



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: May 20, 2015
Jurisdiction: City of Happy Valley
Local file no.: CPA-03-15/LDC-04-15/
DLCD file no.: 004-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/15/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Notice of the proposed amendment was submitted to DLCD 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us

DLCD FORM 2



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
DEPT OF
File No.:
Received: MAY 15 2015
LAND CONSERVATION AND DEVELOPMENT

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: City of Happy Valley

Local file no.: CPA-03-15/LDC-04-15/MP-01-15/PUD-01-15

Date of adoption: 5/5/2015

Date sent: 5/7/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 3/11/2015

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

No

Local contact (name and title): Justin Popilek, Senior Planner

Phone: 503 783-3810

E-mail: justinp@happyvalleyor.gov

Street address: 16000 SE Misty Drive

City: Happy Valley

Zip: 97086-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from MUR-M2/EC	to MUR-M1	14.5 acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 23E06BA: TL1000,1190,1200,1290 and 23E06B00100

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres: Non-resource – Acres:
Forest – Acres: Marginal Lands – Acres:
Rural Residential – Acres: Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres: Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres: Non-resource – Acres:
Forest – Acres: Marginal Lands – Acres:
Rural Residential – Acres: Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres: Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from MUR-M2/EC to MUR-M1 Acres: 14.5
Change from to Acres:
Change from to Acres:
Change from to Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: Acres added: Acres removed:

Location of affected property (T, R, Sec., TL and address): 23E06BA: TL1000,1190,1200,1290 and 23E06B00100

List affected state or federal agencies, local governments and special districts: Clackamas County and Metro

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

None

Mayor
Honorable Lori DeRemer



City Manager
Jason A. Tuck

May 6, 2015

Local File No. MP-01-15/CPA-03-14/LDC-04-14/PUD-01-15/ERP-01-14/ERP-02-15
("Sunnyside 172nd LLC Master Plan")

NOTICE OF DECISION

This is official notice of action taken by the City of Happy Valley City Council at a public hearing held on May 5, 2015, with regard to an application by Sunnyside 172nd LLC for a concurrent preliminary Master Plan; Comprehensive Plan/Zone Map Amendments; Planned Unit Development; and; two Environmental Review Permits. The subject properties are generally located south of Tristen Avenue, west of 172nd Avenue, north of Sunnyside Road and east of Rock Creek and are further described as Clackamas County Assessor Map Nos. 23E06B: Tax Lot 100 and 23E06BA: Tax Lots 1100, 1190, 1200 and 1290.

At the public hearing, the City Council voted to approve the Sunnyside 172nd LLC Master Plan, as amended, based upon submitted information, public testimony, and deliberations of the Planning Commission. Copies of the original Staff Reports to the Planning Commission and City Council for the Local File are available upon request.

Persons with standing may appeal this decision to the Oregon Land Use Board of Appeals ("LUBA") not later than 21 days after the city mails this Notice of Decision or by **May 28, 2015**. All appeals must comply with ORS 197.830 and LUBA's rules at OAR Chapter 660, division 10. An appeal filed later than 21 days within the mailing of this Notice of Decision is subject to dismissal.

A handwritten signature in black ink, appearing to read 'Michael D. Walter', is written over a horizontal line.

Michael D. Walter, AICP
Economic & Community Development Director

cc: Ryan Cain, Sunnyside 172nd LLC (via e-mail)
Keith Jones, HHPR (via e-mail)
Seth King, Perkins Coie LLC (via e-mail)
Participants of Record

16000 SE Misty Drive, Happy Valley, Oregon 97086-4288
Telephone: (503) 783-3800 Fax: (503) 658-5174
happyvalleyor.gov

Final Conditions of Approval for Sunnyside 172nd LLC Master Plan
Local File No. MP-01-15/CPA-03-14/LDC-04-14/PUD-01-15/ERP-01-14/ERP-02-15

Administration

1. The City shall amend the Comprehensive Plan Map/Zoning Map and the East Happy Valley Comprehensive Plan for a portion of the subject site to reflect MUR-M1 designation/zoning in a manner that “aligns” with the applicant’s proposed zoning configuration (Exhibit 2, Sheet A1.1).
2. The property owner shall file a final plat pursuant to ORS 92.050 and shall conform to all provisions contained therein. The recorded plat shall be in substantial conformance with the approved preliminary plat and bear the signature of the City’s Economic and Community Development Director. Two recorded copies of the Plat shall be submitted to the City as verification of recordation prior to the issuance of any building permit (with the exception of a building permit for a model home).
3. The preliminary Master Plan approval will expire two years from the issuance of the Notice of Decision. The application for final Master Plan approval shall occur within two years of the Notice of Decision, with the ability to gain a single, one-year extension pursuant to Section 16.65.070.C of the most current revision of the City’s LDC. The applicant has up to seven years to implement an approved final Master Plan.
4. Prior to final plat approval, area computations in square feet for all building lots must be prepared and submitted by an engineer or surveyor registered in the State of Oregon.
5. The applicant shall be allowed to phase the proposed development in accordance with Section 16.63.130.I.2.f of the LDC.

Happy Valley Engineering Division

General Items

6. All submitted project construction plans shall conform to the City's "Engineering Design and Standard Details Manual" (Design Manual) for design and drafting requirements.
7. Public improvement projects are subject to the City's latest "Public Improvement Guarantee" form which requires a performance guarantee based upon the engineer's estimate and a 25 percent two year maintenance bond upon completion and acceptance of the public improvements. Performance guarantees for erosion control and site stabilization outside of the public right-of-way shall equal 25 percent of the on-site construction value.
8. Construction plans shall show all adjacent subdivision names, lot lines and tax lot lines with the tax map and tax lot number noted on each.
9. Construction plan review is subject to these conditions of approval.
10. Prior to the scheduling of the Pre-Construction meeting, issuance of a Notice to Proceed, or beginning any site work, the applicant shall submit all applicable bonds, have paid all

applicable fees, and have service provider letters for both stormwater and sanitary sewer services from WES and the SWA.

11. Full time inspection by the developer's engineer is required for all street and storm drainage construction.
12. A sign shall be posted conspicuously at the job site entrance prior to site construction, and shall be maintained throughout construction. Use two-inch high black letters on an orange background. The sign shall read as follows:

“SITE CONSTRUCTION SHALL BE LIMITED TO 7:00 AM TO 6:00 PM ON WEEKDAYS, AND 8:00 AM TO 5:00 PM ON SATURDAYS AND SUNDAYS.

HOWEVER, SITE CLEARING, EARTH MOVING, INSTALLATION OR CONSTRUCTION OF UNDERGROUND UTILITIES, PAVING OF STREETS AND SIDEWALKS, FOUNDATION FRAMING AND POURING, AND FRAMING SHALL BE ENTIRELY PROHIBITED ON SUNDAYS.

TO REPORT VIOLATIONS CALL 503-783-3800.”

The City Manager shall have the authority to waive these requirements in the event of emergency or in the City Manager’s opinion, justifiable cause.

Grading and Erosion Sediment Control

13. The developer’s engineer is required to provide a site specific drainage plan to temporarily collect, route, and treat surface water and ground water during each construction phase. The construction plans shall specifically identify how the storm drainage system and erosion sediment control (ESC) measures will be phased during construction, such that at any time during construction the approved plans shall be capable of providing full erosion and sediment control collection, routing, and treatment of storm water runoff and ground water. No site construction will be allowed to take place if the storm drainage system and ESC measures are not installed per plan and functioning properly.
14. The developer’s engineer shall provide plans and documentation, including specific design and construction recommendations from the geotechnical engineer, for the review and approval of the City Engineer demonstrating compliance with the Geotechnical Report dated October 4, 2013 from GeoDesign, Inc.
15. The total disturbed area for this project exceeds one-acre, therefore an NPDES 1200-C permit from DEQ will be required. The applicant shall follow the latest requirements from DEQ for NPDES 1200-C permit submittals. A copy of the approved and signed permit shall be provided to the City prior to holding a pre-construction meeting or commencing any construction activity.
16. Vegetative cover shall be maintained on slopes or established through new plantings for stability and erosion control purposes. Vegetation shall not be stripped from any steeply sloped area except for construction of utilities, streets, pedestrian facilities, and retaining walls.

17. The Erosion Sediment Control Plan shall include a plan to implement and maintain wet weather measures within 14 days of the final grading and between the dates of October 1st and April 30th.
18. All grading activity shall be per the current City of Happy Valley Municipal Code. The developer shall submit a completed Site Development Permit and Engineering Erosion Control Permit to the City prior to beginning any grading work on site.
19. Lot grading and tree preservation shall be in accordance with Municipal Code Section 16.42.050.E.2.
20. The grading limits around protected trees and natural resource zones shall be fenced using the standard four-foot tall orange plastic construction fencing in addition to the required erosion sediment control fences. All fencing, ESC measures and construction gravel entrances shall be installed and maintained by the developer and inspected by the City of Happy Valley prior to beginning work on the site.
21. For retaining walls great than four feet in height, a professional engineer or geotechnical engineer registered in the State of Oregon shall provide stamped design calculations and detail drawings required for the retaining wall construction. The retaining wall detail drawings shall include at a minimum; wall profile, wall cross section at highest point of wall, wall reinforcing geotextile requirements, wall drainage system, and wall backfill requirements.
22. All construction trucks shall perform transfer of trailers on-site. Surrounding public streets shall not be used as a staging area for dump trucks with transfer trailers.

Street/Pedestrian System

23. Street design plans shall conform to the requirements delineated in the City's "Engineering Design and Standard Details Manual" (Design Manual), current revision, and the City's TSP, current revision. The referenced documents are available on the City's website.
24. Street lights will be required within the development. The property owner shall submit a request in writing to CCSO #5 for the installation of streetlights and the formation of an assessment district to pay for the operation and maintenance of lighting, and shall provide a copy of the request to the City.
25. All current ADA requirements for streets and intersections shall be met.
26. Misty Drive is classified as a three lane collector facility in the City's TSP. The facility shall be constructed with a 68 foot right-of-way between 172nd Avenue and 169th Avenue, including travel lanes, bike lanes, a landscape strip and sidewalk. A reduced cross section will be permitted through the wetland that eliminates the landscape strip on the north side of Misty Drive and constructs a six-foot wide curb-tight sidewalk.
27. The right-of-way for Misty Drive between 169th Avenue and the west property line shall be dedicated with the final plat. The right-of-way shall be 68 feet wide and continue along the same alignment as Misty Drive east of 169th Avenue. The future developer of Lot 3 may develop the public right-of-way with a private drive serving the envisioned multi-family residential development.

28. The portion of the Mt. Scott/Scouters Mountain regional trail along the western portion of proposed Lot 3 shall be constructed to meet the regional trail cross section, and shall extend from Sunnyside Road to the north property line. A connection between the regional trail and 169th Avenue shall be provided.
29. 172nd Avenue is a Clackamas County facility. Frontage improvements and right-of-way dedication shall be in accordance with the 172nd Avenue Corridor Plan and Clackamas County standards. Overhead utilities shall be installed underground as part of the frontage improvements.
30. Minimum AASHTO sight distance requirements shall be met at all street intersections and driveways. AASHTO requires sight distance to be measured at a point 14.4 feet from the edge of the traveled way with a driver's eye height of 3.5 feet and an object height of 3.5 feet.
31. A stubbed street shall end as shown in City Standard Drawing No. 310 and/or No. 315.
32. Provide a signing and striping plan as part of the construction plan set, prepared by a registered engineer. The applicant shall be responsible for the installation of all signing and striping as indicated on the plans.

Miscellaneous

33. The Developer shall provide a signed copy of the U.S. Postal Services "*Mode of Delivery Agreement*". Submittal of this agreement shall be required prior to a pre-construction meeting taking place.
34. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
35. Noise shall be kept at the minimum level possible during construction. The developer shall agree to aggressively ensure that all vehicles working on the development shall have adequate and fully functioning sound suppression devices installed and maintained at all times.
36. All construction sites shall be maintained in a clean and sanitary condition at all times. Construction debris, including food and drink waste, shall be restricted from leaving the construction site through the use of proper disposal containers or construction fencing enclosures. Failure to comply with this condition may result in a "Stop Work" order until deficiencies have been corrected to the satisfaction of the City.
37. Submittal to the City of all required performance bonds, insurance certificates, engineer's agreements, set-aside account letters and/or sureties shall occur prior to establishing a pre-construction meeting date. Review and acceptance by the City Recorder of these instruments shall be required prior to establishing a pre-construction meeting date.
38. A construction plan deposit shall be paid with the first submittal of the construction plans for each phase of the project. The deposit amount is based upon the construction value of the improvements as noted in the Engineering Division Fee Schedule which can be found on the City website. All remaining engineering plan review and inspection fees, right-of-way

permit fees (if any) and tree cutting permit fees (if any), shall be paid at the time of the pre-construction meeting.

Traffic Engineering (DKS Associates & Clackamas County DTD)

39. All sections of the internal roadway, parking, and sidewalk system shall be constructed to meet City of Happy Valley standards for pavement, sidewalk, landscape strip, drainage and curb, as required.
40. The southbound right turn lane on 172nd Avenue at the midblock access shall not be constructed. The final site plan shall be revised and approved by the City's Engineering Manager.
41. The westbound right turn lane on Sunnyside Road and the midblock access shall not be constructed. The final site plan shall be revised and approved by the City's Engineering Manager.
42. The southbound left turn lane on 172nd Avenue at Vogel Road shall not be constructed. The final site plan shall be revised and approved by the City's Engineering Manager.

The eastern site access to SE Misty Drive will be allowed full access on a temporary basis. If any of the following criteria are met, the access will be converted to right-in/right-out with appropriate traffic control measures to limit left-turns, as approved by the City's Engineering Manager. Costs associated with the potential eventual conversion to right-in/right-out will be covered by the developer. In addition, the developer will contribute \$5,000 to a fund used by the City to monitor traffic conditions at the eastern site access for up to 5 years from point of retail occupancy. The criteria, or triggers, for limiting the access to right-in/right-out movements are:

1. Misty Avenue is extended west over Rock Creek, or
 2. SE Vogel Road east of SE 172nd Avenue is realigned to develop a four-way intersection at SE 172nd Avenue/Misty Road, or
 3. Two or more crashes are reported related to the eastern site access during a three year period, or
 4. Documented reoccurring pattern of westbound left-turn movement causing spillback within 50-feet of the adjacent intersection at 172nd Avenue. Pattern to be determined from video data collection and observations documented by the City.
43. Access shall be restricted at the Misty Drive western site access to right-in/right-out/left-in movements. The westbound left-in center turn lane from Misty Drive into the west site access driveway shall have a vehicle storage distance of 75 feet, with appropriate design taper. The access restriction treatment design and turn lane taper design shall be approved by the City's Engineering Manager.
 44. A traffic signal shall be constructed at the Misty Drive/172nd Avenue intersection. The 172nd Avenue corridor is planned for an ultimate 105 foot right of way width along the proposed project frontage. The new Misty Drive/172nd Avenue traffic signal shall be designed to maximize the signal elements located on the west side of 172nd Avenue such as signal poles with mast arms and signal controller. If public right-of-way is available for the ultimate location of the traffic signal features, the applicant shall design and construct a traffic signal in accordance with Clackamas County design standards. Improvements shall include curb ramps and pedestrian crossings for each leg of the intersection. If public right-

of-way is not available for the ultimate location of the traffic signal features, the applicant shall design and construct a traffic signal in accordance with Clackamas County design standards. No temporary traffic signal poles will be permitted. The applicant shall provide a preliminary traffic signal design that includes that ultimate location of the traffic signal features. The applicant shall design and construct the traffic signal to maximize the reuse of traffic signal features that are not placed in their ultimate locations. Improvements shall include curb ramps and pedestrian crossings for each leg of the intersection. In addition, the applicant shall design and construct communication wiring and conduit in accordance with Clackamas County design standards along the west side of 172nd Avenue from Sunnyside Road to the northern end of the 172nd Avenue frontage. The traffic signal design shall be approved by Clackamas County DTD. These improvements shall be considered by the City/County Joint Transportation District for maximum credibility for Transportation System Development Charges (TSDC's) through a Development Agreement between the developer, City of Happy Valley and Clackamas County.

45. A traffic signal shall be constructed at the Sunnyside Road/169th Avenue intersection in accordance with Clackamas County design standards.
46. Frontage (one-half street) improvements to the west side of 172nd Avenue along the site shall be constructed to meet City of Happy Valley standards for a Major Arterial Facility. The frontage improvement requirements shall include pavement, bike lane, sidewalk, landscape strip, drainage and curb consistent with City of Happy Valley standards and the 172nd Avenue/190th Drive Corridor Management Plan. These improvements shall be considered by the City/County Joint Transportation District for maximum credibility for Transportation System Development Charges (TSDC's) via the Joint Capital Improvement Plan Area Ordinance and SDC Methodology Report.
47. 169th Avenue shall be constructed to City of Happy Valley standards as a three-lane Collector Facility (69-foot right of way). The street shall include pavement, sidewalk, bike lanes, landscape strip, drainage, curb and a 7.5-foot utility easement.
48. Misty Drive shall be constructed to City of Happy Valley standards as a three-lane Collector Facility (69-foot right of way) along the eastern and western portions of the facility. A two-lane Collector Facility (57-foot right of way) shall be constructed between the westbound left turn lane at the western site access and the eastbound left turn lane at 172nd Avenue. Misty Drive shall be constructed with appropriate roadway transition striping between the two and three lane sections. The street shall include pavement, sidewalk, bike lanes, landscape strip, drainage, curb and a 7.5-foot utility easement.
49. Sidewalks and pedestrian markings shall be provided to connect the proposed developments with sidewalks on surrounding public streets.
50. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with *Clackamas County Roadway Standards*.
51. The applicant shall dedicate approximately 22.5 feet of additional right-of-way along the entire north and south portions of the site frontage of 172nd Avenue as necessary to accommodate the public improvements and shall verify by survey that there is a 52.5-foot wide one-half right-of-way width.
52. The applicant shall grant an eight-foot wide public utility easement adjacent to the public rights-of-way along the entire site frontage of 172nd Avenue and Sunnyside Road.

53. The applicant shall design and construct improvements along the entire site frontage of 172nd Avenue, extending to the north project site boundary in accordance with *Clackamas County Roadway Standards*.

These improvements shall consist of:

- a. Up to a 36.5-foot wide half-street improvement for a major arterial roadway. Structural section for 172nd Avenue improvements shall consist of 7.5 inches of asphalt concrete per Clackamas County Roadway Standards Standard Drawing C100. Inbound and outbound tapers shall be provided per Section 250.6.4 of the Clackamas County Roadway Standards.
- b. Standard curb, or curb and gutter if curblin slope is less than one percent, and pavement with the face of the new curb located approximately 36.5 feet from right-of-way centerline.
- c. The applicant shall design and construct a northbound left turn lane at the 172nd Avenue/Misty Drive intersection in accordance with the Corridor Plan and Clackamas County Roadway Standards. The left turn storage queue shall be provided as recommended in the TIA. The left turn lane design shall be consistent with Section 250.8.8 of the Clackamas County Roadway Standards. Inbound and outbound tapers shall be provided per Section 250.6.4 of the Clackamas County Roadway Standards.
- d. The median shall be extended north to the existing 172nd Avenue/Vogel Road intersection.
- e. A striping plan shall be provided consistent with the Clackamas County Roadway Standards.
- f. Adjacent to any lane transitions on the east or west side of 172nd Avenue, a minimum four-foot wide shoulder shall be provided. Where curb is proposed, the shoulder shall be paved between the curb and travel lane.
- g. A minimum seven-foot wide unobstructed setback sidewalk, with an eight-foot landscape strip, including street trees, shall be constructed along the entire site frontage. The applicant shall relocate mailboxes, fire hydrants, utility poles, etc., when they are located within the limits of the sidewalk or construct an eyebrow so that the full width of the sidewalk is provided around the obstruction. Additional easement, as necessary, shall be granted to provide for any sidewalk eyebrows.
- h. If the sidewalk does not connect to sidewalk on adjacent property, the end of the sidewalk shall require the construction of a temporary asphalt ramp, adjacent to the end of the sidewalk, providing a transition from the new sidewalk to the edge of the pavement. The ramp shall meet ADA guidelines and shall be a minimum of two inches in thickness.
- i. Curb ramps shall be constructed at the Misty Drive intersections, per Standard Drawing S910.
- j. The site driveway south of Vogel Road shall be designed and constructed per Standards Drawing D675. The plans shall be revised to eliminate the right turn lane from 172nd Ave.

- k. Drainage facilities in conformance WES regulations and Clackamas County Roadway Standards, Chapter 4.
54. The applicant shall design and construct improvements along the Sunnyside Road frontage in accordance with *Clackamas County Roadway Standards*.
These improvements shall consist of:
- a. The applicant shall design and construct a traffic signal at the intersection of 169th Avenue/Sunnyside Road in accordance with the latest Clackamas County traffic signal design requirements.
 - b. The intersection of 169th Avenue/Sunnyside Road shall be designed and constructed in accordance with the Clackamas County Roadway Standards.
 - 1. Curb ramps shall be constructed, per Standard Drawing S910.
 - 2. The intersection angle shall be addressed for consistency with Section 250.8.2.
 - 3. The intersection tangent shall be addressed for consistency with Section 250.8.4.
 - 4. The site driveway between 169th Avenue and 172nd Avenue shall be designed and constructed per Standards Drawing D675. The plans shall be revised to eliminate the right turn lane from Sunnyside Road.
 - c. The existing driveway approach shall be removed and replaced with curb, landscape strip with street trees and sidewalk to match existing.
55. The applicant shall design and construct traffic signal improvements at the intersection of 172nd Avenue/Sunnyside Road to include countdown pedestrian signals and accessible pedestrian signals/pushbuttons.
56. Adequate intersection sight distance, per Section 240 of the Clackamas County Roadway Standards shall be provided at the new public road and driveway intersections with 172nd Avenue and Sunnyside Road. A minimum of 555 feet of sight distance shall be provided.
57. Any surface water runoff from the site to the 172nd Avenue public right-of-way shall be detained outside of the right-of-way in conformance with *Clackamas Roadway Standards*.
58. The applicant shall submit an Engineer's cost estimate to be approved by Clackamas County Engineering for the asphalt concrete, aggregates, and any other required public improvement in the 172nd Avenue and Sunnyside Road public right-of-way.
59. Prior to commencement of site work and recording of the plat, the applicant shall obtain a Development Permit from the Clackamas County Engineering Division for design and construction of required improvements to 172nd Avenue and Sunnyside Road. To obtain the Permit, the applicant shall submit plans prepared and stamped by an Engineer registered in the State of Oregon, provide a Performance Guarantee, and pay an Inspection Fee. The Performance Guarantee is 125 percent of the approved Engineer's cost estimate for the required improvements.
60. Streetlights are a requirement of this development. Street lighting shall be in accordance with Clackamas County Service District #5 and City of Happy Valley standards.

61. Prior to commencement of utility work within the public right-of-way, a Utility Placement Permit shall be obtained from the Clackamas County Engineering Division.

Clackamas County Service District #1/Water Environment Services

Sanitary Sewer

62. The development is subject to the Rules & Regulations and Standard Specifications of CCSD #1.
63. Cost of the sanitary sewer systems shall be borne entirely by the developer. The most current rate for SDC's shall apply at the time of building plan approval (permit) or unless otherwise agreed upon by CCSD #1. SDC fees are required to be paid before issuing the building permit.
64. A collection sewer charge (late comer's fee) is due prior to issuing a building permit or recording a subdivision plat.
65. The developer is required to install sanitary sewer and storm drain facilities to the limits of the property in order to allow for continuity in the conveyance systems. Easements shall be provided for gravity connections to the adjoining properties.
66. This development is subject to a minimum plan review fee for sanitary sewer. Plan review fees are due with the first submittal for plan review.

Storm drainage

67. The development is subject to the Surface Water Management and Standard Specifications of CCSD #1 for storm drainage and erosion control.
68. Cost of the Surface Water facilities shall be borne entirely by the developer. This development is subject to a surface water SDC, which shall be applied with the building permit.
69. This development is subject to a minimum plan review fee for Surface Water plan review. Plan review fees are due with the first submittal for plan review.
70. This development is required to meet CCSD #1 requirements for detention, water quality and infiltration.
71. CCSD #1 shall review and approve the final subdivision plat for the sanitary and storm sewer systems prior to recording.
72. CCSD #1 shall review the sanitary and storm sewer site plans prior to issuing the building permit.
73. The approval of the land use application does not include any conclusions by WES regarding acceptability by the DSL or the Corps of the wetland delineation. This decision should not be construed to or represented to authorize any activity that will conflict with or violate the DSL or Corps requirements. It is the applicant's responsibility to coordinate with the DSL or Corps and (if necessary) other responsible agencies to ensure that the development activities

are designed, constructed, operated and maintained in a manner that complies with the DSL or Corps approval.

Sunrise Water Authority

74. All water system construction must be in accordance with the rules, regulations, policies, guidelines and standards of SWA. Cost of the improvements and construction shall be borne entirely by the developer, unless other arrangements are made between the developer and SWA.
75. SWA has adequate potable water supplies available in sufficient quantities to provide normal domestic and fire protection needs for this proposal, as required by the Oregon Health Division. Commonly held irrigated 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.

Clackamas Fire District #1

76. The applicant shall provide address numbering on all proposed buildings that is clearly visible from the street.
77. Dead end fire apparatus roads in excess of 150 feet in length shall be provided with an approved turnaround.
78. Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet (26 feet adjacent to a fire hydrant) and an unobstructed vertical clearance of 13 feet 6 inches.
79. Buildings more than 30 feet in height shall have fire apparatus access roads constructed for use by aerial apparatus with an unobstructed driving surface width of not less than 26 feet.
80. Roads 26 feet wide or less shall have "No Parking Fire Lane" signs posted on both sides of the road. Roads 26 feet to 32 feet wide shall have "No Parking Fire Lane" signs posted on one side of the fire lane.
81. "No Parking Fire Lane" signs shall be placed throughout designated hammerhead turnaround or red painted curbs and throughout development on one side.
82. The inside turning radius and outside turning radius for a 20 feet wide road shall not be less than 28 feet and 48 feet respectively, measured from the same center point.
83. Multifamily residential projects having more than 100 dwelling units and where vehicle congestion, adverse terrain conditions or other factors that could limit access, as determined by the fire code official, shall be provided with not less than two approved means of access.
84. Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.

85. Fire apparatus access roads shall not exceed 12 percent grade. Intersections and turnarounds shall be level, maximum 5 percent. When residential fire sprinklers are installed, a maximum grade of 15 percent may be allowed. Grades over 15 percent will not be allowed.
86. The minimum fire flow and flow duration for buildings other than one and two-family dwellings shall be determined according to OFC Appendix B. The required fire flow for a building shall not exceed the available GPM in the water delivery system at 20 psi.
87. Approved fire apparatus access roadways and fire-fighting water supplies shall be installed and operation prior to any combustible construction or storage of combustible materials on the site.
88. Where portions of the building is more than 400 feet from a hydrant on a fire apparatus access road, as measured in an approved rout around the exterior of the building, on-site fire hydrants and mains shall be provided. This distance may be increased to 600 feet for buildings equipped throughout with an approved automatic sprinkler system.
89. The minimum number and distribution of fire hydrants available to a building shall not be less than that listed in Table C105.1
90. A fire hydrant shall be located within 100 feet of a fire department connection (FDC). Fire hydrants and FDC's shall be located on the same side of the fire apparatus access roadway.
91. Indicate on plans "Clackamas Fire District #1 to witness fire line flush of new fire hydrants" Hydrants to be "In-Service" prior to combustible construction.

