



# 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](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

June 30, 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 005-08



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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 15, 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.

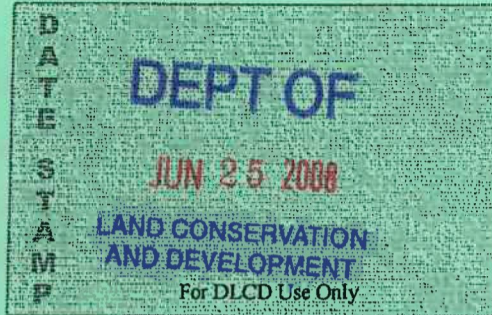
**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Meg Fernekees, DLCD Regional Representative  
Thomas Hogue, DLCD Policy Analyst  
Bill Holmstrom, DLCD Transportation Planner  
Justin Popilek, 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-02-08/LDO-02-08

Date of Adoption: 6/17/08 Date Mailed: 6/19/08

Date original Notice of Proposed Amendment was mailed to DLCD: \_\_\_\_\_

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation
- Other: \_\_\_\_\_

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

AMEND THE CITY'S COMPREHENSIVE PLAN MAP AND ZONING MAP TO REZONE PROPERTIES  
CURRENTLY DESIGNATED MIXED USE EMPLOYMENT AND MIXED USE EMPLOYMENT -  
NEIGHBORHOOD COMMERCIAL TO MIXED USE COMMERCIAL.

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: Mixed Use Employment, Mixed Use Employment - Commercial to Mixed Use Commercial

Zone Map Changed from: Mixed Use Employment, Mixed Use Employment - Commercial to Mixed Use Commercial

Location: 22E1BC Tax Lots 4000 and 4001 Acres Involved: 5.48

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

Applicable Statewide Planning Goals: 1, 2, 9, 12 & 14

Was and Exception Adopted?  YES  NO

DLCD File No.: 005-08 (16749)

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:

HAPPY VALLEY, CLACKAMAS COUNTY

Local Contact: JUSTIN POPILEK Phone: (503) 760-3325 Extension:  
Address: 12915 SE KING ROAD City: HAPPY VALLEY  
Zip Code + 4: 97086 - Email Address: justinp@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](mailto:mara.ulloa@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF HAPPY VALLEY

ORDINANCE NO. 379

AN ORDINANCE AMENDING THE PLAN MAPS AND TEXT WITHIN THE ROCK CREEK COMPREHENSIVE PLAN 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 CITY MIXED USE EMPLOYMENT (MUE) AND MIXED USE EMPLOYMENT – NEIGHBORHOOD COMMERCIAL (MUE-NC) TO CITY MIXED USE COMMERCIAL (MUC) FOR SPECIFIC PROPERTIES

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

WHEREAS, Application CPA-02-08/LDO-02-08 was requested by Sunnyside Heights, LLC to amend text within the Rock Creek Comprehensive Plan; amend the Rock Creek Comprehensive Plan Map from MUE to MUC; and, amend the Development District Map (Official Map Exhibit 11 of Ordinance 97) by applying City MUC zoning to the properties described as Clackamas County Assessor Map Number 2S 2E 01BC Tax Lots 4000 and 4001; 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 the Text Amendments and Rock Creek Comprehensive Plan Map Amendments be approved; and that the Development District Map be amended as recommended in the staff report dated May 13, 2008; and,

WHEREAS, the City has timely forwarded a copy of the proposed map amendments to the Department of Land Conservation and Development of the State of Oregon; 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 revise the Rock Creek Comprehensive Plan Text and Maps and change Official Development District Map, Exhibit 11, and upholds the Planning Commission's recommendation pursuant to the findings contained in the staff report to the Planning Commission dated May 13, 2008.

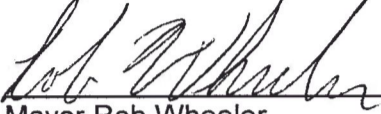
NOW, THEREFORE, based on the foregoing,

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

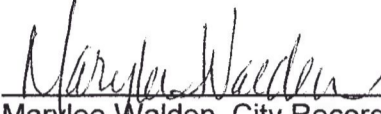
- Section 1. The City of Happy Valley declares that the MUC district be applied to the two properties described in Exhibit "A".
- Section 2. The City of Happy Valley declares that the proposed amendments to the Rock Creek Comprehensive Plan Text and Maps be amended as set forth as part of Exhibit "B" 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 17, 2008 and read for the second time on June 17, 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**

<b>Sunnyside Heights Commercial</b>	)	<b>City Council</b>
<b>Zone Change</b>	)	<b>Approval of a Comprehensive Plan Map</b>
	)	<b>Amendment/Zone Change and Rock Creek</b>
	)	<b>Comprehensive Plan Map and Text Amendments</b>
<b>Applicant:</b>	)	
<b>Sunnyside Heights, LLC</b>	)	<b>CPA-02-08/LDO-02-08</b>

Pursuant to Happy Valley Development Code (“HVDC”) §16.48.010 the City provided notice of a public hearing before the City Council. An affidavit of the notice of hearing is a part of the record. The staff report was prepared and available to the public seven (7) days prior to the public hearing as required by state law.

