Signage plan including prototypical examples, color palette and materials board;

(F) Low-impact development design standards.

vi. Graphic illustrations of proposed development at full build-out including but not limited to:

(A) Density "block" and other three-dimensional concept studies.

(B) Illustrative color "typical" street perspectives that portray the proposed architectural style and urban design elements to be used throughout the development, in recognition that these are still conceptual in nature.

vii. Goal 5 resource protection plan, if needed.

viii. Public utility capacity analyses/infrastructure plans for each phase and total build-out, as required by the City Engineer.

ix. Traffic impact analysis (TIA) for each phase and total build-out, as required by the City Engineer. The traffic impact analysis shall be sufficient to demonstrate compliance with OAR 660-012-0060(1)-(3). Development of the site will not be approved without this analysis. The traffic impacts will be reviewed against, and any mitigation must be consistent with, the function, capacity and performance standards of affected transportation facilities. The following criteria apply only when compliance with the Transportation Planning Rule is deferred to the master plan stage, in which case the TIA shall identify whether the plan or proposed development significantly affects a transportation facility by:

(A) Changing the functional classification of an existing or planned transportation facility;

(B) Changing the standards implementing the street classification system;

(C) Allowing types or levels of development that would result in levels of travel or access that are inconsistent with the level of service of a

transportation facility;

(D) Reducing the performance of a transportation facility below the minimum acceptable performance standard identified in the City of Happy Valley Transportation System Plan; or

(E) Reduce the performance of a transportation facility that is otherwise performing below the minimum acceptable performance standard identified in the City Transportation System Plan.

x. A proposed Concept Master Plan or Detailed Phasing Plan that will significantly affect a transportation facility must ensure that the proposed uses or development are consistent with the identified function, capacity and performance standards of the transportation facility by:

(A) Limiting the proposed uses or development to be consistent with the function, capacity, and performance standards of the transportation facility;

(B) Altering densities or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

(C) Providing or improving transportation facilities sufficient to support the proposed uses or development.

5. RC-ME Detailed Phasing Plan submittal requirements.

a. Detailed Phasing Plan of subsequent phases. The following information shall be required for each Detailed Phasing Plan:

i. Schedule for initiating and completing construction of phase;

ii. Anticipated utilization at completion of the phase, including the total number of employees, daily visitors and other indicators of full utilization of the structure(s) within the phase;

iii. Detailed description of all proposed development presented in narrative, tabular and/or graphic formats as follows:

(A) Description of new buildings anticipated, including size, location, approximate footprint and use;

(B) All other site improvements including new

surface and structured parking facilities; bicycle parking facilities; on-site pedestrian, bicycle and vehicular circulation; transit stops; pedestrian/transit amenities; and open space and landscaped areas;

(C) The location of new and/or expanded existing public and private infrastructure including water, sanitary sewer, storm water retention/treatment facilities, and electrical, telephone and data transmission lines;

(D) Landscaping plan;

(E) Goal 5 resource protection plan, if required;

(F) Sign plan;

(G) Lighting plan;

(H) Grading and erosion control plans;

(I) Stormwater plan;

(J) Low-impact development strategy plan.

iv. Building elevations;

v. Summary of development intensity at completion of the phase including average FAR and lot coverage for the development area and for the site as a whole;

vi. Calculation of minimum vehicular and bicycle parking spaces based on parking ratios established in the Concept Master Plan;

vii. Reconfirmation of traffic impacts associated with completion of the phase first described in the TIA prepared for the Concept Master Plan.

viii. Neighborhood communication and coordination plan to ensure that the applicant implements an on on-going process for communicating and problem resolution with neighbors.

ix. Narrative that demonstrates how the Detailed Phasing Plan for the specific project or groups of projects within a phase are consistent with the phase as conceptually approved in the Concept Master Plan. If there is some aspect of the phase that does not comply, the applicant may request a Detailed Phasing Plan modification as described in Section 16.12.150.H.

6. RC-ME Concept Master Plan and Detailed Phasing Plan approval process.

a. Initial approval. The initial application for a Concept Master Plan shall be reviewed as a quasi-judicial action at a public hearing before the Planning Commission and subsequently, with regard to architectural standards, by the Design Review

Board, pursuant to the requirements of this section and using the approval criteria contained in Section 16.12.150.E.7 below. The application also may include a request for a use that is permitted conditionally in Table 16.12.150-1 subject to the requirements of Section 16.16.220 of this Title. As part of the review process for the Concept Master Plan, the Design Review Board shall consider alternative design standards for institutional development in the Rock Creek Mixed Employment area in lieu of the "Happy Valley Style" design standards that govern the design of development elsewhere in the City.

b. Detailed Phasing Plans. Prior to construction of one or more projects within a phase of development approved in the Concept Master Plan, the applicant shall submit a Detailed Development Plan that contains all of the information listed in the submittal requirements for review and approval by the Community Development Director or designee, using the approval criteria in Section 16.12.150.E.7. This review shall be undertaken in lieu of the City's formal Design Review process.

c. Concurrent review. An applicant may submit applications for initial review of the Concept Master Plan and review of the first and subsequent Detailed Phasing Plan(s) to be reviewed concurrently. In this case, the Detailed Phasing Plan for one or more phases of development shall be reviewed at the public hearing before the Planning Commission and Design Review Board at which the Concept Master Plan is reviewed. The Detailed Phasing Plan shall require no further review, providing the phase is built out in a manner that is substantially consistent with that which was approved.