Clackamas County Service District #5 (Street Lighting)

92. Street lighting exists on the Sunnyside Road. frontage and partially on 172nd frontage. Street lighting does not exist on the 169th Avenue, Misty Drive or a portion of 172nd Avenue frontage, thus new cobra street lighting will be required on new aluminum poles. The applicant will have to work with CCSD #5 on an acceptable plan.
93. The property owner shall submit a request in writing for the formation of an assessment area, which will include any new tax lots created by this partition, to help pay for the operation and maintenance of lighting. The current rate of assessment for commercial street lighting in this area is \$1.21 per frontage foot per tax lot each year.

Utilities

94. The applicant shall provide utility easements where required and shall be responsible for coordinating construction with all utility and service providers and facilitating cooperation among all providers and agencies.
95. All utilities, including electrical power, telephone, cable TV, gas and others shall be underground. Pre-wiring of the project site for street lighting must be approved by CCSD #5.

Design

96. A final landscape plan shall be submitted to the Planning Official or designee for approval prior to construction plan approval. The final landscape plan shall be in substantial

conformance with the preliminary landscape plan and shall detail the method of irrigation for all landscaped areas. A street tree planting plan shall also be included as part of the final landscape plan.

97. The developer, property owner/declarant or Homeowner's Association is responsible for the continual maintenance of all hardscaped, landscaped and natural areas located on the site.
98. The applicant shall provide a minimum of two off street parking spaces per residence and shall also provide driveways in accordance with Sections 16.41.030.B and 16.44.010.A.3 of the LDC.
99. The applicant shall encumber the natural resource areas that are proposed to remain in place after site development with a Conservation Easement and shall permanently delineate the boundary of said natural resources with white split-rail fencing or an approved alternative.
100. As part of the construction documents for the proposed development, the applicant shall provide a Construction Management Plan that includes provisions for the installation of orange "construction fencing" to delineate the natural resource areas and vegetation on the subject site that are to remain undisturbed.
101. The future developer of Lots 3 and 4 shall provide perimeter fencing along the residentially zoned portion of the subject site per the requirements of Section 16.42.060.A of the LDC.
102. As part of each phase of the proposed Master Plan, the applicant shall meet the minimum parking requirements found within Section 16.43.030 of the LDC.

CITY OF HAPPY VALLEY

16000 SE MISTY DRIVE
HAPPY VALLEY, OREGON 97086
(503) 783.3800
FAX: (503) 658.5174

NOTICE

NOTICE IS HEREBY GIVEN that the Happy Valley Planning Commission and City Council will hold public hearings at the City of Happy Valley City Hall, 16000 SE Misty Drive, in the City of Happy Valley, Oregon, on the following dates and times in regard to the below matter: **Planning Commission: Tuesday, April 14, 2015 at 7 p.m. and City Council: Tuesday, May 5, 2015 at 7p.m.**

DOCKET NUMBER:

MP-01-15/PUD-01-15/CPA-03-15/LDC-04-15/ERP-01-15/ERP-02-15 "172nd Avenue and Sunnyside Road"

The applicant, Ryan Cain of Gramor Development, is requesting approval of a Comprehensive Plan/Zoning Map Amendment, Master Plan, Commercial Planned Unit Development and two Environmental Review Permits (one for natural resources and one for steep slopes) on several Lots of Record located northwest of the intersection of SE 172nd Avenue and SE Sunnyside Road. The applicant has proposed to change the current plan designation/zoning district on 10.5 acres of the subject site from Mixed Use Residential – Multi-Family Medium Density (MUR-M2) to Mixed Use Residential – Multi-Family Low Density (MUR-M1). The applicant has also proposed to change the existing plan designation/zoning district for four acres of the subject site from Employment Center (EC) to MUR-M1. In conjunction with the proposed designation/zone changes, the applicant has proposed to concurrently process applications for a Master Plan (encompassing 34.6 acres), Commercial Planned Unit Development and Environmental Review Permits for steep slopes and natural resources. The attached exhibits depict the location and existing/proposed zoning of the subject site as well as the preliminary plat and conceptual development plan. The subject properties can be further described as Clackamas County Assessor Map Nos. 23E06B: Tax Lot 100; and 23E06BA: Tax Lots 1100, 1190, 1200 and 1290.

The Planning Commission will make a recommendation to the City Council to approve, approve with conditions or deny the subject applications. Subsequently, the City Council will make the final decision to approve, approve with conditions or deny the subject applications in accordance with the applicable Statewide Planning Goals; applicable sections of OAR Chapter 660, Division 12; applicable City of Happy Valley Comprehensive Plan Policies; and applicable sections of the City of Happy Valley Municipal Code; Title 16 (Land Development Code), including Chapters 16.22, 16.23, 16.32, 16.34, 16.41, 16.42, 16.43, 16.44, 16.50, 16.61, 16.63, 16.65 and 16.67. Interested parties are invited to attend the hearings or to submit comments in writing prior to the first meeting. All written comments must be received by the City of Happy Valley by 5:00 p.m. on **Wednesday, April 1, 2015** to be included in the Planning Commission and City Council packets – verbal or written testimony may also be entered into the record at the public hearings. Those wishing to present verbal testimony, either pro, con, or to raise questions, will be asked to speak after presentation of the staff report. Testimony should pertain to the applicable criteria.

The recommendation by the Planning Commission and the decision by the City Council on the applicant's proposal will be made in accordance with the applicable criteria, and may be appealed per the provisions of the City's Municipal Code. Failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the hearings bodies an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals. The applicant and any person who submits written comments shall receive notice of the decision.

The failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City Council to respond to the issue precludes an action for damages in circuit court.

The decision-making criteria, application and all materials submitted by the applicant 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. The City's staff report, findings of fact and staff recommendation are generally available seven days prior to the public hearing date. For additional information, contact Justin Popilek, Senior Planner 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.

Notice to mortgagee, lien holder, vendor, or seller: The City of Happy Valley Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.


Justin Popilek
Senior Planner

Mayor
Honorable Lori DeRemer



City Manager
Jason A. Tuck

CITY OF HAPPY VALLEY

STAFF REPORT TO THE CITY COUNCIL

May 5, 2015

“MASTER PLAN – 172ND AVENUE AND SUNNYSIDE ROAD”

MASTER PLAN (MP-01-15); COMPREHENSIVE PLAN MAP/ZONING MAP AMENDMENT (CPA-03-15/LDC-04-15); COMMERCIAL PLANNED UNIT DEVELOPMENT (PUD-01-15); AND, TWO ENVIRONMENTAL REVIEW PERMITS (ERP-01-15 AND ERP-02-15)

I. GENERAL INFORMATION

PROPOSAL:

The applicant, Sunnyside 172nd, LLC, is proposing to amend the City’s Comprehensive Plan Map/Zoning Map (“one-map” system) and East Happy Valley Comprehensive Plan (EHVCP) to change the current plan designation/zoning district on 10.5 acres of the subject site from Mixed Use Residential – Multifamily Medium Density (MUR-M2) to Mixed Use Residential – Multifamily Low Density (MUR-M1). The applicant also proposes to change the existing plan designation/zoning district for four acres of the subject site from Employment Center (EC) to MUR-M1. Finally, the applicant proposes to concurrently process applications for: Master Plan; Commercial Planned Unit Development (PUD); and, Environmental Review Permits for steep slopes and natural resources. The subject properties encompass 34.6 acres and are located at the northwest corner of the intersection of 172nd Avenue and Sunnyside Road. **Therefore, staff recommends the City Council APPROVE the proposed applications subject to the findings and conclusions in this report.**

APPLICANT:

Sunnyside 172nd, LLC
19767 SW 72nd Avenue
Tualatin, OR 97062

16000 SE Misty Drive, Happy Valley, Oregon 97086-4288
Telephone: (503) 783-3800 Fax: (503) 658-5174
happyvalleyor.gov

APPLICANT’S REPRESENTATIVE:

Harper Houf Peterson Righellis, Inc.
205 SE Spokane Street, #200
Portland, OR 97202

EXHIBITS:

The applicant has submitted the following exhibits as part of the application package:

Exhibit 1 (dated March 4, 2015)
Applicant’s Narrative

Exhibit 2 (dated March 2, 2015)
Plan Set

Exhibit 3 (dated January 15, 2015)
Traffic Impact Analysis

Exhibit 4 (dated October 4, 2013)
Geotechnical Report

Exhibit 5 (November, 2013)
Natural Resource Assessment

Exhibit 6 (dated September 20, 2013)
Neighborhood Meeting Minutes

Exhibit 7 (dated April 14, 2015)
Memorandum from Kittelson & Associates – Response to Agency Comments and Proposed Conditions of Approval

Staff has submitted the following exhibits as part of the Staff Report:

Staff Exhibit A Service Provider Comments and Conditions

1. City of Happy Valley Engineering Division
2. Clackamas County Water Environment Services (WES)/Service District #1 (CCSD#1)
3. Clackamas Fire District #1 (CFD #1)
4. Sunrise Water Authority (SWA)
5. City of Happy Valley Traffic Engineer (DKS Associates)
6. Clackamas County Service District #5 (CCSD #5)
7. Clackamas County Department of Transportation and Development (DTD)

Staff Exhibit B

1. Happy Valley Steep Slopes and Natural Resource Overlay Zone Map – Sheets D6 and E6.
2. Letter from Interested Party (Thomas G. Gsell – 17225 SE Vogel Road).
3. **Excerpt from Mt. Scott/Scouters Mtn. Trail Loop Master Plan (Pages 52-53) illustrating design standards for a multi-use trail.**
4. **Pedestrian Path and Multi-Use Trail Cross Section - Sheet DWG-400 from the City's Engineering and Design Standards Manual.**

APPLICABLE CRITERIA:

- Applicable Statewide Planning Goals; applicable sections of OAR Chapter 660, Division 12; applicable sections of the Metro Urban Growth Management Functional Plan; applicable City of Happy Valley Comprehensive Plan Policies; and, applicable sections of the City of Happy Valley Municipal Code; Title 16-Land Development Code (LDC), including Chapters: 16.22 (Residential Land Use Districts); 16.23 (Commercial and Employment Districts); 16.25 (Industrial Districts); 16.32 (Steep Slopes Development Overlay Zone); 16.34 (Natural Resources Overlay Zone); 16.41 (Access and Circulation); 16.42 (Landscaping, Street Trees, Fences, and Walls); 16.43 (Parking and Loading); 16.44 Special Standards for Certain Uses; 16.50 (Public Facilities); 16.61 (Types of Review Procedures); 16.63 (Land Divisions and Property Line Adjustments); 16.65 (Master Planned Developments); and, 16.67 (Comprehensive Plan Map, Specific Area Plans, Land Use District Map and Text Amendments).

PROPERTY LOCATION:

- The subject properties are generally located south of Tristen Avenue, west of 172nd Avenue, north of Sunnyside Road and east of Rock Creek and are further described as Clackamas County Assessor Map Nos. 23E06B: Tax Lot 100 and 23E06BA: Tax Lots 1100, 1190, 1200 and 1290.

DEVELOPMENT DISTRICTS:

- Mixed Commercial Center, Employment Center and Mixed Use Residential – Multifamily Medium Density.

BACKGROUND (ANNEXATION HISTORY AND CURRENT ZONING):

- The properties that comprise the subject site were annexed into the City between the years of 2005 and 2007 and had an existing Clackamas County zone of Rural Residential Farm Forest, 5-Acre Minimum Lot Size (RRFF-5) at the time of their annexation. The subject site is located within the EHVCP area. As part of the adoption of the EHVCP in 2009 the subject properties were legislatively re-designated and re-zoned to a combination of MCC, EC and MUR-M2.

SITE DESCRIPTION/ADJACENT LAND USE:

- The subject site consists of five tax lots totaling 34.6 acres in size. Three of these lots (Tax Lots 100, 1100 and 1200) contain single-family detached residences and several associated outbuildings. The site primarily consists of flat-to-moderately sloped lands, with the exception being the northwest corner, which contains the riparian corridor associated with Rock Creek. This heavily forested area near Rock Creek contains both Transition and Conservation Slopes, as defined by the LDC, in addition to a water quality buffer and Habitat Conservation Area. As delineated by the applicant, the subject site contains three wetlands. The largest of these wetlands, identified as Wetland “A” in the applicant’s Natural Resource Assessment (Exhibit 5, Appendix D) is located within the eastern portion of the subject site and totals approximately 2.53 acres in size. There is also a 1.64-acre wetland located in the northern portion of the subject site, identified as Wetland “B” by the applicant. Additionally, there is a 0.04-acre wetland, identified as Wetland “C”, located in the central portion of the subject site, just to the south of an existing gravel driveway. It should be noted that the greater subject site has street frontage with 172nd Avenue (Major Arterial Facility) and Sunnyside Road (Major Arterial Facility).
- The subject site is bordered to the east by the 172nd Avenue public right-of-way, which was fully improved to the standards of a Major Arterial Facility by Clackamas County as part of a Capital Improvement Project for a portion of the subject site’s frontage (south of Vogel Road). Across the 172nd Avenue right-of-way from the subject site is the location of five Lots of Record that currently have a combination of plan designations/zones (MCC and MUR-M2), with each containing a habitable structure. To the north of the subject site is the location of several tax lots that contain single-family detached residences and multiple associated outbuildings. These properties have a plan designation/zone of Clackamas County RRFF-5. To the south of the development site is the Sunnyside Road right-of-way, which was fully improved to the standards of a Major Arterial Facility by Clackamas County as part of a Capital Improvement Project for the entirety of the subject site’s frontage. There are several tax lots located to the south of the subject site, across Sunnyside Road that contain both commercial and residential structures. The current plan designation/zone for these properties range from Institutional and Public Use (IPU) to Community Commercial Center (CCC). West of the subject site is the location of two undeveloped properties that have a plan designation/zone of MUR-M2.

COMPREHENSIVE PLAN MAP/ZONING MAP AMENDMENT:

- The applicant’s proposal includes amending the City’s Comprehensive Plan Map/Zoning Map, as well as the EHVC, to change the current plan designation/zoning district on 10.5 acres of the subject site from MUR-M2 to MUR-M1. The applicant has also proposed to change the existing plan designation/zoning district for four acres of the subject site from EC to MUR-M1. The applicant’s projected configuration of the proposed designations/zones is depicted within Exhibit 2, Sheet 1.1. The proposed Comprehensive Plan Map/Zoning Map Amendment has been requested for the purpose of allowing the applicant to construct a multifamily residential project in a portion of the subject site (Lot 3 of the proposed PUD) at a density that is less than what the current plan designation/zone allows. The applicant’s proposal to change the EC zoning on four acres of the subject site to MUR-M1 has been proposed due to the existing conditions of the area creating an “unviable” building site for meeting the intent of the EC zone. Per Section 16.23.010 of the LDC, the purpose statement of the EC zone reads as follows:

“The purpose of the Employment Center (EC) District is to provide for a mix of employment opportunities, located where they are accessible by a variety of transportation modes, including transit services and safe and convenient pedestrian connections. These areas provide sites suitable for business and office parks, campus and light industrial uses, professional and corporate offices, medical offices and clinics, tech/flex businesses, creative arts and services, technical/vocational schools and other related businesses. Building types range from large single user campuses, multiple tenant business parks to multistory mixed-use buildings. Quality design and a connected and walkable character of the surrounding environment will be provided. Housing is allowed when combined in vertical mixed-use buildings.”

Due to the presence of a forested wetland (Wetland “B”) that essentially bisects the EC zoned lands on the subject site and the collector facility that is envisioned along the western edge of said EC zoned lands, the location of which has been prescribed by the City’s Transportation System Plan (TSP) and the EHVC, it would be quite difficult to construct a “campus style” employment generating development in this area. As a result, the applicant has proposed to re-designate/re-zone the western four acres of the onsite EC zoned lands to MUR-M1, which would allow for a “stand alone” multifamily development to be constructed, which is a use that is more conducive to the relatively small development area in the affected portion of the subject site.

Due to the densities allowed under the existing and proposed zones, the applicant’s proposed Comprehensive Plan Map/Zoning Map Amendment is in fact a “down-zone”. The MUR-M2 zone allows for densities ranging from 25-34 dwelling units per net acre, where the MUR-M1 zone allows for 15-24 dwelling units per net acre. Although not expressly stated in the LDC, residential densities in the EC zone range from 15 to 50 dwelling units per net acre.

MASTER PLAN:

- The applicant has applied for Master Plan approval as part of this submittal due to the proposed development encompassing more than 20 acres of land and incorporating a Comprehensive Plan Map/Zoning Map Amendment (per the requirements of Section 16.65.020 of the LDC). The applicant has provided a conceptual development plan (Exhibit 2, Sheet A1.1) as part of their submittal that illustrates the envisioned uses of the subject site. The applicant has also provided a landscape plan and open space/recreational plan (Exhibit 2, Sheets L1 and A1.2, respectively) as part of the Master Plan. The applicant has indicated within their submittal that the development will be adequately landscaped and there would be approximately 14 percent of the overall development site dedicated as usable open space. This amount of usable open space satisfies the provisions of Section 16.65.060 of the LDC, which stipulates how one determines the minimum requirement for usable open space associated with a mixed-use master plan (such as the subject proposal). The applicant has proposed that the development envisioned in the Master Plan occur in three phases. Phase 1 would include the construction of the commercial shopping center (proposed Lots 1 and 2) and the adjacent roadways (Misty Drive and 169th Avenue). Phase 2 would encompass the construction of a multifamily residential development (proposed Lot 3) and Phase 3 would include the construction of a medical office building or other use permitted on the EC zoned property, located in the northeast corner of the subject site (Lot 5).

PLANNED UNIT DEVELOPMENT/OPEN SPACE AND RECREATION PLAN:

- The applicant has proposed a PUD that would divide the subject site into five lots and three tracts of land. According to the applicant's Concept Plan (Exhibit 2, Sheet A1.1) and Preliminary Plat (Exhibit 2, Sheet A1.4), Lots 1 and 2 are proposed to be utilized as a commercial shopping center, "anchored" by a large retail building (consisting of 150,000 square feet of retail space, a fuelling station and drive-through pharmacy) and including five smaller multi-tenant retail buildings (each containing 7,000 – 26,000 square feet of building area). This commercial shopping center has also been proposed to include two 6,000 square-foot commercial buildings with drive-through facilities. The applicant has indicated within their plan set that Lots 3 and 4 are envisioned to be a multifamily residential development and Lot 5, zoned EC, would be reserved for future development of a use that is compliant with the underlying zone (possibly a medical office building). It should be noted that the applicant has illustrated a potential building footprint and access plan for Lot 5.

The applicant has illustrated within the plan set that was submitted as part of this application that the proposed development would not have direct vehicular access to the surrounding Major Arterial Facilities (172nd Avenue and Sunnyside Road), and would be accessed via two Collector Facilities (169th Avenue and Misty Drive) that the applicant has proposed to construct as part of Phase 1 of this project. The location of these Collector Facilities are proposed in compliance with the City's TSP and have been designed to provide a street "stub" to the northern site boundary. It is illustrated on the applicant's Concept Plan (Exhibit 2, Sheet A1.1) that the cross-section for Misty Drive, between 169th Avenue and 172nd Avenue, would be "reduced" to eliminate some impacts to an adjacent wetland. Staff concurs with the applicant's proposed reduction along the Northside of Misty Drive, the side that is adjacent to the previously mentioned wetland. However, staff does not support the reduced width for the Southside of Misty Drive and has included a condition of approval (Number 26) addressing this issue.

The applicant has also proposed to install a traffic signal at the new intersection of Sunnyside Road and 169th Avenue. However, staff notes that the applicant has not proposed to install a traffic signal at the future Misty Drive and 172nd Avenue intersection. Staff also notes that the applicant's Preliminary Plat (Exhibit 2, Sheet A1.4) doesn't illustrate Misty Drive extending west of 169th Avenue, to the western boundary of the subject site. As a result, staff is recommending Condition of Approval Numbers 27 and 45, which require the applicant to dedicate the right-of-way for Misty Drive to the western boundary of proposed Lot 3 and to install a "75 percent" traffic signal at the intersection of Misty Drive and 172nd Avenue (component of this signal would be "temporary" in that future development to the east of 172nd Avenue would need to occur in order to construct the full traffic signal within adequate public right-of-way). The applicant is proposing to dedicate right-of-way and construct frontage improvements along 172nd Avenue and will provide striping and appropriate lane transitions just north of the site frontage that will (as conditioned) integrate the aforementioned improvements into the existing two-lane configuration until the full 172nd Avenue cross section is constructed.

- The applicant has proposed lots within the PUD that range in size from approximately 37,000 to 521,000 square feet. The applicant has sized the proposed lots to facilitate the uses illustrated in the Concept Plan (Exhibit 2, Sheet A1.1). Utilities such as public sanitary sewer, stormwater management, water, and electricity will all be provided to the proposed PUD through the applicant extending these services from their existing locations to the south and east of the subject site.
- The LDC requires applicants who propose a development as a PUD to dedicate 20 percent of the total site area as usable open space. As described within the "Master Plan" section of the narrative, above, due to the "mixed-use" nature of the applicant's proposal, the PUD usable open space requirement is met via the proposed Master Plan, which provides approximately five acres of usable open space, equating to approximately 14 percent of the gross acreage of the subject site. The applicant has submitted as part of their proposal a landscape plan that illustrates some of the proposed amenities within the open space/recreational area (Exhibit 2, Sheet L1). These amenities include: walking paths; picnic areas and seating/viewing areas.

TRAFFIC IMPACT ANALYSIS (TIA)/TRANSPORTATION PLANNING RULE COMPLIANCE:

- The applicant submitted a TIA as part of their application that provides an evaluation of items such as trip generation and distribution, intersection/roadway safety, and an operational analysis. The applicant's Traffic Engineer provided a trip generation summary (Exhibit 3, Page 17) quantifying the traffic impacts that the proposed development would have on the transportation infrastructure in the vicinity of the development. This summary states that the development of the proposed Master Plan would produce an additional 800 PM peak hour trips (395 entering and 405 exiting the site). The applicant has illustrated the design of the development's access point from 172nd Avenue and Sunnyside Road (Exhibit 2). The applicant's TIA did not identify any immediate safety concerns or roadway capacity issues that would result from the approval of the proposed applications. However, both the City and County Traffic Engineers have addressed safety concerns, which are further addressed under "Vehicular/Freight Access", below.

It is required that a TIA submitted as part of an application for a Comprehensive Plan Map/Zoning Map Amendment provide an analysis that addresses Oregon Administrative Rule (OAR) 660-012-0060, commonly referred to as the “Transportation Planning Rule” (TPR). Within this analysis, an applicant is required to determine if a proposed Comprehensive Plan Map/Zoning Map Amendment would “significantly” impact an existing transportation facility, and if so, propose mitigating measures. The applicant’s Traffic Engineer has indicated within the narrative portion of the TIA that the proposed amendments would result in less vehicular trips than what is allowed under the current zoning, meaning no significant impacts to adjacent roadways would result from the proposed Comprehensive Plan Map/Zoning Map Amendment. Although the proposed Comprehensive Plan Map/Zoning Map Amendment will result in a net decrease in trips resulting from the proposed applications and will not change the level of service on any of the neighboring transportation facilities, the City’s Traffic Engineer (DKA Associates) challenges whether the TPR (and thus, future forecast) analysis is not necessary and both the City and County Traffic Engineers have written comments and conditions addressing the various inadequacies of the submitted TIA. As conditioned, with particular emphasis on the requirement for temporary signal installation at the planned Misty Drive/172nd Avenue, staff believes that the applicant can provide an adequate TIA and site plan.

VEHICULAR/FREIGHT ACCESS:

- The City Engineer and Traffic Engineer have reviewed the applicant’s Master Plan and have addressed several safety concerns related to the proposed access plan. One item of concern that was addressed was that the proposed Misty Drive lane configuration is not acceptable as shown on the site plan. Misty Drive is a Collector Facility, which requires 400 feet of “spacing” between full access driveways and 200 feet between restricted access driveways. The proposed Misty Drive accesses do not meet spacing standards, with both being proposed approximately 200 feet from the nearest intersection (measured center line to center line). To allow both Misty Drive accesses, turn restrictions will be required to provide an acceptable design for safety and operations. Based on the locations shown on the site plan, both accesses should be restricted to right-in/right-out movements (Condition of Approval Numbers 43 and 44). The western access could allow left-in movements if Misty Drive is widened to provide a center turn lane and taper. This access concept would allow trucks to enter the site at the western driveway and exit the site at the eastern driveway. A second concern that was addressed by the proposed conditions of approval is that the southbound left turn lane on 172nd Avenue at Vogel Road is not desirable, due to the close spacing to Misty Drive, and should be eliminated. As a result, Condition of Approval Number 42 requires the applicant’s site plan to be revised to reflect this change. A third concern that the City Engineer and Traffic Engineer have addressed is that the site plan shows no frontage improvements on 172nd Avenue north of Misty Drive. The site plan and transportation study includes development of a medical office building on the northwest corner of Misty Drive/172nd Avenue. The site plan should be revised to include appropriate frontage improvements on 172nd Avenue along the entire site, as required by recommended Condition of Approval Number 47.

ENVIRONMENTAL REVIEW PERMITS:

- The applicant was required to apply for an ERP due to the City’s Local Wetland Inventory (LWI) indicating the presence of Water Quality Resources and Habitat Conservation Area (HCA) on the subject site. As part of the applicant’s submittal, a wetland delineation/natural resource assessment (Exhibit 5) was provided that identifies several onsite wetland areas. As previously discussed, the subject site contains three wetlands. The largest of these wetlands, identified as Wetland “A” in the applicant’s Natural Resource Assessment (Exhibit 5, Appendix D) is located within the eastern portion of the subject site and totals approximately 2.53 acres in size. The applicant’s environmental consultant identified this wetland as, “low functioning” and “without structural or species diversity and dominated by non-native vegetation”. There is also a 1.64-acre wetland located in the northern portion of the subject site, identified as Wetland “B” by the applicant. The eastern portion of this wetland was identified by the applicant’s consultant team as “low functioning” and as being dominated by non-native species and containing minimal structure or species diversity. Additionally, there is also a 0.04-acre wetland, identified as Wetland “C”, located in the central portion of the subject site, just to the south of an existing gravel driveway. The condition of this wetland is described as “degraded” by the applicant’s environmental consultant. In addition to the onsite wetlands, Rock Creek traverses the northwest portion of the subject site and the applicant has identified this waterway and buffer as being in “marginal” condition. The applicant has proposed to completely remove or “fill” Wetland “A” and Wetland “C” for the purpose of constructing infrastructure and building envelopes. The applicant has also proposed to remove the southern and eastern edges of Wetland “B”, resulting in the relocation of the water quality buffer to the north and west in this area as well. The applicant has indicated that they will mitigate for the proposed wetland impacts at an offsite location that is found within the same drainage basin as the subject site. The applicant has proposed to mitigate for the approximately .75-acre of proposed Water Quality Resource (buffer) impacts by enhancing the remaining .95-acre of buffer. The applicant’s proposed buffer enhancement plan is described in (Exhibit 6). It should be noted that as part of this application, staff is recommending Condition of Approval Number 75, which requires the applicant to obtain the necessary federal and state permit approvals to facilitate the proposed wetland and buffer removal.
- The applicant has proposed to amend the City’s Natural Resource Overlay Zone Map to reflect the location of the onsite HCA, as delineated by the applicant’s environmental consultant. The City’s HCA inventory includes two areas of the subject site, one located in the northwest area and another area located in the central portion. The proposed amendment would essentially eliminate the HCA in the central portion of the subject site, as the applicant has stated that the majority of this area contains no protected water feature, nor the necessary tree canopy that would be associated with HCA (Exhibit 5, Sheet 6). The applicant has also noted that the onsite HCA illustrated in the City’s inventory in the vicinity of Rock Creek does not extend as far east as what was mapped by the City. Staff concurs with the applicant’s delineation and recommends approval of the proposed map verification for the onsite HCA. The resultant effect of the map verification is that the applicant’s development proposal would not impact any of the onsite HCA, which would be preserved within a conservation easement located along the western edge of the subject site.