After providing notice and a staff report, the City Council conducted an evidentiary hearing providing an opportunity to submit oral testimony and written evidence. The approval criteria for this application for Comprehensive Plan Map Amendment/Zone Change and Rock Creek Comprehensive Plan Map/Text Amendments are provided in HVDC Section §16.40 (Amendments of the Comprehensive Plan). After discussion and deliberation, the City Council voted to approve the Sunnyside Heights Commercial Comprehensive Plan Map Amendment and Zone Change and associated Rock Creek Comprehensive Plan Map/Text Amendments (CPA-02-08/LDO-02-08).

**I. DESCRIPTION OF THE APPLICATION**

The applicant submitted an application for a Comprehensive Plan Map Amendment/Zone Change and a concurrent application to amend the Rock Creek Comprehensive Plan Map and Text within, effectively changing zoning designations from MUE/MUE-NC to MUC; amending the Rock Creek Comprehensive Plan Map from “Mixed Use Employment” to a “Mixed Use

Commercial” designation; and amending text within the Rock Creek Comprehensive Plan on property generally located northwest of the intersection of SE Misty Drive and SE Sunnyside Road, and is further described as Clackamas County Assessor Map No. 2 2E Section 01BC Tax Lots 4000 and 4001.

The City provided notice of the proposed application to all affected governmental entities, and has crafted specific Conditions of Approval detailing the requirements and conformance with regulations provided by said entities.

## **II. ADOPTION OF FINDINGS**

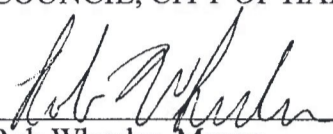
The City Council specifically adopts the Findings within the June 17, 2008 Staff Report in support of this Order approving the Sunnyside Heights Commercial Comprehensive Plan Map Amendment/Zone Change and associated Rock Creek Comprehensive Plan Map/Text Amendments (CPA-02-08/LDO-02-08).

## **III. ORDER**

The City Council hereby approves the Sunnyside Heights Commercial Comprehensive Plan Map Amendment/Zone Change and associated Rock Creek Comprehensive Plan Map/Text Amendments (CPA-02-08/LDO-02-08) based on the findings provided herein and specifically adopted under Section II. This Order requires compliance with the conditions set out in the Conditions of Approval from the Staff Report to the Planning Commission dated May 13, 2008, including any amended language.

ORDER OF THE CITY COUNCIL dated this 17th day of June, 2008.

CITY COUNCIL, CITY OF HAPPY VALLEY

By:  \_\_\_\_\_  
Rob Wheeler, Mayor



**CITY OF HAPPY VALLEY  
STAFF REPORT TO THE CITY COUNCIL**

JUNE 17, 2008

Rock Creek Comprehensive Plan Map Amendment from Mixed Use Employment (MUE) to Mixed Use Commercial (MUC) designation; Rock Creek Comprehensive Plan Text Amendment; and, concurrent Comprehensive Plan Map Amendment/Zone Change (MUE/MUE-NC to MUC)

(File No. CPA-02-08/LDO-02-08 and Ordinance 379)

**I. GENERAL INFORMATION**

**Applicant/  
Property Owner:**

Sunnyside Heights, LLC  
John Lisac  
10121 SE Sunnyside Road #115  
Clackamas, OR 97015

**Applicant's  
Representative:**

Monty Hurley/Chris Goodell  
AKS Engineering  
13910 SW Galbreath Drive, Suite 100  
Sherwood, OR 97140

**Site Location:**

Northwest corner of SE Sunnyside Road and SE Misty Drive further described as Clackamas County Assessor Map Number 22E01BC Tax Lot 4000 and 4001.

**Proposal:**

The applicant seeks approval of an amendment to the Rock Creek Comprehensive Plan Map from a "Mixed Use Employment" to a "Mixed Use Commercial" designation; Rock Creek Comprehensive Plan Text Amendment; and, a concurrent Comprehensive Plan Map Amendment/Zone Change from a combination of Mixed Use Employment (MUE) and Mixed Use Employment-Neighborhood Commercial (MUE-NC) zoning district to Mixed Use Commercial (MUC) for property located at the northwest corner of SE Misty Drive and SE Sunnyside Road.

## **II. DISCUSSION**

On May 13, 2008, the Planning Commission held a public hearing and unanimously voted to forward a recommendation of approval of an amendment to the Rock Creek Comprehensive Plan Map; Rock Creek Comprehensive Plan Text Amendment; and concurrent Comprehensive Plan Map Amendment/Zone Change CPA-02-08/LDO-02-08.

## **III. CONCLUSION AND RECOMMENDATION**

Staff recommends the City Council uphold the Planning Commission recommendation and approve application CPA-02-08/LDO-02-08 authorizing a Rock Creek Comprehensive Plan Map Amendment from Mixed Use Employment (MUE) to Mixed Use Commercial (MUC) designation; Rock Creek Comprehensive Plan Text Amendment; and, concurrent Comprehensive Plan Map Amendment/Zone Change (MUE/MUE-NC to MUC).

- Attachments:**
- A. Staff Report and Exhibits to the Planning Commission dated May 13, 2008.
  - B. Ordinance No. 379

**CITY OF HAPPY VALLEY  
STAFF REPORT TO THE PLANNING COMMISSION**

Rock Creek Comprehensive Plan Map Amendment from Mixed Use Employment (MUE) to Mixed Use Commercial (MUC) designation; Rock Creek Comprehensive Plan Text Amendment; and, concurrent Comprehensive Plan Map Amendment/Zone Change (MUE/MUE-NC to MUC)

FILE NO. CPA-02-08/ LDO-02-08

May 13, 2008

The following staff report has been prepared based on the information contained in the application and supplemental information provided by the applicant and responses received from service providers, all of which are incorporated by reference herein.