7. RC-ME Concept Master Plan and Detailed Phasing Plan approval criteria.

   a. Concept Master Plan. An application for a Concept Master Plan must demonstrate compliance with the following criteria:

      i. Content. The Concept Master Plan must contain all of the components required in Section 16.12.150.E.4.

      ii. Compliance with all applicable standards. The proposed development and uses must comply with all applicable standards of this Title, except where modifications are being approved as part of the Concept Master Plan.

      iii. Traffic system capacity. There is either sufficient capacity in the transportation system to safely

support the development proposed in all future phases, or there will be adequate capacity by the time each phase of development is completed, as demonstrated by a TIA that conforms with the requirements of Section 16.12.150.E.4.b.

iv. Availability of public services. There is either sufficient capacity for public services such as water supply, police and fire services, and sanitary waste and storm water disposal, to support adequately the development proposed in all future phases, or there will be adequate capacity available by the time each phase of development is completed.

v. Protection of designated resources. Resources such as historic landmarks, significant trees and sensitive natural resources identified on the City's Goal 5 inventories are protected and enhanced in compliance with the regulations in this and other Titles of the Municipal Code.

vi. Internal design compatibility with adjacent uses. The Concept Master Plan must contain building design, landscaping, parking and circulation elements that minimize conflict with adjacent uses to the greatest extent practicable.

vii. Mitigation of off-site impacts. All potential off-site impacts including litter, noise, shading and glare shall be identified and mitigated to the greatest extent practicable.

b. Detailed Phasing Plans. To obtain an approval of one or more subsequent phases of development, the applicant shall demonstrate compliance with all of the following criteria:

i. Consistency. A Detailed Phasing Plan shall be substantially consistent with the phase as approved in the Concept Master Plan.

ii. Content. A Detailed Phasing Plan shall contain all of the information required in the submittal requirements in Section 16.12.150.E.5.

iii. Numerical development standards. A Detailed Phasing Plan shall adhere to all of the numerical development standards approved in the Concept Master Plan. However, as part of the review of a Detailed Phasing Plan, the applicant may introduce modifications necessary for a specific project or projects subject to the approval criteria without the requirement for a variance, if the proposed

modification is equal to or less than a 20% increase or decrease in the numerical standard. If the proposed modification involves a change in a numerical standard of greater than 20%, the review of the Detailed Phasing Plan shall be accompanied by a concurrent variance request consistent with the requirements of Chapter 16.28 of this Title.

iv. Design and non-numerical development standards. A Detailed Phasing Plan shall adhere to all of the design and non-numerical development standards approved in the Concept Master Plan. However, as part of the review of a Detailed Phasing Plan, the applicant may introduce any modifications necessary to a specific project or projects subject to the approval criteria and the provisions of Section 16.12.150.H.

8. Conditions of approval. In approving the a Concept Master Plan and subsequent Detailed Phasing Plans, the appropriate Review Authority may impose any conditions of it deems necessary to mitigate potentially adverse impacts on surrounding properties to the greatest extent practicable.

F. Vesting.

1. Applicability. A complete application for a Concept Master Plan shall be reviewed under this Chapter and the zoning, development and other land use ordinances in the Happy Valley Municipal Code, including any un-codified ordinances modifying the same, in effect on the date the Concept Master Plan is submitted. An approved Concept Master Plan may be implemented by means of Detailed Phasing Plans for subsequent phases under the zoning, development and land use ordinances applied by the City in its review of the Concept Master Plan, provided the phases are implemented in substantial compliance with the Concept Master Plan. An approved Concept Master Plan shall govern subsequent phases for the period described in 16.12.150.G.

2. Vesting of infrastructure capacity. An approved Concept Master Plan may include a list of on-site and off-site transportation improvements and other public infrastructure needed to support each proposed phase of development. In the event that the applicant agrees to install public improvements or infrastructure in excess of the capacity needed for a particular Detailed Phasing Plan, and in conformance with an approved Concept Master Plan, the City, through a development agreement or the formation of a reimbursement district, or both, shall accommodate future uses and building square footages based on the extent of the overbuilt

infrastructure and consistent with the approved Concept Master Plan.

3. Loss of vesting. A Detailed Phasing Plan for which modification is sought under 16.12.150.H.4 or 16.12.150.H.5 is not subject to the laws in effect when the Concept Master Plan was submitted as described in Section 16.12.150.F.1. above. An application for a Detailed Phasing Plan that is subject to Section 16.12.150.H.4 or 16.12.150.H.5 shall comply with the land use regulations in effect at the time the Phasing Plan is submitted. Post-approval modifications that require only a minor review pursuant to Section 16.12.150.H.3 do not result in the loss of the vesting described in 16.12.150.F.1 above.