- As indicated on Sheets D6 and E6 of the City’s Steep Slopes and Natural Resource Overlay Zone Map, the subject site contains both transition (15-24.99 percent) and conservation (25 percent and greater) slope areas. Due to the applicant’s development plan impacting more than 1,000 square feet of these “sloped” areas, Chapter 16.32 of the LDC requires the applicant to obtain an ERP. As part of their ERP submittal for steep slopes, the applicant has proposed to impact approximately 16,000 square feet of transition slope area, while not disturbing any of the onsite conservation slope areas. The applicant provided a geotechnical evaluation of the subject site (Exhibit 4), specifically evaluating areas that are proposed to be developed for the purpose of constructing infrastructure and other improvements. The applicant’s geotechnical consultant (Geo Design, Inc.) determined that it is possible to construct the proposed development in a manner that will be safe, provided that the recommendations listed in Geotechnical Report (Exhibit 4) are followed. Staff has evaluated the applicant’s ERP for steep slopes against the applicable criteria found within Chapter 16.32 and has determined it to be in compliance.

PUBLIC COMMENTS:

- The City’s Planning Division received one letter pertaining to the proposed applications from a neighboring property owner during the public comment period. This letter has been included within this report as Staff Exhibit B-3.

II. 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.

Staff Response:

The public notice and outreach requirements for a Type “III” quasi-judicial land use application, such as that proposed by the applicant, have provided multiple opportunities for public involvement, including published notice for the land use hearings before the Planning Commission and City Council. Therefore, this criterion is satisfied by the request and the public process followed by the City of Happy Valley.

Goal 2 (Land Use Planning)

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 ensure an adequate factual base for such decisions and actions.

Staff Response:

Statewide Planning Goal 2, Land Use Planning, requires that local jurisdictions 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. The applicant's proposal was evaluated using criteria found within the City's LDC and policies found within the City's Comprehensive Plan. This evaluation is augmented by the inclusion of comments and concerns submitted by neighboring residents. Furthermore, the proposed amendments are subject to public hearings before the Planning Commission and City Council. Therefore, a well-established planning process and policy framework exists within the City. Therefore, this criterion is satisfied.

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

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

Staff Response:

The subject properties are located within the City of Happy Valley and as such, natural resources within the subject property (no historic resources exist) are protected by Chapter 16.34 (Natural Resources Overlay Zone) of the city's LDC. The subject site contains three wetlands. The largest of these wetlands, identified as Wetland "A" in the applicant's Natural Resource Assessment (Exhibit 5, Appendix D) is located within the eastern portion of the subject site and totals approximately 2.53 acres in size. The applicant's environmental consultant identified this wetland as, "low functioning" and "without structural or species diversity and dominated by non-native vegetation". There is also a 1.64-acre wetland located in the northern portion of the subject site, identified as Wetland "B" by the applicant. The eastern portion of this wetland was identified by the applicant's consultant team as "low functioning" and as being dominated by non-native species and containing minimal structure or species diversity. Additionally, there is a 0.04-acre wetland, identified as Wetland "C", located in the central portion of the subject site, just to the south of an existing gravel driveway. The condition of this wetland is described as "degraded" by the applicant's environmental consultant. In addition to the onsite wetlands, Rock Creek traverses the northwest portion of the subject site and the applicant has identified this waterway and its associated buffer as being in "marginal" condition. The applicant has proposed to completely remove or "fill" Wetland "A" and Wetland "C" for the purpose of constructing infrastructure and building envelopes. The applicant has also proposed to remove the southern and eastern edges of Wetland "B", resulting in the relocation of the water quality buffer to the north and west in this area as well. The applicant has indicated that they will mitigate for the proposed wetland impacts at an offsite location that is found within the same drainage basin as the subject site. The applicant has proposed to mitigate for the approximately .75-acre of proposed Water Quality Resource (buffer) impacts by enhancing the remaining .95-acre of buffer. The applicant's proposed buffer enhancement plan is described in (Exhibit 5). As part of this application, staff is recommending Condition of Approval Number 75, which requires the applicant to obtain the necessary federal and state permit approvals to facilitate the proposed wetland and buffer removal. Per Condition of Approval Number 75, this criterion has been satisfied.

Goal 9 (Economic Development)

Goal 9 specifies that each city throughout the state must provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Staff Response:

The applicant’s proposed Master Plan has illustrated that the MCC zoned area of the subject site would be developed as a commercial shopping center, “anchored” by a large retail building (150,000 square feet of building area), including five smaller multi-tenant retail buildings (7,000 – 26,000 square feet of building area). In addition, the applicant has also envisioned that the EC zoned parcel, located in the northeast corner of the subject site, would be developed with an office use. If approved, the applicant’s Master Plan will work to provide increased economic activities in an area of the City that has been comprehensively planned for to serve as a commercial “hub” for East Happy Valley. This criterion has been satisfied.

Goal 10 (Housing)

To provide for the housing needs of the citizens of the State.

Staff Response:

The applicant has indicated within the Concept Plan (Exhibit 2, Sheet A1.1) that the western 15 acres of the subject site would be “down-zoned” to facilitate a multifamily residential development. If approved, the applicant’s proposal would provide additional housing within the City. Therefore, this criterion has been satisfied.

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.

Staff Response:

As the City of Happy Valley is not a “full-service” municipality, providing all water, sewer, streets, etc., public facilities and services plans exist in the form of Master Plans; rules and regulations; implementing ordinances; and, Intergovernmental Agreements (IGA’s) between the City and its service providers. Therefore, this criterion has been satisfied.

Goal 12 (Transportation)

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

Staff Response:

The intent of Goal 12 is “to provide and encourage a safe, convenient, and economic transportation system.” Findings addressing the “Transportation Planning Rule” (TPR) are located within the Staff Responses to the City’s own LDC section that addresses the TPR, below (see Section 5). Per those findings, this criterion has been satisfied.

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

“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).”

Staff Response:

Section 16.67.060 (Transportation planning rule compliance) of the City’s LDC addresses the requirements of this administrative rule. Findings addressing the TPR are located within the Staff Responses to the City’s own LDC section that addresses the TPR, below (see Section 5). Per those findings, this criterion has been satisfied.

3. The following sections of the Metro Urban Growth Management Functional Plan are applicable to your request:

“3.07.120 Housing Capacity

A. A city or county may reduce the minimum zoned capacity of the Central City or a Regional Center, Town Center, Corridor, Station Community or Main Street under subsection D or E. A city or county may reduce its minimum zoned capacity in other locations under subsections C, D or E.

B. Each city and county shall adopt a minimum dwelling unit density for each zone in which dwelling units are authorized except for zones that authorize mixed-use as defined in section 3.07.1010(hh). If a city or county has not adopted a minimum density for such a zone prior to March 16, 2011, the city or county shall adopt a minimum density that is at least 80 percent of the maximum density.

Staff Response:

The proposed Master Plan encompasses area that is located along the 172nd Avenue Corridor. The application involves a plan map amendment and zone change for a portion of the subject site from City MUR-M2 to MUR-M1. These districts differ in terms of minimum required densities, with the MUR-M2 District having a higher minimum required density than the MUR-M1 District. As described below, this is permitted in accordance with subsections C, D, and E. Although only one of these criteria need be satisfied, the application satisfies each of them. It should also be noted that the “loss” in residential density that would result from the approval of the proposed rezone would be somewhat offset by the applicant’s proposal to rezone a portion of the onsite EC zoned lands (proposed Lot 4) to MUR-M1.

C. A city or county may reduce its minimum zoned capacity by one of the following actions if it increases minimum zoned capacity by an equal or greater amount in other places where the increase is reasonably likely to be realized within the 20-year planning period of Metro’s last capacity analysis under ORS 197.299:

- 1. Reduce the minimum dwelling unit density, described in subsection B, for one or more zones;*
- 2. Revise the development criteria or standards for one or more zones; or*
- 3. Change its zoning map such that the city’s or county’s minimum zoned capacity would be reduced.*

Action to reduce minimum zoned capacity may be taken any time within two years after action to increase capacity

Staff Response:

The MUR-M2 District requires a minimum density of 25 dwelling units per net developable acre, while the MUR-M1 District requires a minimum density of 15 units per net developable acre. Density calculations for the project (including the proposed rezones) were performed by the applicant and a summary of said calculations was provided on Pages 34-35 of Exhibit 1. These calculations determined that the minimum density for the project under the proposed zoning is 143 dwelling units, while the actual project includes 168 units. Density calculations were also provided for a project developed under the current zoning, which determined the minimum density for the site without the rezone is 165 units. Therefore, the difference in minimum density is approximately 22 dwelling units.

In the case of the City of Happy Valley, a number of recent cases can be cited where densities have increased in other areas, thereby offsetting any density decrease associated with this application:

1. Fox Haven Estates – This recently approved subdivision (located near SE 132nd Avenue and SE Ridgecrest Road) includes slightly over five acres of R-20 designated land that was re-designated and re-zoned to R-7. Although these zones do not have prescribed minimum densities, density calculations require 80 percent of the district's maximum density be achieved. Therefore, expected minimum densities for these zones would be anticipated to be +/- 2 units per acre and 6 units per acre respectively. As a result of the approval of this application, this project is providing 19 dwelling units whereas only 8 or 9 units were permitted under R-20 zoning. This is an increase in 10-11 dwelling units.
2. SE 132nd Avenue and SE King Road Zone Change – This application recently amended the City's zoning map for approximately four acres of land in the City from R-20 to R-7. Similar to the Fox Haven Estates Application, this application likely doubled the site's permitted density from +/- 8 or 9 dwelling units to 19, an increase of approximately 10 units.
3. Gateway to Happy Valley – This recently approved subdivision (located near the intersection of King Road and Mt. Scott Boulevard) included a zone change from R-20 to R-7 for approximately 5.5 acres of land. Similar to the previously described applications, this will result in an increase in permitted density from +/- 10 dwelling units to approximately 20 dwelling units, an increase in 10 units.
4. Happy Valley Town Center Plan – The adoption of this plan (centered around SE Sunnyside Road and SE 162nd Avenue) resulted in the re-designation of a large land area (220 acres) from RRFF-5 and R-10 to MUR-A. (These areas are included in the Rock Creek Comprehensive Plan and shown as Mixed Use Commercial or Mixed Use Residential, but zones are not defined.) The densities of the RRFF-5 District and the R-10 District can best be characterized as one dwelling unit per 5 acres and one dwelling unit per 10,000 square feet, respectively. The MUR- A District requires a minimum density of 10 units per net acre. This a substantial increase that far exceeds 40 or 76 dwelling units.

Although this is not an exhaustive look at the entire City, it clearly shows that the reduced minimum density resulting from the proposed applications are off-set by recent changes in the zoning map for other areas within the City. Therefore, this criterion is met.

D. A city or county may reduce the minimum zoned capacity of a zone without increasing minimum zoned capacity in another zone for one or more of the following purposes:

1. To re-zone the area to allow industrial use under Title 4 of this chapter or an educational or medical facility similar in scale to those listed in section 3.07.1340D(5)(b)(i) of Title 13 of this chapter; or

2. To protect natural resources pursuant to Titles 3 or 13 of this chapter.

Staff Response:

The subject site includes several areas with “Title 3” designations (water quality resource areas–wetlands) on site. Some of the highest quality resource areas on the property are located in the western/northwestern portion of the site, which is designated as MUR-M2. The subject application with the rezone to MUR-M1 avoids impacts to that area, thus preserving the highest quality resource area on the site. If entire area was left as MUR-M2 and not changed to MUR-M1 (as is proposed), it is likely that some of the environmentally sensitive areas would need to be impacted to meet minimum density and parking requirements. Therefore, this criterion has been satisfied.

E. A city or county may reduce the minimum zoned capacity of a single lot or parcel so long as the reduction has a negligible effect on the city’s or county’s overall minimum zoned residential capacity.

[...]

Staff Response:

The area to be re-designated from MUR-M2 to MUR-M1 is small in terms of the overall area of the City. The area involved in the rezone is approximately 10.5 acres and the City is approximately 8.32 square miles in size, a large part of which is residential land. Due to size/scale alone, the effect on the City’s overall minimum zoned residential capacity due to the zone change is negligible. Therefore, this criterion is also met.

3.07.450 Employment and Industrial Areas Map

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 this title 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;

Staff Response:

The applicant has proposed to re-designate and re-zone approximately four acres of EC zoned land to MUR-M1. The area in question is located in the north-central portion of the subject site and is part of a greater EC zoned area that encompasses approximately eight acres. The four acres of EC zoned land is not surrounded by land designated as either “Industrial” or “Regionally Significant Industrial Area”, or a combination thereof, as illustrated on Metro’s Employment and Industrial Areas Map. This criterion has been satisfied.

2. *The amendment will not reduce the employment capacity of the city or county;*

Staff Response:

On March 17th, 2015, the Happy Valley City Council voted to approve an ordinance that proposed to annex 18 properties that were recently de-annexed from the City of Damascus. Of these 18 properties, 10 (encompassing 95 acres) are identified on Metro’s Employment and Industrial Areas Map. With the inclusion of these properties in the City, the approval of the proposed rezone of a portion of the onsite EC zoned land will not result in a “net” loss of the employment capacity of the City. This criterion has been satisfied.

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;*

Staff Response:

The area of EC zoned land that the applicant has proposed to re-designate and re-zone is not identified as a “Regionally Significant Industrial Area”. Therefore this criterion is not applicable.

4. *The amendment would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP standards within two years after approval of uses;*

Staff Response:

172nd Avenue is identified on Metro’s Regional Freight Network Map as a Roadway Connector. The applicant’s proposal to change the designation/zone on four acres of EC zoned land will not result in a scenario where 172nd Avenue would operate with a volume-to-capacity ratio that is under that identified in Metro’s Regional Transportation Plan. Therefore, this criterion has been satisfied.

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*

Staff Response:

Due to the small size and isolated location of the area proposed to be re-designated and re-zoned, the applicant’s proposal would not diminish the intended function of the destinations listed above. This criterion has been satisfied.

6. *If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.*

Staff Response:

Metro’s Employment and Industrial Areas Map does not illustrate the subject property a “Regionally Significant Industrial Area”. Therefore this criterion is not applicable.

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

Comprehensive Plan Policies

[...]

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.

[...]

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 implementation of the City’s Comprehensive Plan Policies and Development Code regulations. The subject site is located in an “urbanized” area that can be adequately served by public facilities, such as sanitary sewer, water, roadways, etc. Furthermore, the applicant has illustrated within their plans (Exhibit 2, Sheet A1.1) that the “significant” environmentally sensitive lands located on the subject site will be primarily preserved within proposed Tracts 2 and 3. The applicant has also proposed to preserve the steep slopes that exist in the western portion of the subject site. These criteria have been satisfied.

Policy 10: Limit development in identified natural drainage-ways, floodplains, wetlands, steep slopes and landslide hazard areas. Housing development, and any other development intended for human occupancy, shall occur, to the greatest extent possible, on lands designated for development that are free from flood hazard, slope limitations, or other hazards.

Policy 11: Dedication of lands to the City within natural drainage channels and floodplains may be required as a condition for development near the channel, or to meet the needs for community recreation and open space.

[...]

Staff Response:

The subject site contains both areas of natural resources and steep slopes. The applicant has proposed to limit the impacts to the onsite natural resource areas to only the “degraded” wetlands and has also proposed to disturb approximately 16,000 square feet of onsite Transition Slope Area, while preserving the entirety of the onsite Conservation Slope Area. The Rock Creek Riparian Corridor and onsite wetland areas that are not proposed to be impacted by the applicant’s intended development plan will be required to be preserved within a conservation easement that will be dedicated to the City. These criteria have been satisfied.

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 applicant has proposed that stormwater generated from the subject development will be detained and treated onsite. This issue of stormwater management has been addressed in commentary and the proposed conditions of approval submitted by CCSD #1 (Exhibit A-2). Also, standard erosion control measures will be implemented during site construction to lessen the amount of soil washout due to the earthwork that will be associated with the development of the subject site.

Policy 15: Require engineering studies by private developers, the City and other government agencies for sites proposed for development within areas of suspected or known hazards to include compliance with appropriate chapters of the adopted Uniform Building Code, the City’s Engineering and Design Standards Manual, and applicable sections of the Happy Valley Land Development Code. In addition, these studies should define risks of development by using Federal Emergency Management Agency (FEMA) maps showing flood plains and floodways. The City will restrict buildings in the flood plains and prohibit buildings in the floodway.

[...]

Staff Response:

There are no known or suspected hazards on the subject site. Also, the subject site is not identified on the Flood Insurance Rate Maps, provided by FEMA, as being within a flood plain or floodway. This criterion has been satisfied.

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 Comprehensive Plan, and development approvals, in a manner which considers surrounding uses and provides a continuity of open space character and natural features, throughout the City.

[...]

Policy 30: Land development applications, grading permits and building permits that affect natural resource and steep slopes areas are subject to separate environmental review procedures assessing the impact of the proposed land use action or development permit, subject to the City's Development Code.

[...]

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.

[...]

Staff Response:

The subject property is located within the City of Happy Valley and as such, natural resources within the subject property are protected by Chapter 16.34 (Natural Resources Overlay Zone) of the city's LDC. The applicant has illustrated within the plan set that was submitted as part of this proposal (Exhibit 2) that the environmentally sensitive lands located on the subject site will be impacted by the proposed development. As a result, the City has required the applicant to submit for an Environmental Review Permit. Through the review of this permit, in conjunction with any necessary federal and state permit review, the applicant will be required to mitigate for any impacts to the onsite environmentally sensitive areas. It should be noted that the wetland/buffer impacts that the applicant has proposed are primarily to the "degraded" wetlands located on the subject site. The higher quality or better functioning wetland (Wetland "B") will remain primarily undisturbed. The proposed wetland impacts will be mitigated for via the applicant creating/enhancing wetlands offsite, on a property located within the same drainage basin as the subject site. The buffer impacts will be mitigated for onsite, through the enhancement of the buffer areas that are proposed to remain in place as part of the proposed development. Per the requirements of the ERP, these criteria have been satisfied.

Policy 42: To increase the supply of housing to allow for population growth and to provide for the housing needs of a variety of citizens of Happy Valley.

Policy 43: To develop housing in areas in areas that reinforce and facilitate orderly and compatible community development.

Policy 44: To provide a variety of lot sizes, a diversity of housing types including single family attached (townhouses) duplexes, senior housing and multiple family and range of prices to attract a variety of household sizes and incomes to Happy Valley.

[...]

Policy 46: The City shall provide a range of housing that includes land use districts that allow senior housing, assisted living and a range of multi-family housing products. This range improves housing choice for the elderly, young professionals, single households, families with children, and other household types.

[...]

Staff Response:

The applicant has illustrated within their Concept Plan (Exhibit 2, Sheet A1.1) that the western approximately 15 acres of the subject site is envisioned to be a 168-unit multifamily residential development. If approved, the applicant’s proposal will work to increase the supply of housing within the City, while also increasing the diversity of said housing supply. Therefore, this criterion has been satisfied.

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.

[...]

Staff Response:

The subject site is located in an area that has been comprehensively planned for through the adoption of the EHVCP. Currently, most Level 1 services are available to the development site and the applicant’s proposed utility plan (Exhibit 2, Sheet C3.0), if approved, would work to extend all Level 1 services to the western and northern boundaries of the subject site. As properties in the area of the subject site develop as the EHVCP envisions, the applicant’s proposal will be critical in facilitating said development by providing utility connections and establishing an urban development pattern. The applicant has proposed uses that are allowed in the underlying and proposed zones and will “achieve compatibility” with the surrounding properties as they develop per the EHVCP. Therefore, this criterion has been satisfied.

Policy 51D: High Density Residential Attached (SFA, MUR-A, VTH, MUR-M and X). These districts provide for a variety of attached housing and neighborhood commercial uses. They are intended to make efficient use of land and public services, accommodate a range of housing needs, provide for compatible design at neighborhood scale, reduce reliance on the automobile for neighborhood travel, provide for walking, bicycling and transit use, and provide direct and convenient access to schools, parks and neighborhood services. These districts may be applied near (generally within ¼ mile) of mixed use centers and districts, along collector and arterial streets, and within a block of streets planned for transit. They may also be part of master planned developments, where greater flexibility in their location may be considered.

[...]

Staff Response:

The applicant has indicated on their Concept Plan (Exhibit 2, Sheet A1.1) that the western approximately 15 acres of the subject site is envisioned to be a 168-unit multifamily residential development. The development pattern and housing type being proposed by the applicant will help broaden the variety of housing choices in the City and will work to promote compact/efficient development patterns in an area of the City that was envisioned by the EHVCP to be utilized as such. These criteria have been satisfied.

Policy 55A: Mixed Commercial Center (MCC). The Mixed Commercial Center district is intended to establish locations for the development of general commercial centers providing a broad range of shopping and service requirements to meet city-wide needs. The Mixed Commercial Center district, as applied in East Happy Valley, corresponds to the Damascus/Boring Concept Plan's designation of Neighborhood Centers. These mixed use centers in East Happy Valley accommodate retail services with a focus on meeting resident's daily shopping needs. They are planned to be well served by transit and be integrated with mixed use and higher density housing – thus supporting less auto-dependent life styles. These centers are also appropriate locations for civic uses such as post offices and branch libraries. Their design is intended to be highly pedestrian-oriented.

[...]

Staff Response:

The City's adoption of the EHVCP in 2009 established a portion of the subject site as the location of a Mixed Commercial Center, based on its proximity to the intersection of two Major Arterial Facilities (172nd Avenue and Sunnyside Road). The applicant has proposed to fully develop this Mixed Commercial Center with a 150,000 square-foot "anchor" retail store, illustrated to include a fueling station, and five multi-tenant retail buildings (ranging in size from 7,000 to 26,000 square feet). In addition, the applicant has also shown on their Concept Plan (Exhibit 2, Sheet A1.1) that the project would include a drive-through restaurant and a drive-through bank. The uses envisioned in the applicant's master plan would provide a broad range of shopping and service uses that would serve a city-wide need. In particular, the services and goods provided by a large retail store and fueling station will work to meet the needs of residents of the City, as there are no other such stores located within the City Limits.

Although the subject site is not currently served by mass transit, the applicant has proposed as part of the Master Plan that the approximately western 15 acres of the subject site be developed as a 168-unit multifamily residential development. This plan meets the above criterion by providing higher density residential development within walking distance of retail goods and services, as proposed within the MCC zoned portion of the subject site. This criterion has been satisfied.

Policy 55C: Location and compatibility of commercial districts. MCC and CCC districts are limited to areas of Happy Valley annexed after the end of 2004. Neighborhood Commercial uses associated with the Rock Creek Mixed-Use Employment, R-5 and SFA districts may be allowed throughout Happy Valley subject to special standards. The location and compatibility criteria in sub-policies 55C.1-55C.3 apply:

Policy 55C.1: Mixed Commercial Center location and compatibility. New MCC districts shall be limited to an area of up to 15 acres of contiguous land. Building footprint size on any given site is limited to 60,000 sq. ft. per structure. Appropriate locations for MCC districts are generally at the intersection of the following types of streets as designated in the City's TSP:

- a) Major or minor arterial street and major or minor arterial street*
- b) Major or minor arterial street and collector street*

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

In the East Happy Valley Comprehensive Plan Area, one Mixed Commercial Center may exceed the 15-acre limit described above, but may not exceed 20 acres of contiguous property. In this center, the maximum building footprint size is limited to 150,000 square feet per structure, provided the entire contiguous 20-acre area is master planned prior to new development. If the entire contiguous area of this center is not master planned together, the maximum building footprint size is limited to 60,000 square feet per structure. A lot, parcel or other area is not considered contiguous if it is separated from an adjacent MCC district by a public right-of-way. Further, as part of demonstrating compliance with master plan requirements, design review to the Happy Valley Style, and other code criteria, applicants shall demonstrate how: (1) the visual impact of larger scale development has been mitigated; (2) the streetscape is pedestrian-oriented and varied to create visual interest, (3) public amenities are provided and scaled appropriately; (4) transitions to adjacent areas and future development are provided; (5) adequate infrastructure is provided; and, (6) overall design excellence justifies the larger than normal scale of the project.

[...]

Staff Response:

The 16.8 acres of MCC zoned land that exists on the eastern portion of the subject site was established through the adoption of the EHVCP in 2009 and is located at the intersection of two Major Arterial Facilities (172nd Avenue and Sunnyside Road). This MCC zoned area is the “lone” Mixed Commercial Center located within the EHVCP that exceeds the 15-acre limitation, as referenced in the above policy. Therefore, the maximum building footprint for a single structure is 150,000 square feet, which the applicant has provided with the proposed “anchor” retail building. In conformance with the above policy, the applicant has demonstrated compliance with the six criteria “governing” the proposed development. There has been some visual relief provided for the large-scale development by the applicant proposing to locate the 150,000 square-foot retail building in the central portion of the subject site, while locating several smaller scale multi-tenant retail buildings along the perimeter of the subject site (along 172nd Avenue and Sunnyside Road), essentially reducing the visual impact of the large retail building and its associated parking lot. The applicant has also designed a pedestrian-friendly development by providing safe routes for pedestrians to enter the site from the surrounding streetscape and walk to the various stores proposed within the shopping center. The applicant has also provided landscaping, street trees and pedestrian plazas, that have been “scaled” appropriately, throughout the proposed development to create a safe and engaging pedestrian environment. Furthermore, the applicant has also provided (or has been conditioned to provide) for adequate infrastructure and vehicular and pedestrian connections to adjacent properties and developments (or future developments). Staff considers the applicant’s site design to be “high-quality” and will ensure that the design of the buildings envisioned in the Master Plan exuded a high level of excellence and justify the larger than normal scale of the project through the Design Review process. Also, the applicant has further “complied” with the above policy by submitting for Master Plan approval, to develop the entire 16.8 acres of the MCC zoned lands located within the subject site, as part of their proposal. This criterion has been satisfied.

Policy 55D: Employment Center. The Employment Center designation is intended to provide for a mix of employment opportunities, located where they are accessible by a variety of transportation modes, including transit service and safe and convenient pedestrian connections. These areas:

- 1) Provide transition between mixed use centers and residential areas;*
- 2) Provide sites suitable for industrial, office, tech/flex, creative arts, high schools and technical schools (that meet code criteria for compatibility in employment areas), and other businesses in multi-tenant and (in some cases) multi-story buildings. The walkable character of the surrounding urban environment is a defining element.*
- 3) Support limited retail and services serving their locales;*
- 4) Allow housing as part of mixed use buildings and sites.*

[...]

Staff Response:

The applicant has indicated within their plan set and TIA that proposed Lot 5, which will have a designation/plan of EC is envisioned to be a medical office building. This will work to provide a transition in uses from the higher intensity commercial uses, proposed by the applicant’s Master Plan, located to the south and the mixed-use residential uses to the north (per the Rock Creek Comprehensive Plan). The size of the EC zoned area in the proposed Master Plan is approximately two acres and is not “viable” as a location to provide a mix of employment uses, but located within walking distance of both residential and commercial areas. This criterion has been satisfied.