**I. GENERAL INFORMATION**

**PROPOSAL:** The applicant seeks approval of an amendment to the Rock Creek Comprehensive Plan Map from a "Mixed Use Employment" to a "Mixed Use Commercial" designation; Rock Creek Comprehensive Plan Text Amendment; and, a concurrent Comprehensive Plan Map Amendment/Zone Change from a combination of Mixed Use Employment (MUE) and Mixed Use Employment-Neighborhood Commercial (MUE-NC) zoning district to Mixed Use Commercial (MUC) for property located at the northwest corner of SE Misty Drive and SE Sunnyside Road.

**APPLICANT:** Sunnyside Heights, LLC  
John Lisac  
10121 SE Sunnyside Road #115  
Clackamas, OR 97015

**APPLICANT'S REPRESENTATIVE:** Monty Hurley/Chris Goodell  
AKS Engineering  
13910 SW Galbreath Drive, Suite 100  
Sherwood, OR 97140

**APPLICABLE CRITERIA:**  
City of Happy Valley Comprehensive Plan  
Policies 4, 5, 13, 45, 47, 53C, 53D, 53D1, 53F, 53G, 62, 70, 99, 101, 102, and 103  
Happy Valley Land Development Code Sections:  
16.13 Planned Mixed Use  
16.40 Amendments

**EXHIBITS:**

1. Staff Report and Findings of Fact
2. Applicant's Narrative and Traffic Study
3. Applicant's Site Plan
4. Rock Creek Comprehensive Land Use Plan
5. DKS Associates Memorandum
6. City of Happy Valley Public Works Memorandum
7. Sunrise Water Authority Memorandum
8. Public Notice

**SITE LOCATION AND PROJECT DESCRIPTION:**

- The subject site is located at the northwest corner of SE Misty Drive and SE Sunnyside Road, and totals approximately 5.48 acres in size. To the north of the subject site is an open space tract created as part of the previously approved subdivision "Southern Ridge 3", later renamed "King Arthur Estates". Property to the east of the subject site, on the opposite side of SE Misty Drive, is undeveloped land zoned MUE, through the approval of the Sunrise Heights Master Plan (MP-01-03/PUD-06-03). There are two properties to the west of the subject site, Tax Lot 3800 is owned by Clackamas County and contains a portion of a regional stormwater detention facility, and Tax Lot 3900 is the location of a previously approved three-lot partition known as "East Summerfield". South of the subject site, on the opposite side of SE Sunnyside Road, is a commercial/high density residential area known as "Sunnyside Village". Specifically, properties directly opposite the subject site consist of an apartment complex and a retail shopping complex.

The subject site is located within the Rock Creek Comprehensive Plan Area, which encompasses approximately 1,012 acres and was adopted June 5, 2001. There are currently two zoning designations that apply to the subject site. The western 2.48 acres of the subject site are currently zoned MUE and the eastern 3 acres are currently zoned MUE-NC. These zoning designations were established through the approval of the Sunnyside Heights Master Plan (MP-03-03/LDO-19-03), approved by the City Council on July 6, 2004, which was determined to be in conformance with the Rock Creek Comprehensive Plan. The Sunnyside Heights Master Plan encompassed 18.94 acres, of which 13.46 acres were developed as part of a subdivision approved by the Planning Commission known as "Southern Ridge 3" (later renamed "King Arthur Estates"), which consists of 38 residential lots.

The applicant proposes to amend the Rock Creek Comprehensive Plan designation from MUE to MUC (see Exhibit 4), and concurrently, to rezone the subject properties from MUE/MUE-NC to MUC to allow for the placement of a commercial structure with a larger building footprint than is allowed in the MUE/MUE-NC zones. As indicated on the conceptual site plan (Exhibit 3), envisioned uses of the subject site would consist of: an "anchor" retail store (with an approximately 15,000 square foot building footprint), two restaurants, one bank, and one secondary retail building. Under the MUE-NC zoning designation, an individual retail use can contain no more than 5,000 square feet and a retail only building can have a footprint of no more than 10,000 square feet. It should be noted that the proposed restaurants and secondary retail building appear to have a drive through component, which would be allowed in the MUE-NC as a conditional use, but

allowed outright in the MUC zone.

**ROCK CREEK COMPREHENSIVE PLAN/PMU DISTRICT:**

- The proposal to amend the Rock Creek Comprehensive Plan (RCCP) from MUE to MUC requires amendments to the text associated with these designations and provides an opportunity for staff to address some outdated text. Staff recommends the following amendments to the Rock Creek Comprehensive Plan text:

(NOTE: Proposed changes are denoted by ~~strikethrough~~ and **bold underline**)

On Page 12 of the RCCP:

*Mixed Use Commercial*

*Intent*

*The area north of Sunnyside Road between SE 157<sup>th</sup> and SE 162<sup>nd</sup> **and the area northwest of the intersection of Misty Drive and SE Sunnyside Road** is envisioned [...]*

*Mixed Use Employment*

*Intent*

*The area directly northeast of Sunnyside Road and adjacent to SE **Misty Drive 147<sup>th</sup>** ~~Avenue~~ is envisioned as a district with a mix of employment, medium density residential and neighborhood-scale retail uses. Office and other employment should be the primary uses found in this area with supporting housing at about 24 units per acre. Other allowed uses include neighborhood retail, civic uses, parks and wireless facilities.*