G. Term.

1. General. The term of a Concept Master Plan shall not exceed fifteen (15) years. An extension may be granted in accordance with the criteria and procedures provided in Section 16.12.150.G.2, below.
2. Extension. If all phases of development in the approved Concept Master Plan are not built within the approved term, the applicant may request an extension in writing to the Community Development Director. Two one (1)-year extension requests may be approved subject to the following criteria:
   a. The applicant has pursued in good faith completing the build-out of the approved Concept Master Plan.
   b. There have been no changes to the comprehensive plan, development code or other applicable governing documents that are inconsistent with the approved Concept Master Plan.
   c. There are no other significant changed conditions that would render the extension of the Concept Master Plan contrary to the public health, safety or general welfare.
3. An extension request shall be filed in writing with the Community Development Director at least sixty (60) days prior to the expiration of the initial 15-year period or any subsequently approved extensions.

H. Post-Approval Modification of a Detailed Phasing Plan.

1. Purpose. The purpose of this section is to address instances in which the applicant may not be able to construct a phase of the development exactly as approved in an approved Detailed Phasing Plan. This section permits the applicant to seek post-Concept Master Plan approval changes using a review process that is determined by the magnitude of the proposed change or changes. As noted in Section 16.12.150.F, post-approval modifications that

require a quasi-judicial review by either the Community Development Director or Planning Commission or Design Review Board, procedure result in a loss of vesting in the approval criteria for that specific phase of development.

2. Modifications allowed by right. The following modifications are permitted by right and are allowed upon issuance of a building permit, if required:
   a. Interior improvements.
   b. Exterior improvements associated with existing buildings that do not involve an expansion of floor area, subject to all applicable base zone development and design standards, as modified in the approved Concept Master Plan, and relevant conditions of approval thereto.
   c. Installation of new or modification of existing mechanical or electrical equipment, subject to all applicable base zone development and design standards, as modified in the approved Concept Master Plan, and relevant conditions of approval thereto.
   d. Maintenance of existing facilities when a building permit is required.

3. Minor decision. The following modifications shall be reviewed by the Community Development Director or designee, pursuant to the City's administrative decision-making procedure:
   a. Modification of the location of an approved building or building addition, providing the modification complies with the development and design standards, as approved in the Concept Master Plan and as modified in the applicable Detailed Phasing Plan, including all relevant conditions of approval thereto.
   b. Modification of use, design, or development standards including architecture, landscape architecture, pedestrian and bicycle facilities; signs and/or lighting elements approved in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval, including all relevant conditions of approval thereto.
   c. A new building of any size in any location that replaces a building approved but not constructed, providing there is: 1) no net increase in total building coverage, and 2) compliance with the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval, and all relevant conditions of approval thereto.
   d. New buildings or building additions up to 10,000 gross

square feet (gsf) not anticipated and, therefore, not contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval. Construction of such unanticipated buildings or building additions shall not exceed 10,000 gsf in any one year, and shall not exceed 30,000 gsf in any four years. As part of this review, the applicant shall provide information on the amount of floor area built to date for the year in which the application is submitted, and the amount of floor area built within the four-year period preceding the request.

e. Adjusting the sequence of buildings within a phase of development provided that there is no net increase in traffic impacts.

4. Quasi-judicial review by the Community Development Director. The following modifications shall be reviewed by the Community Development Director or designee, pursuant to the City's quasi-judicial decision-making procedure:

a. A change in the approved site boundary resulting in the exchange of properties where the total amount of land in the approved boundary remains the same or is decreased.

b. A new building or building addition exceeding 10,000 gsf but less than 50,000 gsf, not anticipated and, therefore, not contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval. For new buildings or building additions exceeding 25,000 gsf under this provision, the applicant shall provide traffic and parking analyses of the proposal as part of the application.

c. An increase or decrease of up to 10% in the total number of parking spaces approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval. The applicant shall provide a parking analysis related to the proposal as part of the application.

5. Quasi-judicial review by the Planning Commission or Design Review Board. The following modifications shall be reviewed in a public hearing before the Planning Commission or Design Review Board, pursuant to the City's quasi-judicial decision-making procedure:

a. Expansion of the master plan boundary beyond that contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval.

b. New building or building additions of 50,000 gsf or more, not anticipated and, therefore, not contained in the initial Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.

c. Proposals that result in an increase of 10% or more of site-

generated vehicular trips approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.

d. An increase or decrease greater than 10% in the total number of parking spaces approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval.

e. A proposed use or development that was denied in the approved Concept Master Plan."

CERTIFICATE OF MAILING

I, Gaye Turner, hereby certify that on July 2, 2008, I served a true and correct copy of the attached Notice of Decision, City of Happy Valley Local File No. CPA-03-08/LDO-03-08, to all persons listed on the following [*or attached*] notification list, by mailing via first class mail with postage prepaid.

Signed: _____

Date: 7-2-08

Providence Health Systems-Oregon Attn: Dana White 4706 NE Glisan Street, Suite 101 Portland, OR 97213	
Michael Robinson, Perkins Coie Via email to: [MRobinson@perkinscoie.com]	
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