Policy 56C: Overall Policy Framework for the East Happy Valley Comprehensive Plan. The following policies were derived from the goals and principles (originally dated July 13, 2004) of the Damascus/Boring Concept Plan. They are adopted as the overall policies guiding growth and livability in the East Happy Valley Comprehensive Plan area (East Happy Valley). Each policy is made up of its introductory goal-oriented statement, followed by the principles to be used during implementation.

Policy 56C.1: East Happy Valley Community

East Happy Valley will be a well-designed community with core mixed-use areas, livable neighborhoods and a range of job opportunities all integrated with the transportation system, natural environment, open space network and public facilities. Community elements will include:

- a) Neighborhoods as the basic “building blocks” of the community.*
- b) Mixed-use centers that encourage a sense of community.*
- c) A diverse range of job opportunities.*
- d) A mix of uses and transit supportive densities along transit streets.*
- e) A well-connected network of transportation, land uses and natural resource systems to support public transit, walking and bicycling.*
- f) An integrated system of open space, parks and natural areas throughout the community, using them as an organizing principle for land uses.*
- g) Pedestrian-friendly public spaces that accommodate outdoor activity and socialization within both residential and commercial districts.*

[...]

Staff Response:

The applicant’s proposed development will be the first mixed-use development in the East Happy Valley area and will work to establish the primary commercial center of this portion of the greater Happy Valley community. The proposed master plan envisions a mix of residential, commercial and office uses and has been designed to provide open space and recreational opportunities. The applicant will be installing all Level 1 services necessary to facilitate the development and will be “stubbing” utility and roadway connections to the perimeter of the master plan area. Also, the applicant will be constructing frontage improvements to 172nd Avenue that will work to extend and establish the pedestrian and transportation systems in the area. This criterion has been satisfied.

Policy 56C.2: East Happy Valley Employment

East Happy Valley will include a diverse range and adequate amount of employment opportunities. Employment lands will provide:

- a) Reasonable amounts of industrial and employment areas to address the employment needs for those living within the area, as well as to contribute to sub-regional needs.*
- b) Employment uses accessible by a full range of transportation modes (i.e.- automobile, freight, transit, shared ride, pedestrian and bicycle).*
- c) A mix of retail, civic, and related uses and services to serve the daily needs of the local community.*
- d) Employment uses that take advantage of and reflect the natural resource qualities of the land, including forested buttes, salmon bearing streams, agricultural products and beautiful views.*

Staff Response:

The applicant's proposal will create additional employment opportunities in the City located adjacent to a variety of uses, such as residential and commercial. The medical office use that has been shown on the applicant's plan set and included in their TIA will be accessible via the modes of transportation listed in the above policy with the exception of mass transit, which does not yet provide service to the subject site. Also, the applicant's Concept Plan illustrates how the EC zoned portion of the subject site might develop. This plan has the building envelope and parking lot positioned in a manner that will preserve the adjacent natural resources. This criterion has been satisfied.

Policy 56C.3: East Happy Valley Housing

East Happy Valley will provide housing choices for people of all income levels and life stages. Housing will include:

- a) A full range of integrated housing types, affordability, and tenancy preferences across the neighborhoods that will fulfill state and regional housing requirements and allow people of all ages and incomes to live in East Happy.*
- b) A range of housing types that allows community members to continue to live locally throughout all of life's stages (i.e. entry level worker, student, young professional, retired, elderly).*

Staff Response:

The applicant has proposed that the western 15 acres of the subject site be developed as a 168-unit multifamily residential apartment complex. This type of housing will work to increase the diversity of the City's housing stock and will provide people of varying ages and income levels the opportunity to live in Happy Valley. This criterion has been satisfied.

Policy 64: To develop good transportation routes (vehicular, pedestrian, bicycle, etc.) between residential areas (and major activity centers both inside and outside the City) with street interconnectivity and neighborhood livability issues being the paramount consideration.

[...]

Staff Response:

The subject site is located near the intersection of 172nd Avenue and Sunnyside Road, both Major Arterial Facilities. The applicant has also proposed to construct two Collector Facilities (Misty Drive and 169th Avenue), whose alignments and design specifications are per the City's TSP. The new and improved transportation system within and adjacent to the subject site will work to provide vehicular, pedestrian and bicycle routes from the subject site to major activity centers, including the "Happy Valley Town Center". The applicant has also shown on their Concept Plan (Exhibit 2) that an internal street system providing for both interconnectivity and neighborhood livability would be provided. This criterion has been satisfied.

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.

[...]

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.

[...]

Staff Response:

The applicant has submitted a utility plan as part of their proposal (Exhibit 2, Sheet C3.0) that indicates the proposed development will be adequately served by all Level 1 public facilities. The applicant has also provided the foresight to include utility "stubs" to the edge of the proposed development to facilitate the development of adjacent properties. Therefore, these criteria have been satisfied.

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.

[...]

Staff Response:

All structures/uses proposed as part of the subject development will be required to pay System Development Charges, due at the time of building permit issuance, and on an ongoing basis pay property taxes. Therefore, the proposed development would contribute to the provision of Level 2 services. Thus, this criterion has been satisfied.

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.

Staff Response:

Level 1 facilities and services are primarily available to the site and will be extended to the boundaries of the proposed development. The improvements are required to be designed by a licensed engineer, constructed by a licensed contractor, and paid for by the developer. Also, the improvements are required to be in substantial conformance with the attached preliminary development plans and applicable conditions of approval. This criterion has been satisfied.

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 P.U.D.'s. The City shall retain these waivers for use when necessary.

Staff Response:

There will be no waiver of remonstrance required for this development. Therefore, this criterion is not applicable to the request.

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 Fire District No. 1 (CFD#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*

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.

Staff Response:

Applicable service providers have been contacted and coordinated with by the City of Happy Valley, and the requirements of these service providers are incorporated within the record. This criterion has been satisfied.

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:

It is not anticipated that the proposed development will interfere or prevent the extension of any Level 1 facilities or services. In fact, the applicant's proposal will work to extend public facilities through the subject site to facilitate the development of neighboring properties. This criterion has been satisfied.

5. The following sections from Title 16 of the City’s Municipal Code (Land Development Code) are applicable to this request:

“CHAPTER 16.22-RESIDENTIAL LAND USE DISTRICTS

16.22.060 Mixed use residential—Multifamily (MUR-M and MUR-X).

A. Purpose.

1. Mixed use residential will promote compact form, and residential and commercial or residential and office mixed vertically, in addition to across the district. The multifamily sub-area provides for a range of densities, each of which should be shown on the master plan map. The multifamily sub-areas allow for retail uses that are meant to provide services to local residents, not attract outside traffic. The density requirements and minimum/maximum lot sizes are meant as a guide, and will vary based on the amount of unbuildable lands removed from gross acres. The density is calculated by averaging density for the residential district area identified in the master plan. Therefore, some lots may be smaller than the lot sizes given below. Minimum densities are provided to comply with the Urban Growth Management Functional Plan, Title 1 requirements.

2. MUR-X Mixed Use Buildings with Residential Emphasis. Residential and retail combinations with the primary use of the building being residential. Permitted commercial uses shown on Table 16.22.060-1.

B. Permitted Uses. Table 16.22.060-1 identifies the land uses that are allowed in the MUR-M and MUR-X Districts.

Table 16.22.060-1 Mixed Use Residential—Multifamily (MUR-M and MUR-X) Permitted Uses

P=Permitted; C=Conditionl Use; X=Prohibited

Land Use	MUR-M Multifamily	MUR-X Mixed Buildings
Residential		
<i>Single-family detached dwellings</i>	<i>X</i>	<i>X</i>
<i>Attached dwellings, (townhouses, attached duplex, rowhouses)</i>	<i>P</i>	<i>P</i>
<i>Multifamily dwellings</i>		
<i>Low</i>	<i>P</i>	<i>P</i>
<i>Medium</i>	<i>P</i>	<i>P</i>
<i>High</i>	<i>P</i>	<i>P</i>
<i>Senior housing</i>	<i>P</i>	<i>P</i>
<i>Skilled nursing facility</i>	<i>C</i>	<i>C</i>
<i>Congregate housing</i>	<i>C</i>	<i>C</i>
<i>Rooming houses</i>	<i>X</i>	<i>X</i>
<i>Accessory dwelling units (per Section 16.44.050)</i>	<i>X</i>	<i>X</i>
<i>Home occupation (per Section 16.69.020)</i>	<i>P</i>	<i>P</i>

[...]

C. Development Standards. The development standards in Table 16.22.060-2 apply to all uses, structures, buildings, and development in the MUR-M and MUR-X Districts.

Table 16.22.060-2 Development Standards for MUR-M1, MUR-M2 and MUR-M3 Districts

Standard	MUR-M1	MUR-M2	MUR-M3
<i>Residential density (maximum)¹</i>	<i>24 du/net acre</i>	<i>34 du/net acre</i>	<i>50 du/net acre</i>
<i>Residential density (minimum)¹</i>	<i>15 du/net acre</i>	<i>25 du/net acre</i>	<i>35 du/net acre</i>
<i>Lot size (minimum)</i>	<i>Variable²</i>	<i>Variable²</i>	<i>Variable²</i>
<i>Lot width (minimum)</i>	<i>Variable²</i>	<i>Variable²</i>	<i>Variable²</i>
<i>Lot depth (minimum)</i>	<i>Variable²</i>	<i>Variable²</i>	<i>Variable²</i>
<i>Lot coverage (maximum)</i>	<i>Variable^{2, 3}</i>	<i>Variable^{2, 3}</i>	<i>Variable^{2, 3}</i>
<i>Landscaping (minimum)</i>	<i>Variable³</i>	<i>Variable³</i>	<i>Variable³</i>
<i>Building setbacks (minimum)</i>	<i>Variable²</i>	<i>Variable²</i>	<i>Variable²</i>
<i>Building height (maximum)</i>	<i>65 feet⁴</i>	<i>65 feet⁴</i>	<i>65 feet⁴</i>

NOTES:
¹ Density calculations shall be made pursuant to Section 16.63.020(F).
² Standards are flexible and shall be determined through the master plan process or design review application.
³ Pursuant to Section 16.42.030, twenty (20) percent of the net developable area must be usable open space.
⁴ Building height is measured pursuant to Chapter 16.12 Definitions. Maximum building height for single-family (attached) is forty-five (45) feet at the front elevation; the building height may not exceed forty-nine (49) feet at the side and rear elevations.

[...]

Staff Response:

The applicant has proposed to amend the City’s Comprehensive Plan Map/Zoning Map, as well as the EHVCP, to change the current plan designation/zoning district on 10.5 acres of the subject site from MUR-M2 to MUR-M1. The applicant has also proposed to change the existing plan designation/zoning district for four acres of the subject site from EC to MUR-M1. The applicant’s projected configuration of the proposed designations/zones is depicted within Exhibit 2, Sheet 1.1. The proposed Comprehensive Plan Map/Zoning Map Amendment has been requested for the purpose of allowing future construction of a 168-unit multifamily residential project in a portion of the subject site (Lot 3 of the proposed PUD) at a density that is less than what the current plan designation/zone allows. The applicant’s proposal to change the EC zoning on four acres of the subject site to MUR-M1 has been proposed due to the existing conditions of the area creating an “unviable” building site for meeting the intent of the EC zone. Multifamily residential developments are permitted in the MUR-M1 zone at the densities the applicant has proposed, which is 23 dwelling units per net acre. The applicant has provided within their Master Plan a potential layout for the multifamily residential development and has indicated that the specific development standards would be approved through the Design Review process. These criteria have been satisfied.

Chapter 16.23 COMMERCIAL AND EMPLOYMENT DISTRICTS

16.23.030 Commercial Districts.

A. Purpose.

1. Community Commercial Center District (CCC). The Community Commercial Center (CCC) District is intended to provide locations or “nodes” for a relatively wide range of small businesses, services and mixed use adjacent to residential areas as a convenience to nearby residents. The CCC District is to be located and developed in a manner consistent with the Comprehensive Plan. In order to limit impacts to residential areas, new community commercial center nodes are intended to be limited in size to not more than five acres of contiguous land.

Building size is also limited to a thirty thousand (30,000) square foot footprint, and measured in accordance with requirements of Table 16.23.030-2 (Footnote 5). Appropriate locations for community commercial center nodes are at the intersection of two arterial streets (major and minor), an arterial street and a collector street, or two collector streets, and within the Happy Valley Town Center Plan Area.

2. Mixed Commercial Center District (MCC). This zone is intended to establish locations for the development of mixed use commercial centers providing a broad range of shopping and service requirements to meet neighborhood and city-wide needs. The Mixed Commercial Center (MCC) District, as applied in the East Happy Valley Comprehensive Plan Area, corresponds to the Damascus/Boring Concept Plan’s designation of Neighborhood Centers. These mixed use centers in the East Happy Valley Comprehensive Plan area accommodate retail services with a focus on meeting resident’s daily shopping needs. They are planned to be well served by transit and be integrated with mixed use and higher density housing, thus supporting less auto-dependent lifestyles. These centers are also appropriate locations for civic uses such as post offices and branch libraries. Their design is intended to be highly pedestrian-oriented. New mixed commercial centers are limited to an area of up to fifteen (15) acres of contiguous land and shall be developed in a manner consistent with the Comprehensive Plan, except as described in Table 16.23.030-2 (Footnote 6), within the East Happy Valley Comprehensive Plan Area. Single-use retail buildings are limited to a maximum square footage of sixty thousand (60,000) square feet as specified in Table 16.23.030-2 (Footnote 6). Appropriate locations for mixed commercial centers are at the intersection of two arterial streets or an arterial and a major collector, preferably on streets served by transit. All MCC developments involving five acres or more of land shall be subject to master plan review and design review. Prior to new development in an MCC District in the East Happy Valley Comprehensive Plan Area, master plan approval under Chapter 16.65 is required for the entire lot or parcel proposed for development, together with any contiguous lots or parcels owned by the same owner or entities controlled by the owner, consistent with the provisions of Table 16.23.030-2. In the MCC District, buildings should be oriented towards the street or accessway with clearly marked entrances. Blank frontage walls at street level are discouraged. Development boundaries and patterns are not defined by type of use (for example, 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.

B. Permitted Uses. Table 16.23.030-1 identifies the land uses that are allowed in the CCC and MCC Districts.

Table 16.23.030-1 Community Commercial Center and Mixed Commercial Center (CCC, MCC)
 Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	CCC	MCC
Residential		
<i>Pre-existing dwellings. Preexisting dwellings may be allowed to remodel or expand and shall not be subject to the provisions of Chapter 16.72</i>	P	P
<i>Medium to high density residential</i>	P ^{1, 2}	P ^{1, 3}
<i>Senior housing</i>	P	P
<i>Skilled nursing facility</i>	P	P
<i>Congregate housing</i>	P	P
<i>Home occupations (per Section 16.69.020)</i>	P	P
<i>Home occupations, subject to a conditional use review (per Section 16.69.020)</i>	C	C

Land Use	CCC	MCC
Commercial—Retail Uses		
<i>Art and craft supply stores, studios</i>	<i>P</i>	<i>P</i>
<i>Bakeries</i>	<i>P</i>	<i>P</i>
<i>Banks, savings and loan associations, loan companies, ATM (without drive-through)</i>	<i>P¹</i>	<i>P¹</i>
<i>Banks, savings and loan associations, loan companies, ATM (with drive-through) (per Section 16.44.090)</i>	<i>C</i>	<i>P</i>
<i>Barber shops, beauty salons</i>	<i>P</i>	<i>P</i>
<i>Bicycle sales, supplies, repair service</i>	<i>P</i>	<i>P</i>
<i>Book stores</i>	<i>P</i>	<i>P</i>
<i>Camera stores</i>	<i>P</i>	<i>P</i>
<i>Coffee shops, cafés, sandwich shops and delicatessens</i>	<i>P¹</i>	<i>P¹</i>
<i>Drug stores</i>	<i>P¹</i>	<i>P¹</i>
<i>Dry cleaners and tailors</i>	<i>P¹</i>	<i>P¹</i>
Land Use	CCC	MCC
<i>Florists</i>	<i>P</i>	<i>P</i>
<i>Home furnishing stores</i>	<i>P</i>	<i>P</i>
<i>Gift stores</i>	<i>P</i>	<i>P</i>
<i>Grocery, food, specialty foods, and produce stores</i>	<i>P¹</i>	<i>P¹</i>
<i>Hotels</i>	<i>C</i>	<i>P</i>
<i>Helipads</i>	<i>X</i>	<i>X</i>
<i>Indoor health and recreation facilities, such as racquetball courts, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities</i>	<i>C</i>	<i>P</i>
<i>Interior decorating shops, sales and service</i>	<i>P</i>	<i>P</i>
<i>Laundromats</i>	<i>P</i>	<i>P</i>
<i>Music shops, sales and service</i>	<i>P</i>	<i>P</i>
<i>Optometry and optical goods, sales and service</i>	<i>P</i>	<i>P</i>
<i>Photo finishing, photography studios</i>	<i>P</i>	<i>P</i>
<i>Rental stores, without outdoor storage</i>	<i>P</i>	<i>P</i>
<i>Restaurants—full-service</i>	<i>P</i>	<i>P</i>
<i>Restaurants—drive-through (per Section 16.44.090)</i>	<i>P¹</i>	<i>P¹</i>
<i>Secondhand stores</i>	<i>C</i>	<i>C</i>
<i>Shoe sales and repair stores</i>	<i>P</i>	<i>P</i>
<i>Sporting goods, sales and service</i>	<i>P</i>	<i>P</i>
<i>Stationery stores</i>	<i>P</i>	<i>P</i>
<i>Taverns, bars and cocktail lounges (a minimum distance of one thousand five hundred (1,500) feet from school uses)</i>	<i>C</i>	<i>C</i>
<i>Theaters or assembly halls</i>	<i>C</i>	<i>C</i>
<i>Vehicular service</i>	<i>P</i>	<i>P</i>
<i>Video rental stores</i>	<i>C</i>	<i>C</i>
<i>Yogurt and ice cream stores</i>	<i>P</i>	<i>P</i>
<i>Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination by the Planning Official</i>	<i>P¹</i>	<i>P¹</i>
Commercial—Offices		
<i>Professional and administrative offices</i>	<i>P</i>	<i>P</i>
<i>Medical office buildings, clinics and laboratories</i>	<i>P</i>	<i>P</i>
Institutional		
<i>Churches, synagogues, temples or places of worship</i>	<i>C</i>	<i>C</i>
<i>Library, post office, community center, etc.</i>	<i>P</i>	<i>P</i>
<i>Public parks, usable open space</i>	<i>C</i>	<i>C</i>
<i>Public and private schools (includes commercial day care, dancing and music schools)</i>	<i>C</i>	<i>C</i>
NOTES:		
¹ Residential uses on upper floors of mixed use buildings are permitted. In such cases, Notes 2 and 3 below do not apply.		

Land Use	CCC	MCC
² Freestanding residential uses at densities greater than the minimum SFA density of 10 du/acre and not to exceed the maximum MUR-M2 density of 34 du/acre (10–34 du/acre) may be permitted in the CCC zone when nonresidential uses occupy the street side(s) of the parcel. The footprint of such freestanding residential uses (including associated parking and accessory uses) may not exceed 25% of the CCC zoned area of the parcel or subject property.		
³ Residential uses at MUR-M2 densities (25–34 du/acre) in conjunction with nonresidential uses are permitted by this code. The footprint of such freestanding residential uses (including associated parking and accessory uses) may not exceed 25% of the MCC zoned area of the parcel or subject property.		
⁴ Drive-through facilities not permitted for these uses, and all other uses, within the CCC zoned areas of the Happy Valley Town Center Plan Area.		

[...]

Staff Response:

The subject site contains approximately 16.8 acres of MCC zoned land that the applicant has illustrated within their Concept Plan as being developed as a commercial center that would consist of: an “anchor” retail building (150,000 square feet of building area), including a fueling station and drive-through pharmacy; five smaller multi-tenant retail buildings (7,000 – 26,000 square feet of building area); and two 6,000 square-foot commercial buildings with drive-through facilities (one building is proposed as a bank and the other as a restaurant). The applicant’s proposed uses within the MCC portion of the subject site are permitted via the above table. Therefore, these criteria have been satisfied.

D. Development Standards.

1. The development standards in Table 16.23.030-2 apply to all uses, structures, buildings, and development in the CCC and MCC Districts.

Table 16.23.030-2: Development Standards for CCC and MCC Districts

Standard	CCC	MCC
Residential density ¹ (minimum—maximum)	10 to 34 du/acre	25 to 34 du/acre
Lot size (minimum)	None	None
Lot width (minimum)	None	None
Lot depth (minimum)	None	None
Lot coverage (maximum)	75%	75%
Landscaping (minimum)	None	None
Building setback (minimum):		
Front	0 ft.	0 ft.
Rear	None ²	None ²
Interior side	None ³	10 ft. ⁴
Street side	0 ft.	0 ft.
Building setback (maximum)		
Front	None	20 ft.
Rear	None	None
Side	None	None
Building height (maximum)	35 ft. ⁷	60 ft. ⁷
Building size	30,000 s.f. ⁵	60,000 s.f. ⁶

Standard	CCC	MCC
NOTES:		
¹ Density calculations shall be made pursuant to Section 16.63.020(F).		
² Except when a rear lot line is abutting a lot in a residential zone and then the rear setback shall be a minimum of ten (10) feet. The required rear setback shall be increased by one-half foot for each foot by which the building height exceeds twenty (20) feet.		

³ Except when a side lot line is abutting a lot in a residential zone and then the side setback shall be a minimum of ten (10) feet. The required side setback shall be increased by one-half foot for each foot by which the building height exceeds twenty (20) feet.

⁴ Except when a side lot line is abutting a lot in a residential zone and then the side setback shall be a minimum of twenty (20) feet. The required side setback shall be increased by one-half foot for each foot by which the building height exceeds twenty (20) feet.

⁵ Maximum building square footage for single use retail buildings is limited to thirty thousand (30,000) square-foot building footprint per structure. For the purposes of measuring maximum building footprint, measurement is taken from outside wall to outside wall of the ground level.

⁶ Maximum building square footage for single use retail buildings is limited to a sixty thousand (60,000) square-foot building footprint per structure. However, as illustrated within the East Happy Valley Comprehensive Plan Map, one MCC zoned center may exceed the fifteen (15) acre limit noted above but shall not exceed twenty (20) acres of contiguous property. In this center, the maximum building footprint size is limited to one hundred fifty thousand (150,000) square feet per structure, provided the entire contiguous twenty (20) acre is master planned prior to new development. If the entire contiguous twenty (20) acre area is not master planned together, the maximum building footprint size shall remain sixty thousand (60,000) square feet. An area is not considered to be contiguous if it is separated from an adjacent MCC District by a public right-of-way. Further, as part of demonstrating compliance with master plan requirements, design review to the Happy Valley Style, and other code criteria, applicants shall demonstrate how:

- a. The visual impact of larger scale development has been mitigated;
- b. The streetscape is pedestrian-oriented and varied to create visual interest,
- c. Public amenities are provided and scaled appropriately;
- d. Transitions to adjacent areas and future development are provided;
- e. Adequate infrastructure is provided; and
- f. Overall design excellence aligns justifies the larger than normal scale of the project.

⁷ Building height is measured pursuant to Chapter 16.12, Definitions.

[...]

Staff Response:

The 16.8 acres of MCC zoned land that exists on the eastern portion of the subject site was established through the adoption of the EHVCP in 2009 and is located at the intersection of two Major Arterial Facilities (172nd Avenue and Sunnyside Road). This MCC zoned area is the “lone” Mixed Commercial Center located within the EHVCP that exceeds the 15-acre limitation, as referenced in the above policy. Therefore, the maximum building footprint size for a single structure is 150,000 square feet, which the applicant has provided with the proposed “anchor” retail building. In conformance with Policy Number 55C of the City’s Comprehensive Plan, the applicant has demonstrated compliance with the six criteria “governing” the proposed large-scale development. There has been some visual relief provided for the large-scale development by the applicant proposing to locate the 150,000 square-foot retail building in the central portion of the subject site, while locating several smaller scale multi-tenant retail buildings along the perimeter of the subject site (along 172nd Avenue and Sunnyside Road), essentially reducing the visual impact of the large retail building and its associated parking lot. The applicant has also designed a pedestrian-friendly development by providing safe routes for pedestrians to enter the site from the surrounding streetscape and walk to the various stores proposed within the shopping center. The applicant has also provided landscaping, street trees and pedestrian plazas, that have been “scaled” appropriately, throughout the proposed development to create a safe and engaging pedestrian environment. Furthermore, the applicant has also provided (or has been conditioned to provide) for adequate infrastructure and vehicular and pedestrian connections to adjacent properties and developments (or future developments). Staff considers the applicant’s site design to be “high-quality” and will ensure that the design of the buildings envisioned in the master plan exuded a high level of excellence and justify the larger than normal scale of the project through the Design Review process. Also, the applicant has further “complied” with the above policy by submitting for Master Plan approval, to develop the entire 16.8 acres of the MCC zoned lands located within the subject site, as part of their proposal. These criteria have been satisfied.

E. Special Standards.

1. Design Review. New development in the Mixed Commercial Center and Community Commercial Center Districts shall be subject to Chapter 16.62, Land Use and Design Review, and Chapter 16.46, Happy Valley Style Design Standards. Development exceeding five acres shall be subject to Chapter 16.65, Master Planned Developments.

2. Pedestrian Oriented Areas. MCC zoned centers shall include pedestrian oriented areas which do not front solely on arterial streets and parking fields. The purpose of this standard is to enhance the pedestrian experience and “village feel” of the centers. As part design review and/or master plan review, applicants shall demonstrate compliance with this standard by using a combination of the following, or similar, concepts and guidelines:

- a. Provision of a “main street” and/or village center area that is framed by buildings oriented to both sides of the street or center;*
- b. On-street parking;*
- c. Storefront character, with entries oriented to the street, large display windows, and front façades broken into divided bays;*
- d. Public plazas and promenades;*
- e. Strong corners, as described in Happy Valley Style;*

- f. Residential uses on upper stories;
- g. Public uses in prominent locations.

Staff Response:

The applicant has submitted an application for Major Design Review for the buildings proposed in the MCC portion of the subject site. This application has been deemed incomplete and the applicant is working towards providing a complete application. The development of the multifamily residential and employment lands shown in the applicant’s Master Plan will also require that the buildings received Design Review approval. The applicant provided an exhibit illustrating the location of the proposed pedestrian plazas and amenities (Exhibit 2, Sheet C4.0). This exhibit demonstrates that the proposed pedestrian facilities have been designed in compliance with the above section. These criteria have been satisfied.

CHAPTER 16.25-INDUSTRIAL DISTRICTS

16.25.010 Industrial districts.

A. Purpose.

1. Employment Center (EC). The purpose of the Employment Center (EC) District is to provide for a mix of employment opportunities, located where they are accessible by a variety of transportation modes, including transit services and safe and convenient pedestrian connections. These areas provide sites suitable for business and office parks, campus and light industrial uses, professional and corporate offices, medical offices and clinics, tech/flex businesses, creative arts and services, technical/vocational schools and other related businesses. Building types range from large single user campuses, multiple tenant business parks to multistory mixed-use buildings. Quality design and a connected and walkable character of the surrounding environment will be provided. Housing is allowed when combined in vertical mixed-use buildings.

Staff Response:

The applicant has indicated that Phase 3 of the proposed Master Plan would include the construction of a medical office building or other use permitted on the EC zoned property, located in the northeast corner of the subject site (Lot 5). The applicant will be required to comply with the applicable development standards of the EC zone, which will be evaluated “in-depth” at the time of Design Review for any proposed structure on Lot 5. This criterion has been satisfied.