*Characteristics*

- *Buildings should front either Sunnyside Road, SE **Misty Drive 147<sup>th</sup>** or local streets with parking to the side or behind the building. [...]*
- *Access to uses will be from SE **Misty Drive 147<sup>th</sup>** or from local streets.*
- *Retail uses should primarily serve the surrounding neighborhoods and front either SE **Misty Drive 147<sup>th</sup>** or local streets [...]*

- The subject site is located on the opposite side of SE Misty Drive from property zoned MUE through the adoption of the Sunrise Heights Master Plan (MP-01-03). To the north and west of the subject site are previously approved residential developments, Southern Ridge 3 and East Summerfield, respectively. The applicant has submitted with this application a conceptual site plan (Exhibit 3) showing commercial and retail uses that would be complimentary to adjacent MUE uses, services that could be utilized by employees working at future office buildings. Also, residents of the residential areas would be in close proximity services to existing and proposed residential development in the area.
- Prior to development of the site, submission of a Design Review application is required. Staff will review site development for compatibility with adjacent residential uses and may require mitigation as necessary to reduce potential impacts. Staff will also review the development for compliance with applicable zoning criteria and for compliance with

bicycle and pedestrian connections.

- The Rock Creek Comprehensive plan was adopted prior to expansion of the City boundary.<sup>1</sup> Expansion of the city boundary created additional buildable residential and commercial properties. Meaning, the city's buildable land is not as limited as when the Rock Creek Comprehensive plan was adopted. Commercial development at the project site will serve existing and future residential development within the area, which is a goal of the Rock Creek Comprehensive Plan.

#### **CONCEPTUAL DEVELOPMENT PLAN:**

- The applicant has submitted a conceptual site plan depicting one anchor retail store with a 14,820 square-foot building envelope, one secondary retail structure with a 3,887 square-foot building envelope, one drive-through bank with a 3,500 square-foot building envelope, and two drive-through restaurants each with 2,608 square-foot building envelopes. The site will be access from SE Misty Drive via a Commercial Drive loop, which will allow for a secondary, limited access (right-in-right-out) from SE Sunnyside Road. The proposed plan is conceptual and is not approved as part of this application. Formal site plan review will occur during the Design Review process.

#### **TRANSPORTATION IMPACT ANALYSIS:**

- DKS Associates reviewed the zone change traffic study and determined the following: Trip generation potential of the project site was evaluated under both the existing and proposed zoning. The project site is approximately 5.48 acres in size and is not currently occupied. The project site is currently zoned by Happy Valley as MUE/MUE-NC. It was assumed the reasonable worst case build-out would include:
  - 5,000 square foot Day Care
  - Two-5,000 square foot Specialty Retail
  - 2,500 square foot Apparel Store
  - 3,983 square foot Drive-in Bank

Based on ITE trip generation rates, the reasonable worst case build out under the current zoning would generate 164 (78in/86out) PM peak hour trips.

The proposed zoning is MUC and would allow a mix of retail and office land uses and larger commercial development pads (as compared to existing zoning). The reasonable worse case build-out analyzed under the proposed MUC zoning included:

- 14,820 square foot Specialty Retail
- 3,887 square foot Specialty Retail
- 3,500 square foot Drive-in Bank
- Two-2,608 square foot Fast Food Restaurants w/Drive-Through

Based on the ITE trip generation rates, the proposed zone change would generate approximately 49 additional vehicle trips during the PM peak hour to the adjacent roadway system.

<sup>1</sup> In December 2002, METRO expanded the urban growth boundary for the Damascus Boring area, which allowed for the expansion of the Happy Valley city limits.

The 2025 operational analysis for the PM peak hour shows the SE Sunnyside Road/SE 147<sup>th</sup> Avenue intersection would operate at LOS F (157 seconds of delay and v/c ratio of 1.51) during the PM peak hour with the existing zoning. This analysis was conducted with a peak hour factor of 0.85, which is excessive for a long term analysis. The intersection analysis was updated with the results shown in Table 1. With the proposed zone change and addition of 49 PM peak hour vehicle increases the volume to capacity ratio at the intersection and also increases the average stopped delay at the intersection.

**Table 1**

Scenario	V/C Ratio	Delay	Level of Service
Year 2025 From City TSP	1.200	87.3	F
Year 2025 From City TSP w/Zone Change	1.205	88.5	F
Year 2025 From City TSP w/Zone Change-Mitigated w/2 left turn lanes	1.113	75.6	E

The proposed zone change would further degrade the performance of the SE Sunnyside Road/SE 147<sup>th</sup> Avenue intersection based on the 2025 operational analysis; however, no improvements are identified in the Happy Valley TSP Motor Vehicle Master Plan or Clackamas County CIP. As required by the Transportation Planning Rule, the performance of intersections over capacity must be mitigated back to pre-zone change conditions. A proposed improvement at the SE Sunnyside/SE 147<sup>th</sup> Avenue intersection would be the addition of a second northbound left turn lane which would mitigate the high volume projected for that movement. An assumed cost for the improvement of a second northbound left turn lane would be \$700,000 which includes right-of-way, roadway improvements, and traffic signal improvements. Therefore, a prorated share of the \$700,000 improvement for the zone change would be \$7,000 (for 49 new vehicle trips). Therefore, the applicant should be required to pay \$7,000 towards future improvements at the SE Sunnyside Road/SE 147<sup>th</sup> Avenue intersection. These improvements could also be allocated to future traffic signal system improvements along the Sunnyside Road Corridor which would also improve traffic operations along the corridor.