CHAPTER 16.32-STEEP SLOPES DEVELOPMENT OVERLAY ZONE

16.32.010 Purpose.

Slope constrained lands are regulated by the steep slopes development overlay (SSDO). The purpose of the SSDO is to:

A. *Contribute to compliance with Statewide Planning Goal 7 (Areas Subject to Natural Disasters and Hazards). For Goal 7, the SSDO specifically minimizes seismic and landslide hazards and soil erosion associated with development on steep or unstable slopes.*

B. *Regulate development and provide special protection on lands within “conservation slope areas” and “transition slope areas” as follows:*

1. *Except as exempted pursuant to Section 16.32.045, development activities on conservation slope areas are prohibited. Except as allowed by Section 16.32.040(D)(1), conservation slope areas include:*

a. *Slopes twenty-five (25) percent and greater (for designation as conservation slope area, the minimum contiguous extent for slopes twenty-five (25) percent and greater shall be one thousand (1,000) square feet);*

b. *Potentially Hazardous Analysis Areas (lands within twenty-five (25) feet of the top or toe of slopes twenty-five (25) percent and greater);*

c. *Areas containing potentially rapidly moving landslide hazard areas mapped by the Oregon Department of Geology and Mineral Industries (DOGAMI).*

2. *Within transition slope areas, conservation and development are balanced.*

Except as allowed by Section 16.32.040(D)(2), transition slope areas include: Slopes 15 to 24.99 percent (for designation as transition slope area, the minimum contiguous extent for slopes 15 to 24.99 percent shall be one thousand (1,000) square feet and the land must not be otherwise designated as a conservation slope area).

[...]

Staff Response:

The subject property contains Conservation Slope Areas - slopes greater than twenty-five (25) percent with a minimum contiguous area over one thousand (1,000) square feet. Development activities on Conservation Slope Areas are prohibited. No exemptions under LDC Section 16.32.040(D)(1) are applicable. In addition, the subject property contains Transition Slope Areas - slopes between 15 to 24.99 percent with a minimum contiguous area over one thousand (1,000) square feet. Development on Transition Slope Areas is permitted subject to the limitations of LDC Section 16.32.040. Therefore, this criterion is satisfied by Condition of Approval Number 97.

16.32.020 Applicability.

The regulations of the steep slopes development overlay shall apply to any existing lot of record with slopes greater than fifteen (15) percent (with a minimum contiguous extent greater than one thousand (1,000) square feet), potentially hazardous analysis areas, and/or DOGAMI landslide hazard areas except as allowed by Section 16.32.040(D). This section shall apply only to activities and uses that require a building, grading, tree removal and/or land use permit and per ORS 92.040, shall not apply to parcels or lots created within ten (10) years of April 21, 2009 but shall apply to all existing lots of record and parcels or lots created more than ten (10) years prior to April 21, 2009. The steep slopes development overlay will be overlaid on any and all applicable parcels within the City limits at the time of development application and, upon being overlaid, will take precedence in density calculations over the base zoning district illustrated on the City’s Comprehensive Plan map/zoning map, and actual site specific conditions shall take precedence over any aerial topography mapping or other non-survey specific datum.

Staff Response:

The applicant has proposed a small amount of development (approximately 16,000 square feet) within the Transition Slope Areas, therefore this proposal is subject to Chapter 16.32. This criterion is satisfied.

16.32.030 General provisions.

No person shall develop property in areas within the steep slopes development overlay without first demonstrating compliance with this section.

A. As a condition of permit issuance or land use approval, the applicant shall agree to implement the recommendations of approved studies and to allow all inspections to be conducted.

B. Where a bond, letter of credit, or other guarantee is required, the permit shall not be issued until the bond or guarantee has been obtained and approved. (Ord. 389 § 1(Exh. A), 2009)

Staff Response:

The applicant has submitted a development proposal demonstrating compliance with this section. Condition of Approval Numbers 14 will require the applicant to implement the recommendations of the approved geotechnical study and to allow all inspections to be conducted. This criterion is satisfied.

16.32.040 Designation of buildable lands.

A. For the purposes of the SSDO, buildable lands include:

- 1. Lands not designated conservation slope area or transition slope area; and*
- 2. Buildable portions of transition slope areas according to the sliding scale as described in Section 16.32.040(D), below.*

B. In addition to the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map, the text provisions of this section shall be used to determine whether applications may be approved within the SSDO. The following maps and documents may also be used as references for identifying areas subject to the requirements of this section:

- 1. Locally adopted studies or maps;*
- 2. City of Happy Valley slope analysis maps;*
- 3. Mapped DOGAMI potentially rapidly moving landslide hazard areas.*

C. Sliding Scale. Transition slope areas are intended to provide for limited development in balance with slope protection measures, therefore, the amount of development within transition slope areas shall be based on a sliding scale of impact intended to allow limited development within those parcels that are more encumbered with sloped lands. The sliding scale determines the amount of buildable and unbuildable transition slope area for a given site as follows:

1. If a parcel has fifty (50) percent or more of its total site area in transition slope area and conservation slope area, a maximum of fifty (50) percent of the transition slope area is designated buildable and may be developed;

2. *If a parcel has 20—49.99 percent of its total site area in transition slope area and conservation slope area, a maximum of forty (40) percent of the transition slope area is designated buildable and may be developed;*

3. *If a parcel has 0—19.99 percent of its total site area in transition slope area and conservation slope area, a maximum of thirty (30) percent of the transition slope area is designated buildable and may be developed.*

Staff Response:

The existing site topography submitted by the applicant indicates that the subject site has 23 percent of its total site area in either Transition or Conservation Slope Areas. As a result, the applicant can designate up to a maximum of 40 percent of the onsite Transition Slope Area as buildable. The proposed development would impact approximately 16,000 square feet or 27 percent of the onsite Transition Slope Area, a number that is in compliance with the above section. This criterion is satisfied.

16.32.050 *Permitted uses.*

[...]

B. *Permitted uses within the buildable lands, as defined by this title are limited to the following:*

1. *All uses within conservation slope areas; and*
2. *Uses permitted in the base zone in approved buildable areas.*

Staff Response:

Per the applicant's narrative and Master Plan, approximately 16,000 square feet of Transition Slope Area has been proposed to be impacted as part of the multifamily residential project, illustrated on Lot 3. Multifamily developments (at the proposed density) are permitted in the proposed MUR-M1 zone. This criterion is satisfied.

16.32.080 *Required maps, studies, and reports.*

A. *Maps. To determine the location of potentially slope constrained areas, the applicant shall submit a scaled topographic map at two-foot contour intervals for the subject property (site) for lands less than fifteen (15) percent in slope, and at five-foot contours for lands fifteen (15) percent and greater in slope and for land within one hundred fifty (150) feet of the site perimeter. This map shall be prepared by a licensed, professional engineer or land surveyor and shall show:*

1. *Slopes of twenty-five (25) percent and greater;*
2. *Potentially hazardous analysis areas, including the analysis area parallel to and within twenty-five (25) feet of the top of the twenty-five (25) percent slope break and the analysis area parallel to and within twenty-five (25) feet of the toe of the slope;*
3. *Mapped DOGAMI potentially rapidly moving landslide hazard areas;*
4. *Transition slope areas; and*
5. *The area (in square feet) for each category listed above for the subject property.*

B. Studies and Special Reports. The City Engineer may require, when known or perceived site or area circumstances indicate such particular need, the submittal of one or more of the following studies and/or special reports for any permit or development located within the SSDO. The requirement for such studies will be in writing and will be tied to specific code standards, criteria and/or requirements:

1. Studies.

a. Geological Assessments. Geological assessments are prepared and stamped by a Certified Engineering Geologist and describe the surface and subsurface conditions of a site, delineate areas of a property that may be subject to specific geologic hazards, and assess the suitability of the site for development. Geological assessments shall be conducted and prepared according to the requirements and recommendations of the Oregon State Board of Geologist Examiners, and shall make recommendations as to whether further studies are required, and may be incorporated into or included as an appendix to the geotechnical report;

b. Engineering Geology Reports. Engineering geology reports are prepared and stamped by a Certified Engineering Geologist and provide detailed descriptions of the geology of the site, professional conclusions and recommendations regarding the effect of geological conditions on the proposed development, and opinions and recommendations covering the adequacy of the site to be developed. Engineering geology reports shall be prepared in accordance with the requirements of the Guidelines for Preparing Engineering Geology Reports in Oregon adopted by the Oregon State Board of Geologist Examiners and may be incorporated into or included as an appendix to the geotechnical report; and

c. Geotechnical Reports. Geotechnical reports are prepared and stamped by a Geotechnical Engineer, evaluate site conditions, and recommend design measures necessary to reduce the development risks and facilitate safe and stable development. Geotechnical reports shall be conducted and prepared according to the requirements and recommendations of the Oregon State Board of Geologist Examiners, and may be incorporated into or included as an appendix to the Engineering Geology Report.

2. Special Reports.

a. Hydrology and Soils Report. This report shall include information on the hydrological conditions on the site, the effect of hydrologic conditions on the proposed development, the proposed development's impact on surface and groundwater flows to wetlands and streams, and any hydrological or erosion hazards. This report shall also include soils characteristics of the site, their suitability for development, carrying capacity, and erosion or slumping characteristics that might present a hazard to life and property, or adversely affect the use or stability of a public facility or utility. Finally, this report shall include information on the nature, distribution and strength of existing soils; the adequacy of the site for development purposes; and an assessment of grading procedures required to impose the minimum disturbance to the natural state. A licensed, professional engineer registered in Oregon shall prepare the hydrology and soils report;

b. Grading Plan. The grading plan shall be specific to a proposed physical structure or use and shall include information on terrain (two-foot intervals of property), drainage, direction of drainage flow, location of proposed structures and existing structures which may be affected by the proposed grading operations, water quality facilities, finished contours or elevations, including all cut and fill slopes and proposed drainage channels. Project designs, including but not limited to, locations of surface and

subsurface devices, walls, dams, sediment basins, storage reservoirs, and other protective devices, shall form part of the submission. The grading plan shall also include: (i) construction phase erosion control plan consistent with the provisions of Title 15 of the City's Municipal Code; and (ii) schedule of operations. A licensed, professional engineer registered in Oregon shall prepare the grading and erosion control plan; and

c. Native Vegetation Report. This report shall consist of a survey of existing vegetative cover, whether it is native or introduced, and how it will be altered by the proposed development. Measures for re-vegetation with native plant species will be clearly stated, as well as methods for immediate and long-term stabilization of slopes and control of soil erosion. A landscape architect, landscape designer, botanist or arborist with specific knowledge of native plant species, planting and maintenance methods, survival rates, and their ability to control erosion and sedimentation shall prepare the vegetation report. The applicant shall be responsible for replacing any native plant species that do not survive the first two years after planting, and for ensuring the survival of any replacement plants for an additional two years after their replacement.

C. Compliance with Study Conclusions and Recommendations.

1. Professional Standards. The City Engineer shall determine whether Geological Assessments, Engineering Geology Reports, or Geotechnical Reports have been prepared in accordance with this title. The City Engineer may require additional information or analysis necessary to meet study requirements.

2. Peer Review. The City Engineer may require peer review of any required report, in which case regulated activities and uses shall be reviewed and accepted through the peer review process before any regulated activity will be allowed. The cost of such peer review shall be borne by the applicant. If peer review is required, the City Engineer shall provide the applicant, in writing, the reasons for the peer review.

a. A professional or professional firm of the City's choice that meets the qualifications listed in this chapter shall perform the review.

b. The review shall be at the applicant's expense.

c. Review of report submittals shall determine whether required elements are completed, geologic report procedures and assumptions are accepted, and all conclusions and recommendations are supported and reasonable.

3. Review Criteria. The approval authority shall rely on the conclusions and recommendations of the required reports, as modified by peer review, as well as any rebuttal material supplied by the applicant, to determine compliance with this section.

4. Conditions of Approval. After review of the peer review report(s) and any rebuttal materials submitted by the applicant, conclusions and recommendations stated in approved reports shall be directly incorporated as permit conditions or provide the basis for conditions of approval for the regulated activity or use.

5. Expiration. Where an approved assessment or report as defined by this chapter has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, that report may be utilized and a new report is not required. Should environmental conditions associated with the site or surrounding the site change, or if the proposed land use activity or development has materially changed, the applicant shall submit an amendment to the required assessment or report, which may be reviewed and approved through the peer review process.

Staff Response:

The applicant has provided a site-specific geotechnical analysis and grading plan for the proposed development that was prepared within the last five years. No additional studies have been required. These criteria are satisfied.

16.32.090 Environmental review permit.

Development proposals that are subject to the provisions of Chapter 16.32 require an environmental review permit application. Environmental Review Permits will be reviewed through a Type II procedure, pursuant to Section 16.61.030.

Staff Response:

The applicant has submitted for an ERP for steep slopes, to be processed as part of the greater project. This criterion is met.

16.32.110 Site design criteria.

Development within the SSDO shall comply with the following site design criteria:

A. Development is sited on lands less than fifteen (15) percent slope lands within the same parcel or on other parcels which are a part of the application, to the greatest degree practicable;

B. Significant trees and other resources are protected and/or incorporated into the site design;

[...]

Staff Response:

Based on the submitted site plan, it appears that development is sited in a way that minimizes disturbance to lands with greater than 15 percent slope. Tree removal outside of the site development parameters would require separate tree removal permits. These criteria have been satisfied.

CHAPTER 16.34 NATURAL RESOURCES OVERLAY ZONE

16.34.020 Applicability and Administration.

A. The regulations of this Natural Resources Overlay Zone shall apply to any parcel which is within two hundred (200) feet of a Protected Water Feature (creeks, rivers, streams, wetlands, natural lakes, and springs) or which contains land identified and protected under Metro's UGMFP Title 13 Habitat Conservation Areas, as currently configured, or other significant wetlands, riparian corridors, wildlife habitat, that is inventoried and mapped on the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map.

B. Unless otherwise exempted by these regulations, any development on parcels subject to this chapter must comply with the regulation contained herein. Activities subject to the review process shall include all development on properties, including:

1. *Partitioning and subdividing of land;*
2. *New structural development;*
3. *Fills, excavations and modifications of drainage patterns;*
4. *Exterior expansion of any building or structure, or increases in impervious surfaces or storage areas;*
5. *Site modifications including excavation or fill, installation of new above or below ground utilities;*
6. *Removal of trees or the cutting or clearing of any native vegetation;*
7. *Resource enhancement activities.*

Staff Response:

The City's Steep Slopes and Natural Resource Overlay Zone Map illustrates the presence of a protected water feature on the subject site (Exhibit B-1). The applicant has proposed to fill several of the wetland areas that were identified by the applicant's environmental consultant and mitigate for said impacts. Therefore, the applicant's proposal is subject to Chapter 16.34 and has been reviewed according to the procedures specified therein. These criteria have been satisfied.

16.34.060 Map verification to establish natural resource boundaries.

A. The preparation of the City of Happy Valley Steep Slopes and Natural Resources Overlay Zone Map did not include specific field observations of every individual property. The map is designed to be specific enough to determine whether further environmental review of a development proposal is necessary. If any portion of the development or alteration of the land (except those exempted by this Chapter) is located within the Natural Resources Overlay Zone boundary, then map verification is required before any development permit can be issued.

1. The map verification requirements described in this section shall be met at the time an applicant proposes a nonexempt use or activity or requests a building permit, grading permit, tree removal permit, land division approval, or some other land use decision. Where it can be clearly determined by the Planning Official that development is at least one hundred (100) feet from the NROZ and there is no impact to the Significant Resource, development may be permitted without map verification.

2. A property owner, or another person with the property owner's consent, may request to verify the location of Water Quality Resources and/or HCAs on a real property lot or parcel pursuant to this section, but said request for information shall be at the Planning Official or designee's sole discretion, based on staff availability, funding resources, and policy priorities and shall require the submittal of a public information request and resultant fee. If a person receives a verification separate from a simultaneous request for a building permit, grading permit, tree removal permit, land division approval, or some other land use decision, then the person may use the verification to satisfy the requirements of this section at any time up until five years after the date the verification was issued.

3. Map verification shall not be used to dispute whether identified resources provide the ecological functions that they are assumed to provide based on the ecological criteria used to identify them.

4. *Notwithstanding any other provisions of Section 16.34.060, for utility projects undertaken by public utilities across property that is not owned by the utility, the utility shall not be required to map or provide any information about the property except for the area within three hundred (300) feet of the location of the proposed disturbance area of the utility's project.*

5. *Review Procedures.*

a. *The Planning Official or designees making a map verification decision pursuant to Section 16.34.060(B) or 16.34.060(C) shall use the Type I administrative procedure described in Section 16.61.020.*

b. *The Planning Official's decision shall be based on consideration of the information submitted by the applicant, any information collected during a site visit to the lot or parcel, any information generated by prior map verifications that have occurred on adjacent properties, and any other objective factual information that has been provided to the Planning Official or designee.*

c. *The Planning Official or designees making a map verification decision pursuant to Section 16.34.060(D) shall use the Type II administrative procedure described in Section 16.61.030. Upon receipt of a completed application, the Planning Official or designee shall provide notice of the map verification application to Metro; to the owners of record of property on the most recent property tax assessment roll where such property is located within three hundred (300) feet of the subject property; to any neighborhood or community planning organization recognized by the City and whose boundaries include the property; and to any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the property. The Planning Official or designee shall apply the verification criteria in Section 16.34.060(D)(2) to confirm the location of any HCAs based on the HCA map, the information submitted by the applicant, any information received during the public comment period, and any additional information readily available, including information collected during a site visit to the lot or parcel. The applicant and all persons that submitted written comments shall be provided with a written explanation of the Planning Official or designee's decision.*

d. *Verification of the location of Water Quality Resources and HCAs as described in this section shall not be considered a Comprehensive Plan amendment.*

Staff Response:

The applicant has provided the required information for map verification as described in Section 16.34.060(B). Per the provisions found within Section 16.61.060.D.2 of the LDC, the applicant's proposed ERP has been consolidated into the greater set of applications submitted by the applicant and will be decided on by the Happy Valley City Council, per the City's Type "III" review procedure. As part of this application, the applicant has included a natural resource assessment and wetland delineation (Exhibit 5), prepared by Schott and Associates, addressing the above criteria. These criteria have been satisfied.

B. Water Quality Resources—Map Verification. Water Quality Resources include the Protected Water Features and the Vegetated Corridors as specified in Table 16.34.060-1, and include all land identified and protected under Metro's UGMFP Title 3 Water Quality Resource Areas.

1. Protected Water Features include creeks, rivers, streams, wetlands, natural lakes, and springs. The general location of identified Protected Water Features is indicated on the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map; however, the text

provisions of this section shall be used to determine the exact location of the Protected Water Feature.

2. The Vegetated Corridor (buffer) is a facility required to prevent damage to the Protected Water Feature caused by development impacts. The width of the Vegetated Corridor area varies depending on the type of Protected Water Feature; upstream drainage area served; and slope adjacent to the Protected Water Feature, as specified in Table 16.34.060-1. The Vegetated Corridor (buffer) is based on the horizontal distance measured perpendicular to the Protected Water Feature boundary, not the slope distance from it. To establish the size of Vegetated Corridor, the starting point for measurements from the Water Feature is the edge of bankful flow or two-year storm level or the delineated edge of a wetland. At least three slope measurements along the water feature, at no more than one hundred (100) foot increments, shall be made for each property for which development is proposed. Depending on the width of the property, the width of the vegetated corridor will vary. The Vegetated Corridor (buffer) width is determined based on the slope of the land adjacent to the Protected Water Feature in twenty-five (25) or fifty (50) foot increments. Where the slope of the land varies within the measurement area, an Area Weighted Average slope shall be calculated. The calculation for the Area Weighted Average slope is shown in Figure 16.34.060-1; note that A, B, and C indicate different slope areas, measured horizontally.

Table 16.34.060-1 Water Quality Resources

Protected Water Feature	Upstream Drainage Area	Slope Adjacent to Sensitive Area	Width of Vegetated Corridor (Buffer)
<i>Intermittent creeks, rivers, streams</i>	<i>Less than 50 acres</i>	<i>Any slope</i>	<i>25 feet</i>
	<i>50 to 100 acres</i>	<i><25%</i>	<i>25 feet</i>
	<i>50 to 100 acres</i>	<i>≥25%</i>	<i>50 feet</i>
	<i>Greater than 100 acres</i>	<i><25%</i>	<i>50 feet</i>
	<i>Greater than 100 acres</i>	<i>≥25%</i>	<i>100 to 200 feet depending on adjacent slope—see Figure 16.34.060-2</i>
<i>Perennial creeks, rivers, streams</i>	<i>Any upstream area</i>	<i><25%</i>	<i>50 feet</i>
	<i>Any upstream area</i>	<i>≥25%</i>	<i>100 to 200 feet depending on adjacent slope—see Figure 16.34.060-2</i>
<i>Wetlands, lakes (natural), and springs.</i>	<i>Any drainage</i>	<i><25%</i>	<i>50 feet</i>
	<i>Any drainage</i>	<i>≥25%</i>	<i>100 to 200 feet depending on adjacent slope—see Figure 16.34.060-3</i>

Figure 16.34.060-1 Calculating Area Weighted Average Slope

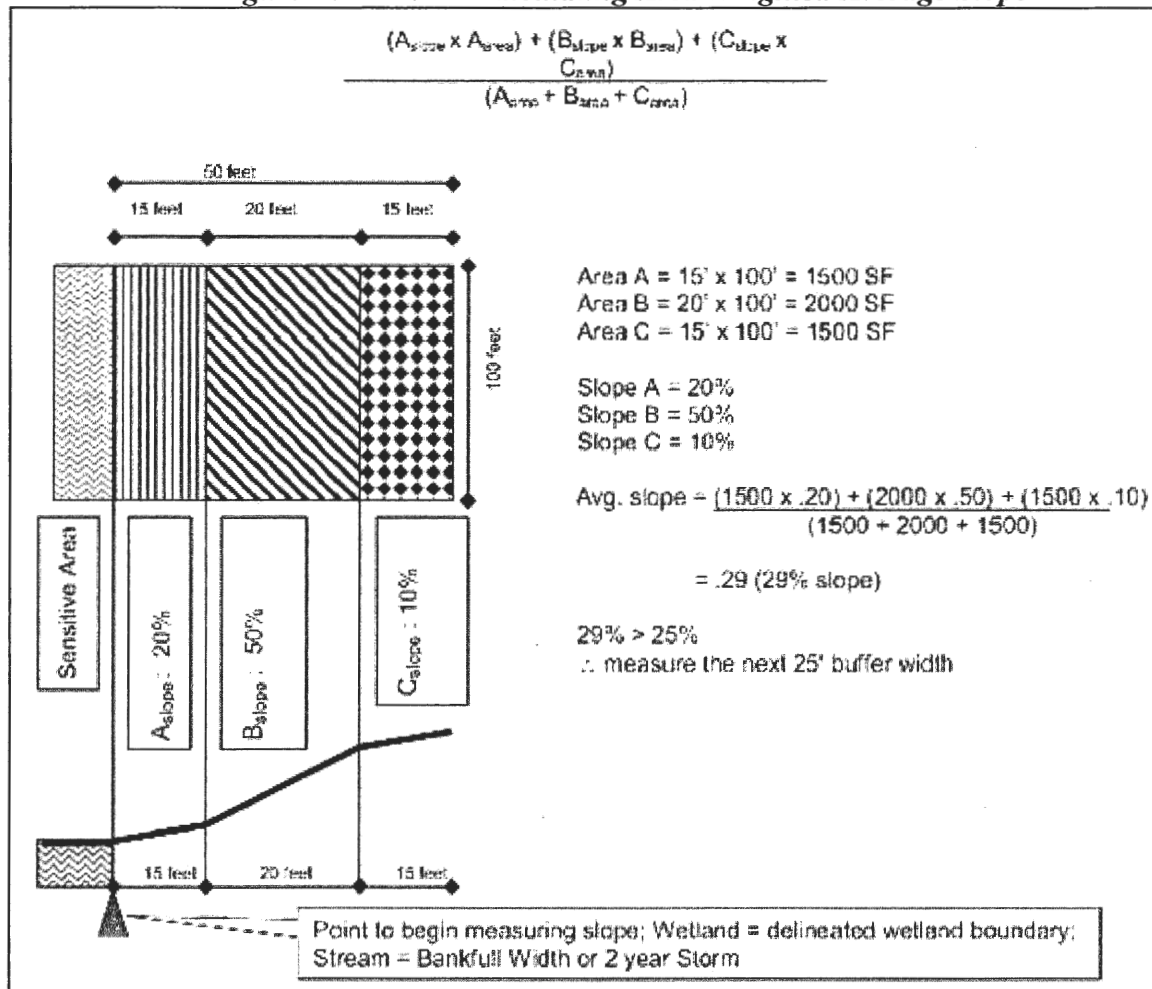
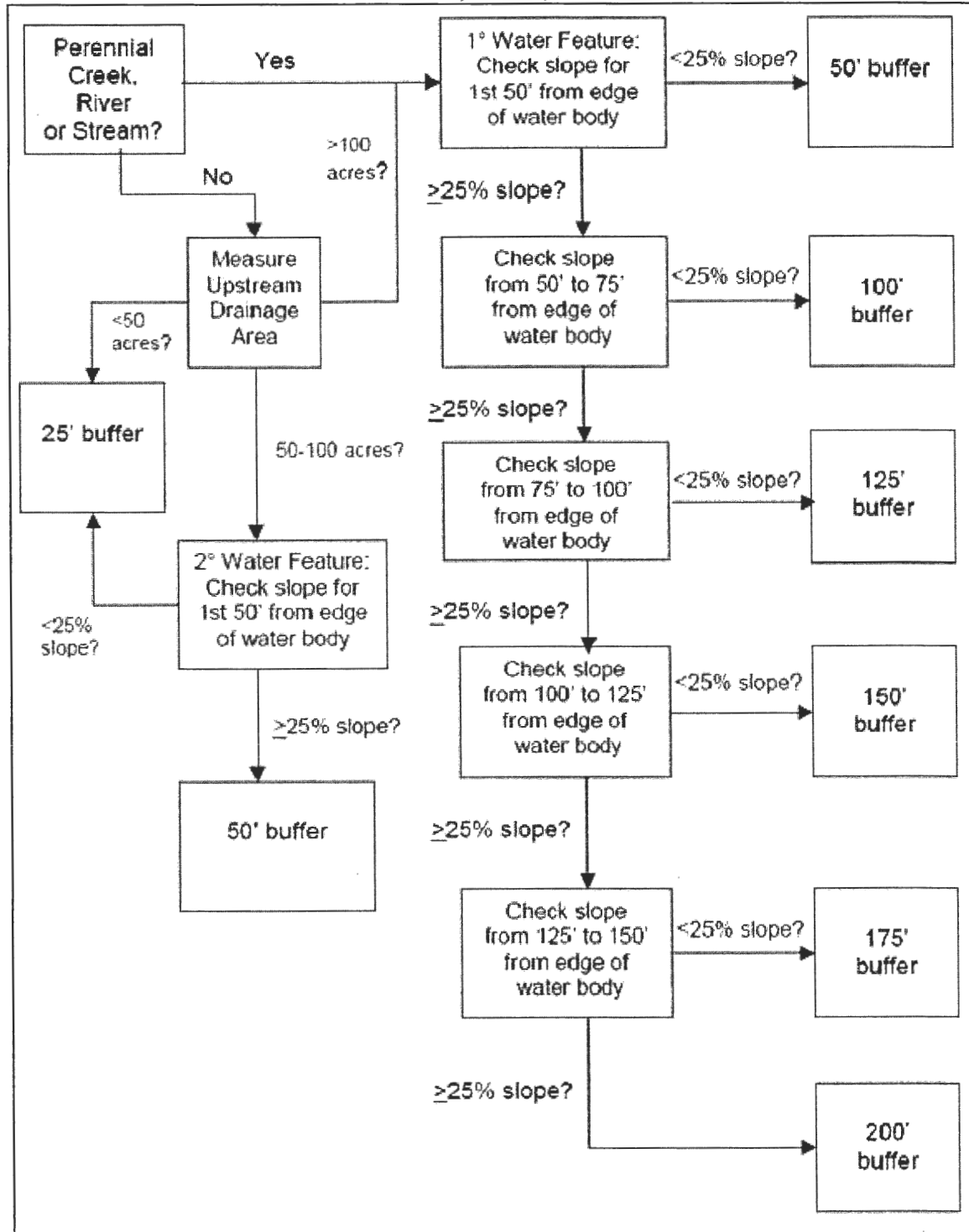
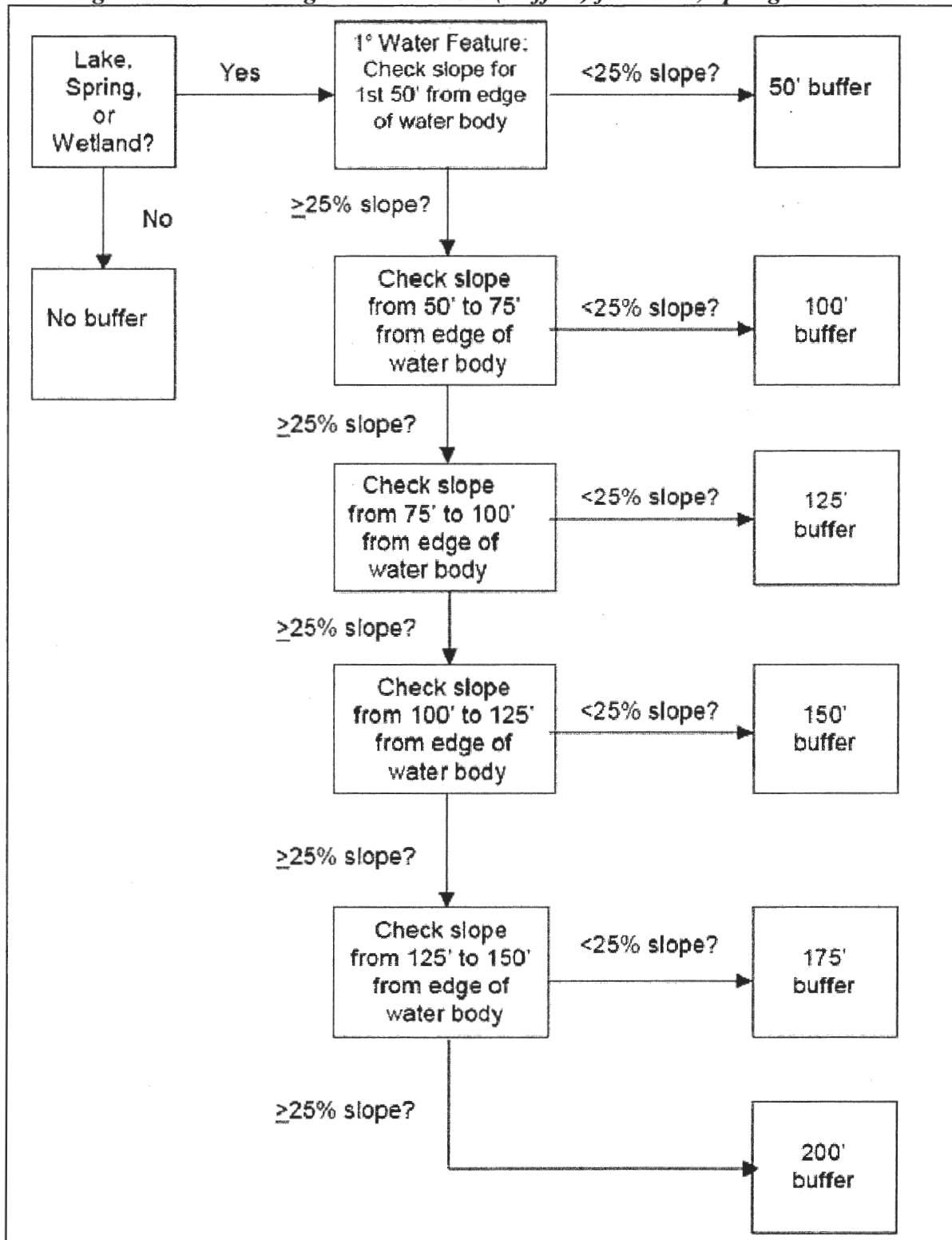