**PUBLIC COMMENTS:**

Notice of this request for zone change/comprehensive plan map amendment was mailed to property owners within 300 feet of the subject site. As of the date this report was written, no letters either in favor of the application or in opposition, or expressing concern in regard to the applicant's request had been received by the Community Development Department. Request for comments were sent to agency service providers and the following comments were received:

**Bob Galati, City of Happy Valley Public Work Department**

The subject site has been cleared and mass excavation has occurred under a previous site early grading permit issued by the City Engineering Department. The site has two existing access points, one off SE Misty Drive and one off SE Sunnyside Road. The submitted plan indicates that the proposed site access off SE Sunnyside Road is to be relocated to the west to align better with on-site improvements. The site access driveway to SE Sunnyside Road is currently configured as a commercial drive access, with right-in/right-out only movements. The site

access drive off SE Misty Drive is a full intersection configuration meeting City standards. Suggested Conditions of Approval are as follows:

1. All submitted project planning and construction plans shall conform to the City's "Engineering Design and Standard Details Manual" (Manual) for design and drafting requirements.
2. Street design plans shall conform to the requirements delineated in the City's "Engineering Design and Standard Details Manual" (Manual) current revision, and the City's Transportation System Plan (TSP), current revision.
3. Approval of the relocation point and style of the commercial driveway access off SE Sunnyside Road by Clackamas County Department of Transportation and Development shall be required.

Tim Finley, Water Environmental Services (WES)  
No Comment.

Mace Childs, Deputy Fire marshal, Clackamas County Fire District #1  
No Comment

John Thomas, Sunrise Water Authority, General Manager  
The Sunrise Water Authority has adequate potable water supplies available in sufficient quantities to provide normal domestic fire protection needs for this proposal, as required by the Oregon Health Division. Commonly held irrigation spaces must be designed to Irrigation Association Best Management Practices Standards and utilize evapo-transpiration controllers. Exact improvements to the water system will be determined during design review by the Water Authority.

Rick Nys, Clackamas County Department of Transportation Development  
No Comment

Reah Beach, P.E. DKS Associates  
See Exhibit 4 DKS Associates Memorandum.

## **II. FINDINGS OF FACT IN SUPPORT OF APPROVAL**

The following Comprehensive Plan Policies are applicable to the proposed comprehensive plan amendment/zone change:

### **The City of Happy Valley Comprehensive Plan**

**Policies:**

***The following Comprehensive Plan Policies are applicable to the proposed comprehensive plan amendment/zone change:***

***"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.*

**Staff Response:**

Adequate levels of services and facilities are available, therefore supports approval of the comprehensive plan amendment/zone change. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policy 4.

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

**Staff Response:**

The purpose of the PMU zone is to establish an area outside of the City core that allows a mixture of land use types including attached housing, retail sales, offices, commercial services, and encourages linked transportation trips among these services. The PMU district is intended to provide flexibility to anticipate local needs and market changes for city residents. The project site is located within the Rock Creek Comprehensive Plan area, which was adopted in June 2001. The purpose of the Rock Creek plan is to provide a cohesive concept for neighborhoods, employment opportunities, transportation connections, parks, and open space in the Rock Creek area. The purpose is also to ensure that the Rock Creek area is developed in a manner compatible with the established character of the city. The project site contains two parcels, one zoned MUE and the other zoned MUE-NC. The rezone to MUC is consistent with property to the south of the site. Submission of a Design Review application is required, at which time the site development will be reviewed to ensure the development limits impacts to adjacent uses to the greatest extent feasible. Commercial development at the project site will serve existing and future residential and employment based development within the area, which is a goal of the Rock Creek Comprehensive Plan. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policy 5.

***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.***

**Staff Response:**

The proposal is for a zone change from MUE/MUE-NC to MUC. Site development is subject to submission of a design review application at which time the development will be reviewed for compliance with Policy 13.

***Policy #45 To insure orderly development in the City of Happy Valley.***

**Staff Response:**

The proposed comprehensive plan map amendment/zone change is requested for undeveloped properties with all necessary services available to facilitate development. Uses proposed on the conceptual site plan would be similar to those found within the SE Sunnyside Road corridor and would be complimentary to neighboring residential areas. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policy 45.

***Policy #47 To locate land uses so as to take advantage of existing systems and physical features to minimize development costs and to achieve compatibility and to avoid conflicts between adjoining uses.***

**Staff Response:**

The rezone to MUC is consistent with property to south of the subject site. Commercial development at the project site will serve existing and future residential and employment based development within the area, which is a goal of the Rock Creek Comprehensive Plan. The proposed comprehensive plan map amendment/zone change is requested for undeveloped properties with all necessary services available to facilitate development. Uses proposed on the conceptual site plan would be similar to those found within the SE Sunnyside Road corridor and would be complimentary to neighboring residential areas. As conditioned, the Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policy 47.