Figure 16.34.060-2 Vegetated Corridors (Buffers) for Intermittent and Perennial Creeks, Rivers, Streams*



* Streams are considered perennial until proven intermittent with adequate field documentation (photos, field data), or determination by Oregon Division of State Lands.

Figure 16.34.060-3 Vegetated Corridors (Buffers) for Lakes, Springs or Wetlands



3. *Delineation of Water Quality Resources. Applicants shall delineate the boundaries of the protected water feature as follows:*
 - a. *Lakes, Springs, and Wetlands.*

- c. *The information described in Sections 16.34.060(C)(2)(b) and 16.34.060(C)(3)(b) through (d), if the applicant believes such information is relevant to the verification of habitat location on the subject lot or parcel;*
 - d. *Additional aerial photographs if the applicant believes they provide better information regarding the property, including documentation of the date and process used to take the photos and an expert's interpretation of the additional information they provide;*
 - e. *A map showing the topography of the property shown by two-foot vertical contours in areas of slopes less than fifteen (15) percent, and at five-foot vertical contours of slopes fifteen (15) percent or greater; and*
 - f. *Any additional information necessary to address each of the verification criteria in Section 16.34.060(D)(2), a description of where any HCAs are located on the property based on the application of the verification criteria in Section 16.34.060(D)(2), and factual documentation to support the analysis.*
2. *Verification Criteria. The verification of the location of HCAs shall be according to the three-step process described below. A verification application shall not be considered complete and shall not be granted unless all the information required to be submitted with the verification application has been received.*
- a. *Step 1—Verifying Boundaries of Inventoried Riparian Habitat. Locating habitat and determining its riparian habitat class is a four-step process:*
 - i. *Locate the water feature that is the basis for identifying riparian habitat.*
 - (A) *Locate the top of bank of all streams, rivers, and open water within two hundred (200) feet of the property.*
 - (B) *Locate all flood areas within one hundred (100) feet of the property.*
 - (C) *Locate all wetlands within one hundred fifty (150) feet of the property based on the City's Local Wetland Inventory. Identified wetlands shall be further delineated consistent with methods currently accepted by the Oregon Department of State Lands (ODSL) and the U.S. Army Corps of Engineers (Corps);*
 - ii. *Identify the vegetative cover status of all areas on the property that are within two hundred (200) feet of the top of bank of streams, rivers, and open water, are wetlands or are within one hundred fifty (150) feet of wetlands, and are flood areas and within one hundred (100) feet of flood areas.*
 - (A) *Vegetative cover status shall be as identified on the Metro Vegetative Cover Map, available from the Metro Data Resource Center.*
 - (B) *The vegetative cover status of a property may be adjusted only if: (1) the property was developed prior to the time the regional program was approved (see Section 16.34.060(C)(3) above), or (2) an error was made at the time the vegetative cover status was determined. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the definitions of the different vegetative cover types provided in Chapter 16.12 (Definitions);*

- iii. Determine whether the degree that the land slopes upward from all streams, rivers, and open water within two hundred (200) feet of the property is greater than or less than twenty-five (25) percent using the methodology as described in Chapter 16.34.060(B); and
- iv. Identify the riparian habitat classes applicable to all areas on the property using Table 16.34.060-2 and the data identified in Section 16.34.060(D)(2)(a)(i) through (a)(iii).

Table 16.34.060-2 Method for Locating Boundaries of Class I and II Riparian Areas

Distance from Water Feature	Development/Vegetation Status ¹			
	Developed areas not providing vegetative cover	Low structure vegetation or open soils	Woody Vegetation (shrub and scattered forest canopy)	Forest Canopy (closed to open forest canopy)
Surface Streams				
0—50'	Class II	Class I ²	Class I	Class I
50'—100'		Class II ³	Class I	Class I
100'—150'		Class II ³ if slope > 25%	Class II ³ if slope > 25%	Class II ³
150'—200'		Class II ³ if slope > 25%	Class II ³ if slope > 25%	Class II ³ if slope > 25%
Wetlands (Wetland Feature Itself is a Class I Riparian Area)				
0—100'		Class II ³	Class I	Class I
100'—150'				Class II ²
Flood Areas				
Within 300' of river or surface stream		Class I	Class I	Class I
More than 300' from river or surface stream	⁴	Class II ³	Class II ³	Class I
0—100' from edge of flood area			Class II ^{3, 5}	Class II ³

¹ The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged. As an example of how the categories were assigned, in order to qualify as “forest canopy,” the forested area had to be part of a larger patch of forest of at least one acre in size.

² Except that areas within fifty (50) feet of surface streams shall be Class II riparian areas if their vegetation status is “Low structure vegetation or open soils,” and if they are high gradient streams. High gradient streams are identified on the Metro Vegetative Cover Map. If a property owner believes the gradient of a stream was incorrectly identified, then the property owner may demonstrate the correct classification by identifying the channel type using the methodology described in the Oregon Watershed Assessment Manual, published by the Oregon Watershed Enhancement Board, and appended to the Metro’s Riparian Corridor and Wildlife Habitat Inventories Report, Attachment 1 to Exhibit F to Metro Ordinance No. 05-1077C.

³ Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (on file in the Metro Council office), shall be treated as Class I riparian habitat areas in all cases, subject to the provision of additional information that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro’s Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

⁴ If development prior to the effective date of Metro Ordinance No. 05-1077C within a contiguous, undeveloped flood area (to include contiguous flood areas on adjacent properties) that was not mapped as having any

<i>Distance from Water Feature</i>	<i>Development/Vegetation Status¹</i>			
	<i>Developed areas not providing vegetative cover</i>	<i>Low structure vegetation or open soils</i>	<i>Woody Vegetation (shrub and scattered forest canopy)</i>	<i>Forest Canopy (closed to open forest canopy)</i>
<i>vegetative cover has reduced the size of that contiguous flood area to less than one half of an acre in size, then the remaining flood area shall also be considered a developed flood area and shall not be identified as habitat.</i>				
<i>⁵ Only if within three hundred (300) feet of a river or surface stream.</i>				

b. *Step 2—Urban Development Value of the Property. The urban development value of property designated as regionally significant habitat is depicted on the Metro Habitat Urban Development Value Map (available from the Metro Data Resource Center).*

i. *A property’s urban development value designation shall be adjusted upward if the Metro 2040 Design Type designation for the property lot or parcel has changed from a category designated as a lower urban development value category to one designated as a higher urban development value category. 2040 Design Type designations are identified on the Metro 2040 Applied Concept Map (available from the Metro Data Resource Center).*

ii. *Properties in areas designated on the 2040 Applied Concept Map as the Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas are considered to be of high urban development value; properties in areas designated as Main Streets, Station Communities, Other Industrial Areas, and Employment Centers are of medium urban development value; and properties in areas designated as Inner and Outer Neighborhoods and Corridors are of low urban development value.*

iii. *As designated in Title 13 of Metro’s Urban Growth Management Functional Plan, properties owned by a regionally significant educational or medical facility are designated as high urban development value.*

c. *Step 3—Cross-Reference Habitat Class With Urban Development Value. City and County verification of the locations of High, Moderate, and Low Habitat Conservation Areas shall be consistent with Table 16.34.060-3.*

Table 16.34.060-3 Method for Identifying Habitat Conservation Areas (HCA)

<i>Fish and Wildlife Habitat Classification</i>	<i>High Urban Development Value¹</i>	<i>Medium Urban development Value²</i>	<i>Low Urban development Value³</i>	<i>Other Areas: Parks and Open Spaces, No Design Types Outside UGB</i>
<i>Class I riparian</i>	<i>Moderate HCA</i>	<i>High HCA</i>	<i>High HCA</i>	<i>High HCA / High HCA+⁴</i>
<i>Class II riparian</i>	<i>Low HCA</i>	<i>Low HCA</i>	<i>Moderate HCA</i>	<i>Moderate HCA / High HCA+⁴</i>
<i>Class A upland wildlife</i>	<i>No HCA</i>	<i>No HCA</i>	<i>No HCA</i>	<i>No HCA / High HCA⁵ / High HCA+⁴</i>
<i>Class B upland wildlife</i>	<i>No HCA</i>	<i>No HCA</i>	<i>No HCA</i>	<i>No HCA / High HCA⁵ / High HCA+⁴</i>
<i>NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when a City or County is determining whether to make an HCA adjustment.</i>				

¹ Primary 2040 design type: regional centers, central City, town centers, and regionally significant industrial areas
² Secondary 2040 design type: main streets, station communities, other industrial areas, and employment centers
³ Tertiary 2040 design type: Inner and outer neighborhoods, corridors
⁴ Cities and counties shall give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas even greater protection than that afforded to High Habitat Conservation Areas.
⁵ All Class A and B upland wildlife habitat in publicly-owned parks and open spaces, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to develop it for active recreational uses, shall be considered High HCAs.

Staff Response:

The applicant has proposed to amend the City’s Natural Resource Overlay Zone Map to reflect the location of the onsite HCA, as delineated by the applicant’s environmental consultant. The City’s HCA inventory includes two areas of the subject site, one located in the northwest area and another area located in the central portion. The proposed amendment would essentially eliminate the HCA in the central portion of the subject site, as the applicant has stated that the majority of this area contains no protected water feature, nor the necessary tree canopy that would be associated with HCA (Exhibit 5, Sheet 6). The applicant has also noted that the onsite HCA illustrated in the City’s inventory in the vicinity of Rock Creek does not extend as far east as what was mapped by the City. Staff concurs with the applicant’s delineation and recommends approval of the proposed map verification for the onsite HCA. The resultant effect of the map verification is that the applicant’s development proposal would not impact any of the onsite HCA, which would be preserved within a conservation easement located along the western edge of the subject site. These criterion have been satisfied.

16.34.070 Development standards.

For nonexempt uses and activities proposed within verified natural resources, there are three types of development standards outlined in this chapter: nondiscretionary, special use, and discretionary. As summarized below, the special use standards outlined in Section 16.34.070(D) apply to specific types of recreational, public facility and utility facilities. Individuals proposing other nonexempt uses and activities within HCAs (that are not also Water Quality Resource Areas) may use either the nondiscretionary development standards in Section 16.34.070(B) or the discretionary standards in 16.34.075. Except for the Special Uses identified in Section 16.34.070(D), individuals proposing development within a Water Quality Resource must use the discretionary review standards in Section 16.34.075.

<i>Development Standards</i>	<i>Water Quality Resources</i>	<i>HCAs</i>
<i>Nondiscretionary (16.34.070(C))</i>	<i>No</i>	<i>Yes</i>
<i>Special use (16.34.070(D))</i>	<i>Yes</i>	<i>Yes</i>
<i>Discretionary (16.34.075)</i>	<i>Yes</i>	<i>Yes/No</i>

Staff Response:

The applicant is proposing nonexempt uses and activities within verified natural resources. Because nonexempt uses and activities are proposed within a Water Quality Resource only, the applicant has addressed the discretionary review standards in Section 16.34.075. This criterion is satisfied.

A. Permit Requirements. Individuals proposing nonexempt development within Natural Resources (Water Quality Resources or HCAs) must provide a development plan and accompanying narrative explanation that includes the following information. All of the application requirements must be met prior to permit approval.

- 1. Applicants must verify the boundaries of any Water Quality Resource or HCA on their property as described in Section 16.34.060.*
- 2. For the entire subject property (including non-resource areas), applicants must submit a scale map of the property that includes:*
 - a. Location of any wetlands or water bodies on the property, including a delineation of the Water Quality Resource Area;*
 - b. Location of all high, moderate, and low HCAs on the property;*
 - c. Outline of any existing disturbance area, including the location of existing adjacent streets and paved areas, utilities, culverts, stormwater management facilities, or bridges;*
 - d. Location of 100-year floodplain and floodway boundary as defined by the Federal Emergency Management Agency (FEMA) and the area of the 1996 flood inundation; and*
 - e. Topography shown by two-foot vertical contours in areas of slopes less than fifteen (15) percent, and at five-foot vertical contours of slopes fifteen (15) percent or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed.*
- 3. Detailed site plan of proposed development outlining total disturbance area, including proposed building footprints, site property improvements, utilities and landscaping. The types, sizes and intensities of lights must be placed so that they do not shine directly into the NROZ.*
- 4. The following additional information shall be provided about the HCA:*
 - a. For properties containing less than one acre of HCA, the location of all trees within the HCA that are greater than six inches diameter at breast height (DBH), shall be identified by size and species. For properties containing one acre or more of HCA, the applicant may approximate the number of trees and the diameter range, and provide a listing of the dominant species;*
 - b. For proposed disturbance areas containing less than one acre of HCA, all trees with a diameter of six inches or greater that will be removed shall be specifically identified as to diameter at breast height (DBH) and species. For proposed disturbance areas containing one acre or more of HCA an approximate of the number of trees, their diameters and the dominant species.*
- 5. If grading will occur within a Water Quality Resource or HCA, a grading plan showing the proposed alteration of the ground at two-foot vertical contours in areas of slopes less than fifteen (15) percent, and at five-foot vertical contours of slopes fifteen (15) percent or greater.*
- 6. When a property containing any Water Quality Resource is subdivided, this Code requires that new subdivision plats delineate and show the Water Quality Resource as a separate unbuildable tract. The division of properties containing HCAs are subject to Section 16.34.070(C)(5).*

Staff Response:

The applicant has satisfied the above permit requirements for nonexempt development within Natural Resources.

B. Construction Management Plans.

1. In order to ensure that trees and vegetation within the NROZ are not damaged during construction, all applicants shall provide a construction management plan that includes the following information:

a. Location of site access and egress that construction equipment will use;

b. Equipment and material staging and stockpile areas;

c. Erosion and sediment control measures; and

d. Measures to protect trees and other vegetation located within Water Quality Resources and HCAs, but outside of the disturbance area approved under the provisions of Section 16.34.070 or 16.34.075.

2. Applicants who are partitioning or subdividing, but are not simultaneously developing their property, do not need to provide a Construction Management Plan.

Staff Response:

The applicant has not specifically provided a construction management plan. However, the applicant's grading and erosion control plan (Exhibit 2, Sheet C1.0) illustrates the proposed measures that will be implemented prior to the commencement of site construction to protect the onsite vegetation and natural areas that are not proposed to be disturbed. The applicant proposes to protect these onsite natural areas and vegetation with tree protection fencing. To ensure that these areas are sufficiently protected during building and site construction, staff is recommending that the applicant submit a formal construction management plan, as part of the construction documents, that specifies the onsite natural resource areas will be delineated by four-foot tall orange construction fencing. Per Condition of Approval Number 101, this criterion is satisfied.

16.34.075 Discretionary development standards.

There are four discretionary review processes provided in this section: subsection A of this section provides discretionary review for an applicant seeking only to partition a property; subsection B of this section provides discretionary review for an applicant who will comply with the development standards in Section 16.34.070, except that the applicant seeks to meet the mitigation requirements of that section on a different property from the property on which a HCA will be disturbed; subsection C of this section provides discretionary review for an applicant who will comply with the development standards in Section 16.34.070, except that the applicant seeks to meet the mitigation requirements of that section by proportionally varying the number and size of plants required to be planted; and subsection D of this section (Natural Resource Review) provides general discretionary review standards applicable to an applicant seeking some other type of discretionary approval of development that will disturb a Water Quality Resource or HCA.

Within HCAs that are not otherwise Water Quality Resources, applicants may choose to use the alternative discretionary development standards provided in this section rather than the development standards provided in Section 16.34.070. However, a Natural Resource Review is required for development within Water Quality Resources. All four types of discretionary reviews will be processed in accordance with the Type II procedures in Section 16.61.030.

[...]

D. Natural Resource Review (NRR). An applicant seeking discretionary approval to undertake any development activity within a Water Quality Resource or HCA that does not comply with Section 16.34.070 and is not described in subsections A, B or C shall apply for a Natural Resource Review pursuant to subsection D. Natural Resource Review (NRR) is the discretionary process by which the City analyzes the impacts of development on natural resources, as well as measures to prevent negative impacts, and also provides mitigation and enhancement requirements. The Planning Director may consult with a professional with appropriate expertise to evaluate an applicant's NRR application prepared under this section or may rely on appropriate staff expertise, in order to properly evaluate the report's conclusions.

1. Agency Coordination. Other state and regional agencies, including Clackamas County Service District No. 1, regulate some of the natural resources that are protected by the standards of this chapter. In order to avoid unnecessary duplication, an applicant may substitute application materials prepared for Clackamas County Service District No. 1, or another regulating agency, for the materials required by this section where these materials will provide sufficient information for the City to address the approval criteria in subsection (D)(3).

2. Application Requirements. The applicant shall provide all items described in Section 16.34.070(A), except that, for utility projects undertaken by public utilities across property that is not owned by the utility, the utility shall not be required to map or provide any information about the property except for the area within three hundred (300) feet of the location of the proposed disturbance area of the utility's project, and the applicant shall also provide all of the following:

a. A topographic map of the site with two-foot vertical contours in areas of slopes less than fifteen (15) percent, and at five-foot vertical contours of slopes fifteen (15) percent or greater showing a delineation of the Water Quality Resource, which includes areas shown on the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map, and that meets the definition of water quality resource areas in Table 16.34.030-1;

b. Location of Title 3 Wetlands. Where Title 3 wetlands are identified, the applicant shall follow the Division of State Lands recommended wetlands delineation process. The delineation shall be prepared by a professional wetlands specialist;

c. An inventory, location and plan for removal of any existing debris and noxious materials;

Staff Response:

The applicant has addressed the above submittal requirements within their narrative and plan set that was supplied as part of the proposed application package. The applicant also provided a wetland delineation that validates the location of the onsite Water Quality Resources that are shown within their plan set. The applicant has also identified the natural resource areas that will be impacted by the proposed development and the methods of “mitigating” for said impacts. These criteria are satisfied.

d. An assessment of the existing condition of any Water Quality Resources, including an inventory and map of the existing plant communities including the number and area covered by each plant community present. A plant community is defined as a grouping of plants that often occur together growing in a uniform habitat. For each sample point, document the area covered by all species providing greater than five percent cover within the plot boundary. A ten (10) foot radius plot for herbs (non-woody vegetation) and a thirty (30) foot radius plot for woody vegetation are required; however, plot boundaries may be adjusted to ensure that only one plant community is represented in a plot. The inventory and map shall specify cover by native species, invasive species, and noxious species.

Staff Response:

The application includes a natural resource assessment and wetland delineation, both of which are included as an exhibit to this report (Exhibit 5). A vegetated corridor assessment report was prepared including documentation of the plant communities per the criteria above. This criterion is satisfied.

e. Impact Evaluation and Alternatives Analysis. An impact evaluation and alternatives analysis is required to determine compliance with the approval criteria and to evaluate development alternatives for a particular property. The alternatives must be evaluated on the basis of their impact on Water Quality Resources and HCAs, the ecological functions provided by the resource on the property, and off-site impacts within the subwatershed (6th Field Hydrologic Unit Code) where the property is located. The impact evaluation shall include the following:

i. Identification of the ecological functions of riparian habitat found on the property as described in Table 16.34.075-1.

Staff Response:

The applicant identifies the proposed impacts to the onsite natural resource areas within the subject site and addresses any possibly alternative designs within Exhibit 5, Appendix G. The applicant has provided identification of the ecological functions of the onsite natural resource areas as described in Table 16.34.075-1. This information can be found within Exhibit 5, Appendix “G”. This criterion is satisfied.

iii. *Evaluation of alternative locations, design modifications, or alternative methods of development to determine which options reduce the significant detrimental impacts on the HCAs and the ecological functions provided on the property. At a minimum, the following approaches must be considered:*

- (A) *The techniques described in Section 16.34.050;*
- (B) *Multi-story construction;*
- (C) *Minimizing building and development footprint;*
- (D) *Maximizing the use of native landscaping materials;*
- and
- (E) *Minimal excavation foundation systems (e.g., pier, post or piling foundation).*

Staff Response:

The applicant has evaluated the onsite resources and performed a design “alternatives” analysis (Exhibit 5, Appendix F). Staff concurs with the applicant’s assessment and finds that the proposed development plan was designed taking the above criteria into consideration. This criterion has been satisfied.

iv. *Determination of the alternative that best meets the applicable approval criteria and identification of significant detrimental impacts that are unavoidable. Where Water Quality Resources are proposed to be impacted, the applicant shall also demonstrate that no practicable alternatives to the requested development exist that will not disturb the Water Quality Resource; that development in the Water Quality Resource has been limited to the area necessary to allow for the proposed use; and that the Water Quality Resource can be restored to an equal or better condition.*

Table 16.34.075-1 Ecological Functional Values of Riparian Corridors

Ecological Function	Landscape Features Providing Functional Values
Microclimate and shade	Forest canopy or woody vegetation within 100 feet of a stream; a wetland ¹ ; or a flood area ² .
Streamflow moderation and water storage	A wetland or other water body ³ with a hydrologic connection to a stream; or a flood area ² .
Bank stabilization, sediment and pollution control	All sites within 50 feet of a surface stream;
	Forest canopy, woody vegetation, or low structure vegetation/open soils within 100 feet of a stream or a wetland; or forest canopy, woody vegetation, or low structure vegetation/open soils within a flood area; and
	Forest canopy, woody vegetation, or low structure vegetation/open soils within 100—200 feet of a stream if the slope is greater than 25 percent.
Large wood and channel dynamics	Forest canopy within 150 feet of a stream or wetland; or within a flood area; and

<i>Ecological Function</i>	<i>Landscape Features Providing Functional Values</i>
	<i>The channel migration zone is defined by the floodplain, but where there is no mapped floodplain a default of 50 feet is established to allow for the channel migration zone.</i>
<i>Organic material sources</i>	<i>Forest canopy or woody vegetation within 100 feet of a stream or wetland; or within a flood area.</i>
<p>NOTES: ¹ Refers to “hydrologically-connected wetlands,” which are located partially or wholly within one-quarter mile of a surface stream or flood area. ² Developed floodplains are not identified as HCAs because they do not provide primary ecological functional value. ³ “Other water body” could include lakes, ponds, reservoirs, or manmade water feature that is not a water quality facility or farm pond.</p>	

Staff Response:

The applicant contends that given the current location of the existing wetland areas, preservation of all the onsite wetlands and their associated buffers would result in the loss of the subject site’s viability as a commercial development and would create a difficult development scenario from a roadway circulation standpoint. As a result, staff concurs with the applicant’s assessment and finds that there are few practicable alternatives to permit commercial development in a manner that will produce a cohesive product. These criteria have been satisfied.