***Policy #53C To comply with Statewide Planning Goal 9 (Economy of the State) and to meet long-term neighborhood-oriented commercial and office needs for existing and future City residents – Happy Valley has annexed existing and planned commercial and office sites served by Sunnyside Road in the Rock Creek Area.***

***Policy #53D Generally, the Rock Creek Urban Reserve Plan will determine land uses and guide the provision of Level 1 facilities and services to land annexed to the City in the Sunnyside Road area as follows:***

***Policy #53D1 The City's long term Commercial and Office need will be met through annexation of the existing Sunnyside Village Center and the planned Mixed Use Employment, Mixed Use Commercial and Mixed Use Residential designations.***

**Staff Response:**

The project site is located within the Rock Creek Comprehensive Plan area, which was adopted in June 2001. The purpose of the Rock Creek plan is to provide a cohesive concept for neighborhoods, employment opportunities, transportation connections, parks, and open space in the Rock Creek area. The purpose is also to ensure that the Rock Creek area is developed in a manner compatible with the established character of the city. The project site equally abuts

property zoned MUE and MUR. The site directly abutting the project site to the east will be developed as MUE. The applicant indicated the project site will include a commercial development that compliments/provides support to the MUE uses and in turn will provide commercial services to existing and proposed residential development in the area. The rezone to MUC is consistent with property to the south of the site. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policies 53C, 53D, and 53D1.

***Policy #53F to minimize congestion along Sunnyside Road and to reduce traffic through residential Happy Valley neighborhoods.***

**Staff Response:**

A condition has been included in this report requiring the applicant to pay a proportionate share for future improvements to the SE Sunnyside Road/ SE Misty Drive intersection to mitigate for additional traffic associated with this comprehensive plan map amendment/zone change. As conditioned, the Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policy 53F.

***Policy #53G Happy Valley shall ensure that all commercial and office centers are accessible by transit, bicyclist and pedestrians, generally as shown on the Rock Creek Urban Reserve Plan.***

**Staff Response:**

Site development is subject to submission of a Design Review application. Staff will review design layout to ensure compliance with pedestrian and bicycle connectivity. A condition has been adopted requiring the applicant to demonstrate compliance with pedestrian and bicycle connectivity. As conditioned, the Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policy 53G.

***Policy #62 To establish design and performance standards for transportation facilities, and to review all development proposals for conformance with these standards.***

**Staff Response:**

DKS Associates reviewed the zone change traffic study and determined the comprehensive plan amendment/zone change will have an impact on the intersection of SE Sunnyside Road and SE Misty Drive/SE 147th Avenue. The intersection and the proportionate share costs are detailed above in this staff report. Specific conditions of approval have been placed on this application to ensure transportation facilities will operate at acceptable levels of service with the approval of this comprehensive plan amendment/zone change and associated development of the site. Per applicable conditions of approval, The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policy 62.

***Policy #70 To encourage the development of bike paths and pedestrian walk throughout the City in accordance with OAR-660.0150000 (12)."***

**Staff Response:**

Site development is subject to submission of a Design Review application. Staff will review design layout to ensure compliance with pedestrian and bicycle connectivity. A condition has been adopted requiring the applicant to demonstrate compliance with pedestrian and bicycle connectivity. As conditioned, the Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policy 70.

***Policy #99 Any and all developments 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***

***Public transit***

***Vector control***

***City administrative services***

**Staff Response:**

The comprehensive plan amendment/zone change would allow for commercial and retail building to be located on lands currently zoned for non-residential. Provided the design review component of the application is approved, and the new facility is built, the applicant will be subject to the participation of Level 2 services as required. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policy 99.

***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.***

**Staff Response:**

A waiver of remonstrance is not anticipated to be needed for this application. Policy 101 does not apply to the subject application.

***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 (DTD)***

***North Clackamas School District No. 12 (NCSD#12)***

*North Clackamas Parks & Recreation District (NCPRD)*  
*Tri-Met*  
*City of Portland*  
*City of Gresham*  
*City of Damascus*

**Staff Response:**

Requests for comments were sent to all applicable service providers. Comments received have been incorporated into this staff report. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Policy 102.

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

**Staff Response:**

Provided the comprehensive plan amendment/zone change and design review applications are approved, the proposed development will not interfere or prevent the extension of any Level 1 facilities or services. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with 103.

**City of Happy Valley Land Development Code (LDC):**

**Chapter 16.13.020 Mixed use commercial (MUC)**

*Mixed use commercial will provide for convenience commercial needs of residential neighborhoods and office workers in locations adjacent to and mixed in with residential and office areas. The location of services and offices near residential units and major transportation networks should promote use of alternative modes of transportation such as bus ridership, bicycle and pedestrian activity. Retail uses should be primarily located on the ground floor to encourage an interesting and active streetscape. Buildings should be oriented towards the street or access way with clearly marked entrances. Blank frontage walls at street level are discouraged. Development boundaries and patterns are not defined by type of use (i.e., retail and office); instead the district allows a variety of permitted uses to occur throughout the commercial district. The commercial uses are meant to provide a concentration of commercial and office uses to create an active area. Specific uses are listed in Table 16.13.020.*

**A. Summary of Permitted Uses.**

- 1. Retail sales and services;**
- 2. Office uses;**
- 3. Institutional uses;**
- 4. Residential uses;**
- 5. Mixed use buildings.**
  - a. Office—Retail combinations or office—Residential, or retail-residential.”**

**Staff Response:**

The applicant indicated the proposed commercial use will support future development of MUE lands to the east and existing residential developments to the north and west. Staff will review site use at time of design review application submission for compliance with permitted uses in the MUC zone. Staff will also review the proposed site development for pedestrian and bicycle connectivity and compliance with PMU development standards listed in Section 16.13.050. A condition has been adopted requiring submission of a design review application that demonstrates compliance with applicable development standards of the Happy Valley Land Development Code and includes a traffic impact analysis for the proposed use. As conditioned, the Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with Section 16.32 Planned Mixed Use.