- f. *Mitigation Plan. The purpose of a mitigation plan is to compensate for unavoidable significant detrimental impacts to ecological functions that result from the chosen development alternative as identified in the impact evaluation.*
 - i. *An applicant may choose to develop a mitigation plan consistent with the requirements of Section 16.34.070(C)(4). If an applicant so chooses, then the applicant shall submit a mitigation plan demonstrating such compliance.*
 [...]
 - iii. *In addition, where a Water Quality Resource is proposed to be impacted, the mitigation plan shall contain the following additional information:*
 - (A) *A description of adverse water quality impacts that will be caused as a result of development;*
 - (B) *An explanation of how development in the Water Quality Resource has been limited to the area necessary to allow for the proposed use and how the Water Quality Resource area will be restored to an equal or better condition; and*
 - (C) *A map showing where the specific mitigation activities will occur.*

Staff Response:

The applicant has indicated that the impacts to the onsite wetlands will be mitigated for by the applicant creating additional wetland areas located within the same drainage basin as the subject site. The proposed impacts to the vegetated corridors will be mitigated for onsite. The applicant has submitted a preliminary mitigation plan that meets the requirements of Section 16.34.070(C)(4). All mitigation plantings will be of native stock and are listed on the City of Happy Valley native plant list. The applicant has proposed to utilize the requirements of Mitigation Option 1. Because a Water Quality Resource is proposed to be impacted, the applicant has provided the above information within Exhibit 5, Appendix “G”. Staff concurs with the applicant’s conclusions. This criterion has been satisfied.

c. The Impact Evaluation and Alternatives Analysis required by subsection (D)(1)(e) and the Mitigation Plan required by subsection (D)(1)(f) shall be prepared and signed by either (i) a knowledgeable and qualified natural resource professional, such as a wildlife biologist, botanist, or hydrologist, or (ii) a civil or environmental engineer registered in Oregon to design public sanitary or storm systems, stormwater facilities, or other similar facilities. The application shall include a description of the qualifications and experience of all persons that contributed to the Impact Evaluation and Alternatives Analysis and to the Mitigation Plan, and for each person that contributed, a description of the elements of such reports to which the person contributed.

Staff Response:

The Impacts and Evaluations Alternatives Analysis and Mitigation Plan were prepared by HHPR, Inc. (Civil Engineering Firm) and by Schott and Associates (Wetland Biologist Consultants). Staff finds that the Impacts and Evaluations Alternatives Analysis and Mitigation Plan were prepared by knowledgeable and qualified natural resource professionals. This criterion has been satisfied.

3. *Approval Criteria.*
 - a. *All application requirements in subsection (D)(1) shall be met.*

Staff Response:

The applicant has met all application requirements in subsection (D)(1). This criterion is met.

b. *Avoid. An applicant shall first avoid the intrusion of development into Water Quality Resources and HCAs to the extent practicable. The development that is proposed must have less detrimental impact to Water Quality Resources and HCAs than other practicable alternatives, including significantly different practicable alternatives that propose less development within Water Quality Resources and HCAs. If there are both Water Quality Resource Areas and HCAs on a property and/or there is more than one type of HCA on a property, then the applicant shall first avoid the intrusion of development into the Water Quality Resource, then into the higher-valued HCA, to the extent practicable, and the development that is proposed must have less detrimental impact to the Water Quality Resource and higher-valued HCAs than other practicable alternatives. To avoid development in Water Quality Resources and HCAs, and to the extent practicable, applicants shall use the approaches described in subsection (D)(1)(e)(iii).*

Staff Response:

The applicant has proposed a mixed-use development on the subject site with a conceptual development plan that works to maximum building footprints, while providing the necessary minimum amount of vehicular parking and has contended that the preservation of all the onsite wetland areas would result in the “loss” of a viable commercial development. Further, the applicant’s development plan demonstrates that the proposed natural resource impacts are the minimum necessary to achieve a feasible development project. Finally, the applicant has, via their proposed mitigation plan, provided a scenario under which the impacted vegetated corridors would be mitigated for through the enhancement of the undisturbed vegetated corridors located on the subject site. Staff concurs with this assessment/proposal. This criterion has been satisfied.

c. *Minimize. If the applicant demonstrates that there is no practicable alternative that will not avoid disturbance of Water Quality Resources and HCAs, then the development proposed by the applicant within the Water Quality Resources and HCAs shall minimize detrimental impacts to the extent practicable. If there are both Water Quality Resource Areas and HCAs on a property and/or there is more than one type of HCAs on a property, then the development within Water Quality Resources and higher-valued HCAs shall be considered more detrimental than development within lower-valued HCAs.*

i. *Development must minimize detrimental impacts to ecological functions and loss of habitat consistent with uses allowed by right under the base zone, to the extent practicable.*

ii. *To the extent practicable within Water Quality Resources and HCAs, the proposed development shall be designed, located, and constructed to:*

(A) *Minimize grading, removal of native vegetation, and disturbance and removal of native soils by using the approaches described in Section 16.34.070(C)(2), reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post or piling foundation);*

(B) *Minimize adverse hydrological impacts on water resources such as by using the techniques described in Part (a) of Table 16.34.075-2, unless their use is prohibited by an applicable and required State or Federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the Federal Clean Water Act, 33 U.S.C. Sections 1251 et seq., or the Federal Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq., and including conditions or plans required by such permit;*

(C) *Minimize impacts on wildlife corridors and fish passage such as by using the techniques described in Part (b) of Table 16.34.075-2; and*

(D) *Consider using the techniques described in Part (c) of Table 16.34.075-2 to further minimize the impacts of development in the Water Quality Resources and HCAs.*

Table 16.34.075-2 Habitat-Friendly Development Practices*

Part (a): Design and Construction Practices to Minimize Hydrologic Impacts	
1.	<i>Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity.</i>
2.	<i>Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs.</i>
3.	<i>Incorporate stormwater management in road rights-of-way.</i>
4.	<i>Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge.</i>
5.	<i>Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.</i>
6.	<i>Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.</i>
7.	<i>Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.</i>
8.	<i>Use multifunctional open drainage systems in lieu of more conventional curb-and-gutter systems.</i>
9.	<i>Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.</i>
10.	<i>Apply a treatment train approach to provide multiple opportunities for stormwater treatment and reduce the possibility of system failure.</i>
11.	<i>Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area.</i>
12.	<i>Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site.</i>
13.	<i>Use shared driveways.</i>
14.	<i>Reduce width of residential streets, depending on traffic and parking needs.</i>
15.	<i>Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs.</i>
16.	<i>Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.</i>
17.	<i>Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments).</i>
18.	<i>Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking.</i>
19.	<i>Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible.</i>
20.	<i>Allow narrow street rights-of-way through stream corridors whenever possible to reduce adverse impacts of transportation corridors.</i>
Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage	
1.	<i>Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors.</i>
2.	<i>Use bridge crossings rather than culverts wherever possible.</i>
3.	<i>If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat.</i>
4.	<i>Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage.</i>

5. *Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.*

Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices

1. *Use native plants throughout the development (not just in HCA).*
2. *Locate landscaping (required by other sections of the code) adjacent to HCA.*
3. *Reduce light spill-off into HCAs from development.*
4. *Preserve and maintain existing trees and tree canopy coverage, and plant trees, where appropriate, to maximize future tree canopy coverage.*

* *These development practices represent the state of scientific knowledge at the time of this Code's enactment; if more effective habitat-friendly practices become available, they should be used.*

Staff Response:

As discussed within the previous finding, the applicant has proposed the minimum amount of disturbance to the onsite Water Quality Resources as possible, within the framework of providing a feasible commercial development, while meeting the required minimum residential densities of the underlying/proposed zones for the multifamily phase of the project. Furthermore, the applicant has proposed mitigation which would essentially enhance the existing Water Quality Resources within the subject site, and in the long term would provide an ecological function that is roughly equivalent to or greater than that provided at present. Staff finds that the proposed development meets the above minimization requirements. This criterion has been satisfied.

d. Mitigate. If the applicant demonstrates that there is no practicable alternative that will not avoid disturbance of a Water Quality Resource or HCA, then development must mitigate for adverse impacts to the Water Quality Resource and HCA. All proposed mitigation plans must meet the following standards.

i. The mitigation plan shall demonstrate that it compensates for detrimental impacts to ecological functions provided by HCAs, after taking into consideration the applicant's efforts to minimize such detrimental impacts through the use of the techniques described in Table 16.34.075-2 and through any additional or innovative techniques. A mitigation plan that requires the amount of planting that would be required under Section 16.34.070(C)(4) based on the amount of proposed disturbance area within the HCA, and that otherwise complies with all of the mitigation requirements in Section 16.34.070(C)(4), shall be considered to have satisfied the requirements of subsection (D)(2)(d).

ii. Mitigation shall occur on the site of the disturbance, to the extent practicable. Off-site mitigation shall be approved if the applicant has demonstrated that it is not practicable to complete the mitigation on-site and that the applicant has documented that it can carry out and ensure the success of the off-site mitigation, as described in subsection (B)(1)(b)(iv). In addition, if the off-site mitigation area is not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, the applicant shall demonstrate that it is not practicable to complete the mitigation within the same subwatershed and that, considering the purpose of the mitigation, the mitigation will provide more

ecological functional value if implemented outside of the subwatershed. Mitigation shall not be allowed outside of the Metro jurisdictional boundary.

iii. All re-vegetation plantings shall be with native plants listed on the Happy Valley Plant List (Appendix A).

iv. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream work-timing schedule.

v. A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting, and compliance with the plan shall be a condition of development approval.

e. Natural resource boundaries shall be located and staked by a qualified professional prior to any construction, demolition, grading or site clearing. Construction barrier fencing should be erected around the vegetated corridor prior to construction.

f. Protective measures and erosion control measures shall comply with the City's Erosion Control Ordinance No. 141. These measures shall remain in place throughout the development of the site.

g. No stockpiling of fill materials, parking, or storage of construction equipment shall be allowed within a significant natural resource or its buffer.

h. The types, sizes and intensities of lights must be placed so that they do not shine directly into the significant natural resource or its buffer.

i. The removal of native vegetation shall not be permitted from a resource area unless:

i. A permit has been issued by the City in accordance with the land development code; or

ii. Species to be removed are on the Happy Valley Plant List's Nuisance Plant List or Prohibited Plant List (Appendix A).

j. Plantings within the natural resource shall only be with species on the Happy Valley Plant List's native groundcovers, shrub or tree lists (Appendix A)."

Staff Response:

The applicant has indicated that the impacts to the onsite wetlands will be mitigated for through the applicant creating "offsite" wetland areas on property located within the same drainage basin as the subject site. The proposed impacts to the vegetated corridors will be mitigated for onsite. The applicant has addressed the above on-site mitigation requirements pertaining to the impacts to the onsite vegetated corridor within Exhibit 5. In addition, per Condition Number 101, the applicant will be required to place a conservation easement over the wetlands and associated vegetative corridors (including the areas that will be enhanced as "mitigation") to remain onsite. These criteria have been satisfied.

CHAPTER 16.41-ACCESS AND CIRCULATION

16.41.030 Vehicular access and circulation.

A. Access to Arterial and Collector Streets.

1. Location and design of all accesses to and/or from arterials and collectors (as designated in the transportation system plan) are subject to review and approval by the City Engineer. Where practical, access from a lower functional order street shall be required.

2. Accesses to arterials or collectors shall be located a minimum of one hundred fifty (150) feet from any other access or street intersection. Exceptions may be granted by the City Engineer. Evaluations of exceptions shall consider posted speed of the street on which access is proposed, constraints due to lot patterns, and effects on safety and capacity of the adjacent public street, bicycle and pedestrian facilities.

3. No development site that abuts an arterial or collector street shall be allowed more than one access point to that street (as designated in the transportation system plan) except as approved by the City Engineer. Evaluations of exceptions shall consider posted speed of street on which access is proposed, constraints due to lot patterns, and effects on safety and capacity of the adjacent public street, bicycle and pedestrian facilities.

4. When developed property is to be expanded or altered in a manner that significantly affects on-site parking or circulation, both existing and proposed accesses shall be reviewed under the standards in subsections (B)(1) and (B)(2) of this section. As a part of an expansion or alteration approval, the City may require relocation and/or reconstruction of existing accesses not meeting those standards.

5. When a partition, subdivision or a planned unit development abuts or contains an existing or proposed arterial street as defined within the Comprehensive Plan, the City Engineer or Planning Commission shall require reverse frontage lots, thereby precluding access to the parkway streets.

Staff Response:

Instead of accessing the subject site from the surrounding Major Arterial Facilities (172nd Avenue and Sunnyside Road), the applicant has proposed that the site will have direct access to two Collector Facilities (169th Avenue and Misty Drive) that are proposed to be constructed as part of the development of the commercially zoned lands within the Master Plan area. The applicant's proposal for site access has been reviewed by the City/County and determined to be in compliance with the above standards, as conditioned. The proposed access points to the surrounding street system have been located a minimum distance of 150 feet apart from one another. Per Condition of Approval Numbers 42 and 43, these criteria have been satisfied.

B. Driveways.

1. A driveway to an off-street parking area shall be improved from the public roadway to the parking area a minimum width of twenty (20) feet for a two-way drive or twelve (12) feet for a one-way drive but in either case not less than the full width of the standard approach for the first twenty (20) feet of the driveway.

2. Access to and from off-street parking areas shall not permit backing onto a public street, except for single-family dwellings.

[...]

5. *Driveways, aisles, turnaround areas and ramps shall have a minimum vertical clearance of twelve (12) feet for their entire length and width but such clearance may be reduced in parking structures.*

6. *No driveway shall traverse a slope fifteen (15) percent or greater at any point along the driveway length.*

7. *The location and design of the driveway within the lot frontage shall provide for unobstructed sight pursuant to the vision clearance requirements. Requests for exceptions to these requirements will be evaluated by the public works director considering the physical limitations of the lot and safety impacts to vehicular, bicycle, and pedestrian traffic.*

[...]

Staff Response:

The applicant has illustrated on their proposed Master Plan that the widths of the driveways/drive aisles within the master plan are 24 feet and do not require vehicles to back onto a public street when exiting the site. These driveways are also designed with “grades” of less than 15 percent. These criteria have been satisfied.

16.41.040 Pedestrian access and circulation.

To ensure safe, direct and convenient pedestrian circulation, all developments, except single-family detached housing (i.e., on individual lots), shall provide a continuous pedestrian and/or multi-use pathway system as shown in the City’s TSP, Happy Valley Parks Master Plan, or North Clackamas Parks District Master Plan. (Pathways only provide for pedestrian circulation; multi-use pathways accommodate pedestrians and bicycles.) The system of pathways shall be designed based on the standards in subsections A through E of this section.

A. *Continuous Pathways. The pathway system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas whenever possible. The developer may also be required to connect or stub pathways(s) to adjacent streets and private property.*

B. *Safe, Direct and Convenient Pathways. Pathways within developments shall provide safe, reasonably direct and convenient connections between primary building entrances and all adjacent streets. For purposes of this Code section, the “primary entrance” of commercial, industrial, mixed use, public and institutional buildings is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance. For residential buildings, the “primary entrance” is the front door (i.e., facing the street). For multifamily buildings in which each unit does not have its own exterior entrance, the “primary entrance” may be a lobby, courtyard or breezeway that serves as a common entrance for more than one dwelling. A determination of whether or not a bicycle or pedestrian route is safe, direct, and convenient will be based on the following criteria:*

1. *Planned bicycle and pedestrian routes do not deviate unnecessarily from a straight line and will not involve a significant amount of out-of-direction travel for likely users.*

2. *Bicycle and pedestrian routes are reasonably free from hazards and provide safe access to destinations.*

[...]

Staff Response:

The proposed pedestrian circulation system within the subject site significantly provides for safe, direct, convenient, and continuous pedestrian routes to areas within the subject site and to the adjacent street system. The applicant has also been required (Condition of Approval Number 28) to construct a portion of a regional trail (Mt. Scott Scouters Mtn. Trail Loop) along the western boundary of the master plan area. Per Condition of Approval Number 28, these criteria have been satisfied.

CHAPTER 16.42-LANDSCAPING, STREET TREES, FENCES, AND WALLS

16.42.040 Street trees and planter strips.

A. Applicability. All partitions, subdivisions, planned unit developments (PUDs), and any individual uses within any district, whether permitted by right or conditional approval, shall be required to provide street trees and, where applicable, planter strips on all public or private roadways or access drives within the project area, in accordance with the standards in subsection B below.

B. Standards.

1. All street trees and planter strips shall be installed or financially secured by the developer pursuant to the definition of a “planter strip” found within Section 16.12.030 (Definitions). Private streets or development areas that do not utilize curbside planter strips shall install street trees beyond the public sidewalk, within a public utility and street tree easement.

2. Street Tree Installation Methodology. The developer and/or builder shall submit a planter strip and street tree plan as part of the construction plan set, detailing to the greatest extent practicable the placement of street trees in conformance with all spacing requirements in regard to street intersections, street lights, driveways, fire hydrants, etc. Based on this street tree plan, the developer shall submit a street tree installation fee or liquid financial guarantee based on the methodology set forth in Section 16.50.080.

[...]

Staff Response:

The applicant has shown on their landscape plan for the proposed development (Exhibit 2, Sheet L1.0) that street trees will be provided along all public and private street frontages within the development. The applicant will be required to submit a street tree planting plan as part of their final landscape plan that significantly “conforms” to the preliminary plan. Per Condition of Approval Number 98, these criteria have been satisfied.

16.42.060 Fencing, walls and screening.

A. While fencing, walls or screening is not uniformly mandatory for all residential development, perimeter street fences, walls and earthen berms along arterial or collector streets in residential districts have significant visual impacts, particularly with respect to traffic safety, site visibility and design aesthetics affecting major transportation corridors. Therefore, perimeter street fences, walls, berms and required landscaping (between a new fence required by Table 16.42.060-1 and the public right-of-way) shall be installed by the developer prior to the issuance of structural building permits according to the standards listed in Table 16.42.060-1:

Table 16.42.060-1 Arterial and Collector Street Frontage Screening

Project Character	Development Standard
<i>Arterial or collector frontage—double front loaded (garage and front door facing interior street)</i>	<i>Option 1: Masonry or brick walls treated with anti-graffiti sealant</i>
	<i>Option 2: Solid wood fence with masonry or brick columns (maximum spacing of 24 feet between columns) with cap board and treated with anti-graffiti sealant</i>
	<i>Option 3: Solid earthen berms no greater than 25 percent in slope, with stabilizing landscaping on all areas of the slopes, and subject to the landscape plan design and construction standards of this title</i>
	<i>All fences, walls or berms shall be six feet high, however, fences taller than two and one-half feet shall not be allowed in clear vision areas. If a fence or wall is located in a utility easement, a minimum five-foot wide landscape strip shall exist (as measured back toward the structure from the property line adjacent to the street), subject to the landscape plan design and construction standards of this title. Landscaping within these areas shall be installed prior to the issuance of structural building permits.</i>
Project Character	Development Standard
<i>Arterial or collector frontage—rear loaded (front door facing arterial or collector, garage facing interior street)</i>	<i>Option 1: Masonry or brick walls</i>
	<i>Option 2: Decorative metal fence with masonry or brick columns</i>
	<i>Option 3: Solid wood fence with cap board</i>
	<i>All fences shall be at least four feet high, however, fences taller than two and one-half feet shall not be allowed in clear vision areas. If the fence or wall is located in a utility easement, a minimum five-foot wide landscape strip shall exist (as measured back toward the structure from the property line adjacent to the street), subject to the landscape plan design and construction standards of this title. Landscaping within these areas shall be installed prior to the issuance of structural building permits.</i>

B. **Criteria.** When reviewing all proposals for partitions, subdivision of land or planned unit development, or multifamily projects, the approval authority shall determine the need and desirability of fencing or screening within the development site area. The review body, may at its discretion, condition the fencing/screening along collector or arterial street frontage per one of the three design options listed in Table 16.42.060-1. In its consideration, the approval authority shall use the following criteria:

1. *The intended use for the area;*
2. *Surrounding uses and existing fence, wall or berm sections, their design, materials and appearance;*
3. *The impact of the intended use upon surrounding uses and vice versa;*
4. *The need for fencing or screening to reduce the amount of use conflicts, noise, wind, dust, vision and other forms of pollution and conflicts;*
5. *The need and desirability for the replacement of trees removed from the site as a result of the proposed development.*

Staff Response:

The applicant has not proposed a fencing plan at this time. However, there are two residentially zoned properties (Lots 3 and 4) that “front” on proposed Collector Facilities (169th Avenue and Misty Drive). Although the arterial/collector fencing that is described in the above section is typically required to be installed by the PUD developer, it would be appropriate to install said fencing as part of the multifamily residential development on Lots 3 and 4. Per Condition of Approval Number 103, these criteria have been satisfied.

16.42.070 Lighting.

A. Purpose.

1. *This section has been formulated to allow for the provision of street lighting for reasons of safety, health, peace and general welfare of all users and the citizens of and visitors to Happy Valley. It is the intent of this section that such lighting shall be provided by and through annexation of the City to Clackamas County Service District No. 5 or its successor.*

2. *The rules and regulations set forth in this section are jointly established by the City, Clackamas County Service District No. 5, or its successor, and Portland General Electric Co. (PGE) for all street lighting installation and service within the City.*

B. Street Light Design Requirements.

1. *Street lighting installations to be provided with light from dusk to dawn daily, activated by photo-electrical control.*

2. *Whenever any installation of street lighting is made, the City, in cooperation with the District and PGE, or its successor, shall approve the design for such lighting. Street lighting design shall conform to the following requirements:*

- a. *Street lighting shall be provided only on public rights-of-way;*
- b. *Illumination levels shall be guided by the recommendations of the most current edition of the “American National Standard—Standard Practice for Roadway Lighting”;*
- c. *The luminaire spacing may be modified to meet existing conditions such as utility poles, property lines, roadway geometry, trees, signs, buildings or any other obstacle within the right-of-way, at the discretion of the City.*

[...]

E. Standards for Materials and Equipment for Street Lighting.

1. *Local private and public Residential and Neighborhood Streets outside of new subdivisions/PUD’s:, and excluding properties annexed to the City after August 1, 2003 and properties located in the Rock Creek and East Happy Valley Comprehensive Plan areas: adopted June 2001.*

- a. *Poles (new or replacement): Fiberglass poles meeting PGE specifications, thirty (30) foot overall length for twenty-five (25) foot mounting height. Color to be bronze. Special poles may be required for minor arterials at the discretion of the City;*
- b. *Bracket: An eight-inch arm pursuant to PGE specifications;*
- c. *Luminaire: Shoebox luminaire having a drop lens or flat lens, as required;*
- d. *Lamp: High pressure sodium vapor. Wattage of lamps to vary with design requirements, street designation and location;*
- e. *All other standards for materials and equipment other than those set forth above shall be those established by the District in cooperation with PGE.*

2. *Local private and public Residential and Neighborhood Streets including all developments within properties annexed to the City after August 1, 2003 and within the City's Urban Growth Management Area:*

- a. *Poles (new): Decorative Westbrook pole, luminaire, lamp and all other standards for materials and equipment as established by Clackamas County Service District No. 5 and Portland General Electric.*

3. *Collector Streets, Minor Arterials, and Major Arterials. Lighting fixtures and equipment must be identified on the current Portland General Electric approved fixture list, and must be further approved by the City of Happy Valley, Public Works Director and Clackamas County Service District No. 5*

Staff Response:

The applicant's development plan was reviewed by CCSD #5 to determine the need for street lighting within the proposed development. CCSD #5 provided written comments (Exhibit A-6) that were incorporated into this report. CCSD #5 determined that the applicant will be required as part of this application to install street lighting along all public rights-of-way within and adjacent to the master plan area. The applicant will also be required to form an assessment district to pay for the operation and maintenance of the lighting. Per Condition of Approval Numbers 94-95, these criteria have been satisfied.

CHAPTER 16.43-PARKING AND LOADING

16.43.030 Automobile Parking Standards.

[...]

B. Minimum Off-Street Parking Space Requirements and Calculations.

1. *Unspecified Requirements. Vehicle and bicycle parking requirements for uses not specified in this chapter may be determined by the Planning Official based upon the requirements for similar specified uses.*

2. *Tandem parking (where two spaces are directly behind one another) may be counted as two parking spaces.*

3. *On-street parking within three hundred (300) feet of a use along its property frontage may be counted as part of the minimum spaces required.*

4. *Structured parking, fleet parking, spaces that are user paid (at a market rate approved by the City), on-street parking spaces and market rate surface parking lots are exempt from the maximum parking ratios.*

5. *If the applicant demonstrates that too many or too few parking spaces are required, applicant may seek a variance from the minimum or maximum by providing evidence that the particular use needs more or less than the amount specified in this Code.*

6. *Mixed Uses. In the case of mixed uses, shared parking between uses is encouraged. Where shared parking is not an option, the total required vehicle and bicycle parking shall be the sum of requirements of individual uses computed separately.*

7. *Transit. Existing development shall be allowed to redevelop a portion of their existing parking area for transit-oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, and similar facilities, where appropriate. The redevelopment shall not result in greater than ten (10) percent reduction in the number of required on-site vehicle parking spaces.*

8. *Where uses are mixed in a single building, parking shall be a blend of the ratio required less ten (10) percent for the minimum number of spaces. The maximum number of spaces shall be ten (10) percent less than the total permitted maximum for each use.*

9. *Fractions. When the sum of the required vehicle or bicycle parking spaces is a fraction of a space the fraction shall be rounded down to the nearest whole number.*

10. *Maximum Parking Allowed. A maximum number of vehicular parking spaces allowed exists if provided for in Table 16.43.030-1.*

11. *Parking Table. The following parking table shall be interpreted with the following notation: All square footage measurements are gross square feet of total floor area. Eighteen (18) lineal inches of bench shall be considered one seat.*

Table 16.43.030-1

Proposed Use	Minimum Parking Spaces (MC in red)	Maximum Parking Spaces (if nothing is noted, there is no maximum) ¹		Bicycle Spaces
		Zone A	Zone B	
Residential				
Multifamily dwellings containing five or more units ⁴				
Studio and one bedroom units	1.25 per dwelling			1 space per unit
Two-bedroom units	1.5 per dwelling			1 space per unit
Three or more bedroom units	1.75 per dwelling			1 space per unit
Visitor parking	0.35 per dwelling unit (if less than 100 total units); 35 spaces or 0.25 per dwelling unit, whichever is greater (if 100 or more total units)			75% of bicycle parking in multi- family development shall be covered.
Commercial Uses				
Retail sales, general and personal services	4 per 1,000 sq. ft. of gross floor area	5.1 per 1,000 sq. ft.	6.2 per 1,000 sq. ft.	0.3 per 1,000 sq. ft. of gross floor area
Shopping centers	4 per 1,000 sq. ft. of gross floor area	5.1 per 1,000 sq. ft.	6.2 per 1,000 sq. ft.	0.3 per 1,000 sq. ft. of gross floor area
Community Services, Institutional and Semipublic Uses				
Medical and dental offices and clinics	4 per 1,000 sq. ft. of gross floor area	4.9 per 1,000 sq. ft.	5.9 per 1,000 sq. ft.	0.4 spaces per 1,000 sq. ft. of floor area

[...]

Staff Response:

The applicant has provided a conceptual parking plan as part of the Concept Plan (Exhibit 2) that illustrates 768 stalls can be provided within the commercially zoned portion of the subject site, which is a number that meets the minimum requirement of 4 spaces per 1,000 square feet of gross floor area. The applicant will be required to meet the minimum parking requirements and demonstrate compliance via the provision of supporting calculations as part of future Design Review applications for all phases of the development. Therefore, per Condition of Approval Number 104, these criteria have been satisfied.

CHAPTER 16.44-SPECIAL STANDARDS FOR CERTAIN USES

16.44.090 Design standards for drive-up/drive-in/drive-through uses and facilities.

When drive-up or drive-through uses and facilities are allowed, they shall conform to all of the following standards, which are intended to calm traffic, and protect pedestrian comfort and safety.