Chapter 16.40 Amendments to the Comprehensive Plan, and Land Use Map and Land Development Title of this code

**16.40.041 Review criteria.**

***A. The proposed amendment is consistent with and promotes the goals and policies of the plan of the city;***

**Staff Response:**

The findings listed above addresses applicable goals and policies of the Happy Valley Comprehensive Plan. The applicant's narrative demonstrates compliance with local and state land use goals and policies. See Exhibit 2 Applicant's Narrative. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with 16.40.041(A).

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

**Staff Response:**

The purpose of the PMU zone is to establish an area outside of the city core, that allows a mixture of land use types, including housing, retail sales, offices, commercial services and encourages linked transportation among these uses. The site directly abutting the project site to the east will be developed as MUE. The applicant indicated the subject site will include a commercial development that compliments/provides support to the employment uses and in turn will provide commercial services to existing and proposed residential development in the area. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with 16.40.041(B).

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

**Staff Response:**

The site falls within the Rock Creek Comprehensive Plan area and is designated at MUE. The applicant seeks approval to rezone the property to MUC stating proposed site uses will provide commercial support to existing commercial uses and will provide services for surrounding residential developments and future employment uses. A conceptual site plan was submitted that shows commercial services (an anchor retail store, drive through restaurants, and a bank) the applicant has determined to have the best possibility for success. These services couldn't be provided through a different zoning designation. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with 16.40.041(C).

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

**Staff Response:**

The Happy Valley Comprehensive Plan establishes goals and policies for growth management and capital improvements. See Comprehensive Plan findings above for demonstration of compliance with applicable plans and policies. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with 16.40.041(D).

***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.***

**Staff Response:**

Development of the site is subject to additional review by staff and the planning commission and submission of a Design Review application and an additional traffic study detailing specific site use. Conditions have been adopted requiring submission of a Design Review application that demonstrates compliance with applicable development code have been adopted. The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with 16.40.041(E).

***G. When a development 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.***

[...]

**Staff Response:**

The applicant seeks approval to rezone the site to MUC. The city's traffic engineer has reviewed the traffic study associated with the proposed zone change and determined the following:

Trip generation potential of the project site was evaluated under both the existing and proposed zoning. The project site is approximately 5.48 acres in size and is not currently occupied. The project site is currently zoned by Happy Valley as MUE/MUE-NC. It was assumed the reasonable worst case build out would include:

- 5,000 square foot Day Care
- Two-5,000 square foot Specialty Retail
- 2,500 square foot Apparel Store
- 3,983 square foot Drive-in Bank

Based on ITE trip generation rates, the reasonable worst case build out under the current zoning would generate 164 (78in/86out) PM peak hour trips.

The proposed zoning is MUC and would allow a mix of retail and office land uses and larger commercial development pads (as compared to existing zoning). The reasonable worse case build out analyzed under the proposed MUC zoning included:

- 14,820 square foot Specialty Retail
- 3,887 square foot Specialty Retail
- 3,500 square foot Drive-in Bank
- Two-2,608 square foot Fast Food Restaurants w/Drive-Through

Based on the ITE trip generation rates, the proposed zone change would generate approximately 49 additional vehicle trips during the PM peak hour to the adjacent roadway system.

The proposed zone change would further degrade the performance of the SE Sunnyside Road/SE 147<sup>th</sup> Avenue intersection based on the 2025 operational analysis; however, no improvements are identified in the Happy Valley TSP Motor Vehicle Master Plan or Clackamas County CIP. As required by the Transportation Planning Rule, the performance of intersections over capacity must be mitigated back to pre-zone change conditions. A proposed improvement at the SE Sunnyside/SE 147<sup>th</sup> Avenue intersection would be the addition of a second northbound left turn lane which would mitigate the high volume projected for that movement. An assumed cost for the improvement of a second northbound left turn lane would be \$700,000 which includes right-of-way, roadway improvements, and traffic signal improvements. Therefore, a prorated share of the \$700,000 improvement for the zone change would be \$7,000 (for 49 new vehicle trips). Therefore, the applicant should be required to pay \$7,000 towards future improvements at the SE Sunnyside Road/SE 147<sup>th</sup> Avenue intersection. These improvements could also be allocated to future traffic signal system improvements along the Sunnyside Road Corridor which would also improve traffic operations along the corridor. As conditioned, The Rock Creek Comprehensive Plan Map Amendment and Comprehensive Plan Map Amendment/Zone Change comply with 16.40.041(G).



### **III. CONCLUSION**

Staff finds that per the conditions of approval provided below, the proposed Rock Creek Comprehensive Plan Map Amendment and concurrent Comprehensive Plan Amendment/Zone Change application fulfills the criteria associated with the Happy Valley Land Development Code and the applicable objectives and policies of the Happy Valley Comprehensive Plan. City Staff recommends that the Planning Commission forward a recommendation of approval to the City Council.

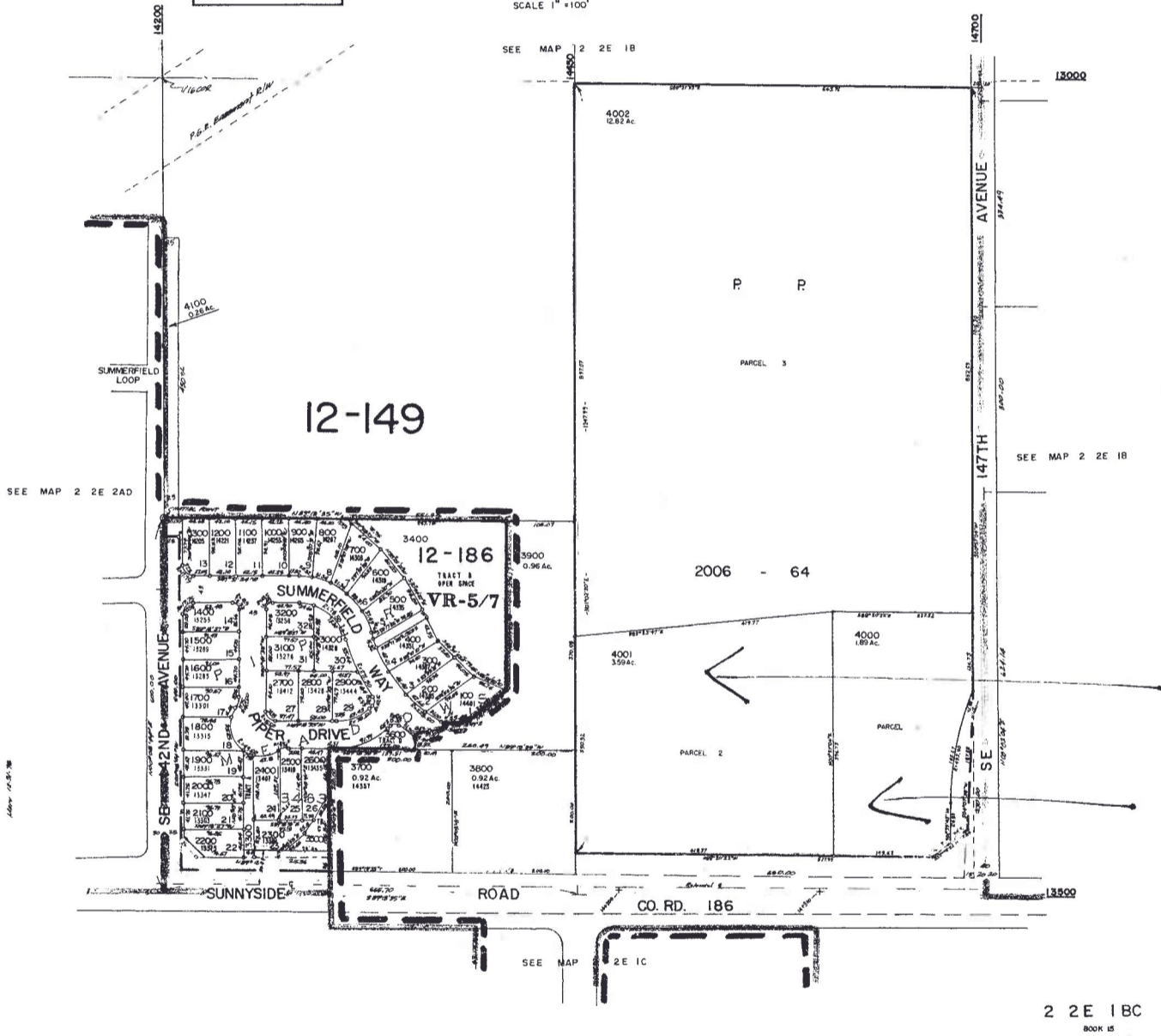
### **CONDITIONS OF APPROVAL**

1. Submission and approval of a Design Review application is required prior to site development. The design review application must demonstrate compliance with applicable zoning criteria including Section 16.32 Planned Mixed Use development standards, required off-street parking and loading, and pedestrian and bicycle connections. Submission of a traffic impact analysis must also be included with Design Review application materials.
2. All submitted project planning and construction plans shall conform to the City's "Engineering Design and Standard Details Manual" (Manual) for design and drafting requirements.
3. Street design plans shall conform to the requirements delineated in the City's "Engineering Design and Standard Details Manual" (Manual) current revision, and the City's Transportation System Plan (TSP), current revision.
4. Approval of the relocation point and style of the commercial driveway access off SE Sunnyside Road by Clackamas County Department of Transportation and Development shall be required.
5. The applicant will be required to pay a proportionate share (based on 49 new vehicle trips) for the cost of improving the SE Sunnyside Road/SE 147<sup>th</sup> Avenue/SE Misty Drive intersection with a second northbound turn lane. The proportionate share payment for this improvement shall be in the amount of \$7,000.
6. **That non-mixed use (i.e. "stand alone") residential uses are prohibited within the subject site.**

This map was prepared for assessment purpose only.

SW1/4 NW1/4 SEC. 1 T 2S R 2E W. M.  
CLACKAMAS COUNTY  
SCALE 1" = 100'

2 2E 1BC



**CITY OF HAPPY VALLEY**  
12915 S.E. KING RD.  
HAPPY VALLEY, OREGON 97086-6204



**Attn: Plan Amendment Specialist**  
**Dept. of Land Conservation &**  
**Development**  
**635 Capitol Street NE, Suite 150**  
**Salem, OR 97301-2540**