- A. The drive-up/drive-through facility shall orient to an alley, driveway, or interior parking area, and not a street (Figure 16.44.090-1);*
- B. None of the drive-up, drive-in or drive-through facilities (e.g., driveway queuing areas, windows, teller machines, service windows, kiosks, drop-boxes, or similar facilities) are located within twenty (20) feet of a street and shall not be oriented to a street corner. Walk-up only teller machines and kiosks may be oriented to a street or placed adjacent to a street corner;*
- C. Drive-up/in queuing areas shall be designed so that vehicles do not obstruct a driveway, fire access lane, walkway, or public right-of-way; and*
- D. No more than one drive-up, drive-in, or drive-through facility shall be permitted for a distance of four hundred (400) linear feet along the same block face (same side of street).*

Staff Response:

The applicant has proposed within the Concept Plan (Exhibit 2) that two buildings (restaurant and bank) would include drive-through facilities. Although a more in-depth analysis will be provided of these buildings and their associated site plans as part of future Design Review applications, it is worthy to note at this time that the siting of these buildings illustrated on the Concept Plan are compliant with the above standards. These criteria have been satisfied.

CHAPTER 16.50-PUBLIC FACILITIES

16.50.020 General public facility standards.

A. Any property that is developed within the City will be required to improve or upgrade the public facilities and services which directly serve the subject property. The required public improvements shall be paid for directly by the landowner or developer or by other means as arranged between the developer and the provider. Where physical or topographical condition, or other factors, make the extension of a public facility concurrent with development impractical, the Planning Official or designee may require a cash payment to the City in lieu of the facility design and construction. The amount of the payment shall be equal to one hundred twenty-five (125) percent of City determined or agreed upon value for the design and construction of the facility, or the developer's proportional share thereof as calculated by the City.

B. The improvement and/or upgrading of public facilities shall be done in conformance with the design criteria, standard construction specifications and details maintained by the City Engineer, or any other authority with jurisdiction. The City's specifications, standards, and details are hereby incorporated into this code by reference. See Section 16.50.030(A)(1).

C. The need to improve or upgrade the public facilities and services as a result of the development of property shall be determined solely by the City or supplier of the facility or service. If the City makes such a determination for a City provided facility or service, such determination may be appealed to the City Council only if the council itself did not make the determination. Decisions on other determinations made by public or private utility companies, service districts, commercial businesses or other companies, agencies or organizations are outside the jurisdiction of the City and cannot be appealed to the Council nor held binding by this section.

Staff Response:

The City and its service providers have compiled a list of conditions of approval that it has deemed acceptable and work to provide the applicant with the public improvements that will be required to be constructed as part of this project. The applicant has proposed to construct two Collector Facilities (169th Avenue and Misty Drive) as part of Phase 1 of the proposed Master Plan. As demonstrated in the applicant's TIA, there is a need for the applicant to install a traffic signal at the intersection of 169th Avenue and Sunnyside Road. However, the applicant's TIA also states that the need for a traffic signal to be installed at the future intersection of Misty Drive and 172nd Avenue has not been "triggered" as a result of the proposed master plan. Although the proposed Comprehensive Plan Map/Zoning Map Amendment will result in a net decrease in trips resulting from the proposed applications and will not change the level of service on any of the neighboring transportation facilities, the City's Traffic Engineer (DKA Associates) challenges whether the TPR (and thus, future forecast) analysis is not necessary and both the City and County Traffic Engineers have written comments and conditions addressing the various inadequacies of the submitted TIA. As conditioned, with particular emphasis on the requirement for the "75 percent" or "temporary" signal installation at the planned Misty Drive/172nd Avenue, staff believes that the applicant can provide an adequate TIA and site plan. As a result, staff is recommending the City utilize the "discretion" that is described in Subsection "C" above to require the applicant to install the described traffic signal at the intersection of Misty Drive and 172nd Avenue, based on the potential deficiencies of the proposed TIA. These criteria have been satisfied.

16.50.030 Transportation standards.

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

1. All streets which are to be constructed must be designed by a professional engineer registered in the State of Oregon, and must conform to the Engineering Design and Standard Details Manual developed by the City of Happy Valley.

2. The public residential streets standards shall be considered as minimum design requirements under ideal circumstances. All public residential streets in the City shall be designed to one of the typical cross-sections found within the City's Transportation System Plan (TSP), except as provided in subsection B. The typical street cross-section shall be approved by the City Engineer (based on consultation with the City's Traffic Engineer) as part of the review process as provided in this title and shall be based on the following considerations:

- a. Street function needed within the existing proposed and future neighborhood and the City circulation networks;*
- b. Anticipated daily traffic volumes;*
- c. Individual property access requirements;*
- d. Topographic variations and the amount of cut and fill required for the proposed street;*
- e. Soil and other field conditions.*

B. Street and Road Standards.

1. Horizontal and vertical street alignment shall be designed in accordance with the City's Engineering Design and Standard Details Manual.

2. Street Design Variations. Alternate design variations from the standards found within the Engineering Design and Standard Details Manual and Transportation System Plan (TSP) or this chapter may be considered for approval by the City Engineer if one of the following conditions are found to be present:

a. Existing local conditions create unusual circumstances where standards must be exceeded such as excessive or unstable slopes, mixed land uses to utilize the same street, or a pedestrian or bikeway link is needed;

b. Existing local conditions create unusual circumstances, including, but not limited to, where standards must be reduced such as reducing sidewalks to one side of the street only, reducing street widths, reconstruction of a street in an existing neighborhood for reduction of excessive cuts and fills, or where steep cross slopes exist making reduced widths advisable and parking turnouts recommended;

c. Variation is necessary to the overall design objectives of a particular proposed development such as parking turnouts and landscaped islands and circles for traffic control.

[...]

Staff Response:

The applicant has illustrated within the plan set that was submitted as part of this application that the proposed development would not have direct vehicular access to the surrounding Major Arterial Facilities (172nd Avenue and Sunnyside Road), and would be accessed via two Collector Facilities (169th Avenue and Misty Drive) that the applicant has proposed to construct as part of Phase 1 of this project. The location of these Collector Facilities has been proposed in compliance with the City's TSP and have been designed to provide a street "stub" to the northern site boundary. It is illustrated on the applicant's Concept Plan (Exhibit 2, Sheet A1.1) that the cross-section for Misty Drive, between 169th Avenue and 172nd Avenue would be "reduced" to eliminate some impacts to an adjacent wetland. Staff concurs with the applicant's proposed reduction along the Northside of Misty Drive, the side that is adjacent to the previously mentioned wetland. However, staff does not support the reduced width for the south side of Misty Drive and has included a condition of approval (Number 26) addressing this issue. Per Condition of Approval Number 26, these criteria have been satisfied.

8. *Rights-of-Way. Prior to issuance of building permits or recordation of final plat, the City shall require dedication of rights-of-way in accordance with the City's Transportation System Plan. All dedications shall be recorded with the County assessor's office.*
[...]

Staff Response:

The applicant has proposed to dedicate right-of-way to allow for the construction of Misty Drive and 169th Avenue, as well as frontage improvements to 172nd Avenue. Staff does note that the applicant's preliminary plat (Exhibit 2, Sheet A1.4) doesn't illustrate Misty Drive extending west of 169th Avenue, to the western boundary of the subject site. As a result, staff is recommending Condition of Approval Number 27, which requires the applicant to dedicate the right-of-way for the future construction of Misty Drive to the western boundary of proposed Lot 3. Per Condition of Approval Number 27, this criterion has been satisfied.

9. *Connectivity and Block Length. The following shall govern the design and layout for blocks within all subdivisions or planned unit developments:*

- d. *Pedestrian Paths and/or Multi-Use Paths.*
 - i. *Spacing between pedestrian connections shall be no more than two hundred sixty-five (265) feet.*
 - ii. *Pedestrian paths shall be provided when full street connections are not possible because of topography, barriers such as freeways or railroads, or environmental constraints.*
 - iii. *Pedestrian access to schools, playgrounds and other community facilities shall be provided from the public right-of-way.*
 - iv. *Path design and construction shall be in accordance with the Engineering Design and Standard Details Manual and the City's Transportation System Plan.*
 - v. *Pedestrian paths shall be encompassed in a public access easement.*

vi. *Pedestrian and multi-use paths shall have an all-weather surface to City standards and will include removable bollards to prevent use by unauthorized motorized vehicles.*

vii. *In developments incorporating pedestrian paths within steep slopes, paths twenty (20) percent or greater in grade are required to incorporate stairs.*

viii. *In natural resource areas, surfaces may include gravel or bark chip; in all other scenarios, pedestrian and multi-use paths shall be constructed of improved, all weather surface.*

ix. *Pedestrian and multi-use paths are required to be maintained by a homeowner's association or equivalent maintenance organization.*

x. *Multi-use paths shall be constructed in conformance with the definition of a multi-use path within Section 16.12.030 of this title.*

[...]

Staff Response:

The proposed pedestrian circulation system within the subject site significantly provides for safe, direct, convenient, and continuous pedestrian routes to areas within the subject site and to the adjacent street system. The applicant has also been required (Condition of Approval Number 28) to construct a portion of a regional trail (Mt. Scott Scouters Mtn. Trail Loop) along the western boundary of the Master Plan area. Per Condition of Approval Number 28, these criteria have been satisfied.

17. *Sight distance at intersections shall meet the minimum requirements set by AASHTO A Policy of Geometric Design of Highways and Streets, latest edition, based upon the design speed. When a sight distance easement is needed at an intersection, an open space tract shall be dedicated to obtain the correct sight visibility. Plantings or structures in the open space tract/sight distance easement shall conform to the Engineering Design and Standard Details Manual.*

[...]

Staff Response:

The applicant's proposed access plan and street layout have been reviewed by the City Engineer, DTD and the City's Traffic Engineer. A Condition of Approval (Number 30) has been incorporated into this report that requires the applicant to provide the necessary minimum sight distances at all street intersections associated with the proposed Master Plan. Per Condition of Approval Number 30, this criterion has been satisfied.

C. *Street and Road Access Control.*

3. *Access and Traffic Signal Spacing Standards. Access and traffic signal spacing standards are defined within the City's Transportation System Plan. New development and roadway projects located on City street facilities shall meet the access and traffic signal spacing standards within the Transportation System Plan. Access points include public streets, private streets, and private commercial or residential driveways. A variation to the access and traffic signal spacing standards may be granted by the City Engineer in consultation with the City's Traffic Engineer, in areas with limited property frontage and/or environmental constraints. Any variation to these spacing standards will require an access management plan to be approved by the City Engineer. Any approved variation shall be detailed within the conditions of approval of an applicable land use application, and said variations are distinctly different from, and unrelated to, variances per the provisions of Chapter 16.71 of this title.*

[...]

Staff Response:

The City Engineer and Traffic Engineer have reviewed the applicant's Master Plan and have addressed several safety concerns related to the proposed access plan. One item of concern that was addressed was that the proposed Misty Drive lane configuration is not acceptable as shown on the site plan. Misty Drive is a Collector Facility, which requires 400 feet of "spacing" between full access driveways and 200 feet between restricted access driveways. The proposed Misty Drive accesses do not meet spacing standards, with both being proposed approximately 200 feet from the nearest intersection (measured center line to center line). To allow both Misty Drive accesses, turn restrictions will be required to provide an acceptable design for safety and operations. Based on the locations shown on the site plan, both accesses should be restricted to right-in/right-out movements (Condition of Approval Numbers 43 and 44). The western access could allow left-in movements if Misty Drive is widened to provide a center turn lane and taper. This access concept would allow trucks to enter the site at the western driveway and exit the site at the eastern driveway. A second concern that was addressed by the proposed conditions of approval is that the southbound left turn lane on 172nd Avenue at Vogel Road is not desirable, due to the close spacing to Misty Drive, and should be eliminated. As a result, Condition of Approval Number 42 requires the applicant's site plan to be revised to reflect this change. A third concern that the City Engineer and Traffic Engineer have addressed is that the site plan shows no frontage improvements on 172nd Avenue north of Misty Drive. The site plan and transportation study includes development of a medical office building on the northwest corner of Misty Drive/172nd Avenue. The site plan should be revised to include appropriate frontage improvements on 172nd Avenue along the entire site, as required by recommended Condition of Approval Number 47. Per Condition of Approval Numbers 43, 44 and 47, this criterion has been satisfied.

16.50.050 Sanitary sewer and water service improvements.

A. Sanitary Sewerage Disposal and Storm Drainage Requirements.

1. The sanitary sewerage disposal requirements for any development within the City shall be in accordance with standards established by the State of Oregon, Department of Environmental Quality (DEQ) as administered by Clackamas County. Any variances or waivers to these standards shall be granted only in accordance with established standards, criteria and procedures of DEQ.

2. All sanitary sewers shall be designed and constructed in accordance with the requirements of the Clackamas County Service District No.1 or its successor.

3. Storm drainage for any development within the City shall be in accordance with the City's Drainage Ordinance (Section 16.50.060).

Staff Response:

The applicant has provided a preliminary utility plan (Exhibit 2, Sheet C3.0) that has been review by CCSD #1 for compliance with applicable sanitary sewer and storm drainage requirements. Conditions of approval were provided by CCSD #1 and incorporated into this report. Per Condition of Approval Numbers 64-75, these criteria have been satisfied.

B. Domestic Water and Fire Protection Service Requirements.

1. All subdivisions or planned unit developments shall be served by a community or public water supply as defined and governed by state regulations. All design and construction shall be in accordance with the requirements of Mt. Scott Water District or its successor.

2. All subdivisions or planned unit developments shall have an adequate water supply for fire protection purposes as required by the fire district, and shall have fire hydrants located as required by the fire district.

3. Any proposed public or private road shall be reviewed by the appropriate fire district for compliance with all applicable and appropriate standards, and a statement of compliance shall accompany the application for any subdivision or PUD (See Section 16.50.030 and any other applicable sections).

[...]

Staff Response:

SWA has evaluated the applicant's proposal for the provision of domestic water to the proposed development. SWA has deemed the proposal acceptable and provided the City with conditions of approval that have been incorporated into this report. CFD #1 has reviewed the applicant's proposal for site access and fire hydrant spacing. CFD #1 has provided the City with conditions of approval that have been incorporated within this report. Per Condition of Approval Numbers 76-93, these criteria have been satisfied.

16.50.070 Utilities.

A. Purpose. The approval of any partition, subdivision of land or planned unit development within the City by the Planning Commission or appropriate and designated body or agent and the City Council shall be upon the express condition that all utility lines, including but not limited to those required for electric, communication, street lighting and cable television services and related facilities, shall be placed underground. Whether or not such underground facilities have supporting containers or are buried in the earth shall be determined by the utility involved in compliance with all applicable safety regulations.

[...]

Staff Response:

The applicant has been conditioned to place all utilities within the development underground and to locate said utilities within a public utility easement. Per Condition of Approval Number 96-97, this criterion has been satisfied.

CHAPTER 16.61-TYPES OF REVIEW PROCEDURES

16.61.040 Type III procedure (quasi-judicial).

A. Type III decisions apply to all quasi-judicial decisions and include, but are not limited to: non-expedited annexations; property owner or developer initiated Comprehensive Plan map/land use district map amendments or text amendments; Design Review II; home occupation permits; Class C variances; major modifications; master plans; planned unit developments; expedited and non-expedited subdivisions; and conditional use permits. With the exception of expedited annexations and master plans over twenty (20) acres in size combined with Comprehensive Plan map/land use district map amendments, the public hearing and land use decision for these applications occur before the Planning Commission. Expedited annexations are processed as an ordinance pursuant to 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 expedited annexation requests. Master plans that are paired with Comprehensive Plan map/land use district map amendments over twenty (20) acres in size receive a recommendation from the Planning Commission to the City Council. The City Council shall be the final review authority.

[...]

D. Notice of Hearing.

1. Mailed Notice. The City shall mail the notice of the Type III action. The records of the Clackamas County Assessor's Office are the official records for determining ownership. Notice of a Type III application hearing or Type II appeal hearing shall be given by the Planning Official or designee in the following manner:

- a. At least twenty-one (21) days before the hearing date, notice shall be mailed to:*
 - i. The applicant and all owners or contract purchasers of record of the property that is the subject of the application;*
 - ii. All property owners of record within three hundred (300) feet of the site;*

iii. *Clackamas County, Clackamas Fire District No. 1 or its successor in interest, Sunrise Water Authority or its successor in interest, school districts, public or private utility districts or agencies and any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application;*

iv. *Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;*

v. *Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;*

vi. *Any person who submits a written request to receive notice;*

vii. *For appeals, the appellant and all persons who provided testimony in the original decision;*

viii. *For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175; and*

ix. *For expedited annexations, all interested and necessary parties, as defined by Metro Code Section 3.09.020, shall be notified by mail.*

b. *The Planning Official or designee shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice.*

c. *At least fourteen (14) business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.*

2. *Posted Notice. In addition to any other notice, the applicant shall post the property subject to the application with at least one sign for every three hundred (300) feet of frontage. The sign shall be purchased from the City. Such sign shall remain continuously posted from at least fourteen (14) days prior to the end of the public written comment period or public hearing date. A notarized statement of posting shall be submitted to the City Recorder prior to the public hearing. Failure to post the sign may result in invalidating the final decision.*

3. *Content of Notice. Notice of appeal of a Type II administrative decision or notice of a Type III hearing to be mailed and published pursuant to subsection (D)(1) above shall contain the following information:*

[...]

Staff Response:

The process and notices described within this section have been followed/provided by the City. The application was deemed complete on March 11, 2015. 35-Day Notice was sent to the Department of Land Conservation and Development on March 11, 2015, public notice was mailed out to area residents on March 12, 2015, and newspaper notice was published on March 25, 2015. Since the applicant's proposal involves a Master Plan paired with a Comprehensive Plan Map Amendment encompassing an area greater than 20 acres, public hearings were scheduled before the Planning Commission on April 14, 2015 and City Council on May 5, 2015. Therefore, these criteria have been satisfied.

F. The Decision Process.

1. Basis for Decision. Approval or denial of an appeal of a Type II administrative decision or of a Type III application shall be based on standards and criteria in this Development Code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the Comprehensive Plan for the area in which the development would occur and to the development regulations and Comprehensive Plan for the City as a whole;

2. Findings and Conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;

[...]

Staff Response:

All applications associated with the applicant’s proposal are being processed through the City’s Type “III” quasi-judicial review procedure (see below finding for Section 16.61.060.D.2). The standards and criteria that have been used to evaluate the proposed application are found within the Statewide Planning Goals, OAR, Metro Functional Plan, Happy Valley Comprehensive Plan, and LDC. The findings of the City’s evaluation of the applicant’s proposal are provided within this report. These criteria have been satisfied.

16.61.060 General provisions—120-day rule; time computation; pre-application conferences; acceptance and review; planning official’s duties, amended applications; re-submittal; reconsiderations.

[...]

D. Acceptance and Review of Applications.

[...]

2. Consolidation of Proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings may be consolidated for review and decision at the discretion of the City.

a. For Type I, II, and III applications, if more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order: the Council, the Planning Commission, or the Planning Official or designee. When proceedings are consolidated:

- i. The notice shall identify each application to be decided;*
- ii. Applications dependent on approval of a higher ranking application decision shall precede other decisions on a proposed development. For example, a Comprehensive Plan map amendment/zone change must proceed a subdivision or PUD approval; and*
- iii. Combined findings and decisions may be made on each application.*

b. *Type II-DR appeals and Type III-DR applications shall be heard by the Design Review Board; however, when an applicant applies for more than one type of land use or development permit (e.g., Type III and III-DR) for the same one or more parcels of land, the proceedings for review and decision shall be processed consecutively, with the non-design review applications occurring first. For example, a Type III conditional use permit before the Planning Commission shall precede a Type III-DR development application.*

Staff Response:

Per Subsection “2” above, the City has opted to consolidate the review proceedings for all the applications associated with the applicant’s proposal. Per the City’s Type “III” quasi-judicial review procedure, the Planning Commission will make a recommendation to the City Council, who will render a final decision, to approve, approve with conditions or deny the proposed applications. These criteria have been satisfied.

CHAPTER 16.63-LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS

16.63.020 General requirements.

[...]

F. *Density Calculations. Density calculation is the means by which density for any parcel may be determined and ultimately developed within that parcel in a more efficient and land conscious manner. This portion of the Land Development Code provides the method for calculating the overall density for any given parcel of land which may contain both constrained land, partially constrained land and unconstrained land. The minimum and maximum number of dwelling units permitted on a parcel of land is limited by both the number of units allowed by the applicable zoning district(s) and the amount of buildable land. The need to provide infrastructure and the presence of easements for major utilities corridor also impacts the number of units permitted on a parcel of land.*

As outlined in Table 16.63.020-1, Density Calculations, Steps 1 through 4 establish the maximum number of potential dwelling units generated by a parcel of land given the zoning districts and/or overlay districts on a parcel. However, if site constraints are present there may not be enough buildable land (capacity) for all of the potential dwelling units to be constructed on the parcel. Steps 5 through 8 establish capacity in terms of the number of dwelling units that can physically be built on a parcel of land given site constraints and available buildable land. If, as a result of constrained land or partially constrained land, the total number of dwelling units generated is more than the capacity of the site, the parcel may qualify for density transfer pursuant to Section 16.63.020(F)(2).

1. *For the purposes of calculating density, land shall be categorized as follows:*
 - a. *Constrained land, which includes any land designated as:*
 - i. *Conservation slope areas (slopes twenty-five (25) percent and greater) as defined in Chapter 16.32.*
 - ii. *Potentially hazardous analysis areas (lands within twenty-five (25) feet of the top or toe of slopes of conservation slope areas) as defined in Chapter 16.32.*
 - iii. *DOGAMI potentially rapidly moving landslide hazard areas, as defined in Chapter 16.32.*
 - iv. *Water quality resource areas, as defined in Section 16.34.060.*

- b. *Partially constrained land, which includes any land designated as follows:*
 - i. *High and moderate value habitat conservation areas, as defined in 16.34.020(D)(2).*
 - ii. *Transition slope area as defined in Chapter 16.32.*
- c. *Unconstrained Land, which includes any land not designated as constrained land or partially constrained land.*

Table 16.63.020-1 Maximum Potential Number of Dwelling Units based on Zoning

Step 1: Calculate land area by category.	
<i>For the total gross area of the parcel identify the square footage of land in each of the following categories:</i>	1a = gross area of the parcel
	1b = unconstrained land within each zoning district ($1a - (1c + 1d)$)
	1c = constrained land
	1d = partially constrained land ($1e + 1f + 1g$)
	1e = transition slope area (TSA)
	1f = high value habitat conservation area (high HCA)
	1g = moderate value habitat conservation area (moderate HCA)
Step 2: Establish number of potential residential units from constrained and partially constrained land (if any).	
<i>Density for constrained land and partially constrained land is calculated at 2 dwelling units per acre.</i>	2a = $((1c + 1d) / 43,560) \times 2$
Step 3: Establish number of potential residential units from unconstrained land.	
<i>a. For each zoning district identify land needed for infrastructure:</i>	3a = the square footage of land needed for infrastructure
<i>20% of the acreage for public-rights-of-way, or remove right-of-way square footage from actual layout;* plus</i>	
<i>Any land required for stormwater treatment and detention facilities that will be placed in a separate tract.</i>	
<i>*NOTE: In the case of a partition, where the City is requiring the dedication of right-of-way along an existing roadway, the dedicated right-of-way shall not be included in the calculation.</i>	
<i>b. Subtract land needed for infrastructure from unconstrained land to establish net acres.</i>	3b = $1b - 3a$
<i>c. Density within the land use districts may be expressed as either a minimum lot size or as a maximum number of units per net acre. Therefore, the potential number of dwelling units can be calculated in one of two ways depending on the structure of the base zone. For each zoning district, calculate the appropriate number of units.</i>	3c = $(3b / 43,560) / \text{base zone density}$ or $3b / \text{base zone minimum lot size}$
Step 4: Establish number of potential residential units.	

<p>The total potential dwelling units that can be generated by a parcel includes the number of units produced by the constrained and partially constrained land (2a) and the unconstrained land (3c). Any existing dwelling units within the parcel shall be subtracted from the total to determine the number of additional allowable units.</p>		$4a = 2 + 3c$
<p>NOTE: Unit percentages above the midway mark between two numbers (for example, 6.6 units) are rounded up to the next unit number (i.e., seven units). Unit percentages below the midway mark (i.e., 6.4 units) are rounded down to the next unit number (i.e., six units).</p>		
<p>Step 5: Identify the capacity of unconstrained land.</p>		
<p>For each zoning district:</p>		
<p>a. Identify any land that is within the easement of a major utility corridor, but which is otherwise unconstrained or partially unconstrained</p>		$5a =$ the square footage of land within major utility corridors
<p>b. Subtract land within major utility corridors from net acres (3b).</p>		$5b = 3b - 5a$
<p>c. Density within the land use districts may be expressed as either a minimum lot size or as a maximum number of units per acre.</p> <p>Therefore, the potential number of dwelling units can be calculated in one of two ways depending on the structure of the base zone. For each zoning district, calculate the appropriate number of units.</p>		$5c = (5b / 43,560) \times$ base zone density or $5b /$ base zone minimum lot size
<p>d. With the use of density transfers pursuant to Section 16.63.020(F)(2), the maximum capacity of the buildable portion of unconstrained land is 175% of the density permitted by the underlying zoning district.</p>		$5d = 5c \times 175\%$
<p>Step 6: Identify the capacity of transition slope area (TSA).</p>		
<p>For all land designated as TSA, use the methodology below to determine how much is buildable and how many dwelling units could be accommodated within the buildable area.</p>		
<p>a. Determine the percentage of constrained and partially constrained land on the site.</p>		$6a\% = (1c + 1d) / 1a \times 100$
<p>b. Determine the percentage of TSA that is buildable based on the sliding scale below.</p>		
<p>% of the parcel that is constrained or partially constrained (5a)</p>	<p>% of TSA that is buildable</p>	$6b\% =$ % of TSA that is buildable based on the sliding scale
<p>0 to 19.99%,</p>	<p>30%</p>	
<p>20 to 49.99%</p>	<p>40%</p>	
<p>≥ 50%</p>	<p>50%</p>	
<p>c. Determine the square footage of TSA (1e) that is buildable.</p>		$6c = 1e \times 6b$

<p>d. The capacity of the buildable portion of TSAs is 2.0 dwelling units per acre.</p>	<p>$6d = (6c/43,560) \times 2.0$</p>
<p>e. With the use of density transfers pursuant to Section 16.63.020.F.2, the maximum capacity of the buildable portion of TSAs can be increased to 3.5 dwelling units per acre.</p> <p>NOTE: 3.5 du/ac equals 175% of the base density of 2 du/ac.</p>	<p>$6e = (6c/43,560) \times 3.5$</p>
<p>Step 7: Identify the capacity of habitat conservation areas (HCA).</p>	
<p>For all land designated as high or moderate HCA, use the methodology below to determine how much is buildable and how many dwelling units could be accommodated within the buildable area.</p> <p>Determine the square footage of high HCA (1f) and moderate HCA (1g) that is buildable:</p>	
<p>a. High HCA = 10% buildable;</p>	<p>$7a = 1f \times 10\%$</p>
<p>b. Moderate HCA = 15% buildable.</p>	<p>$7b = 1g \times 15\%$</p>
<p>c. The capacity of the buildable portion of HCAs is 2.0 dwelling units per acre.</p>	<p>$7c = ((7a + 7b)/43,560) \times 2.0$</p>
<p>d. With the use of density transfers pursuant to Section 16.63.020(F)(2), the maximum capacity of the buildable portion of high and moderate HCAs can be increased to 3.5 dwelling units per acre.</p>	<p>$7d = ((7a + 7b)/43,560) \times 3.5$</p>
<p>NOTE: 3.5 du/ac equals 175% of the base density of 2 du/ac.</p>	
<p>Step 8: Identify total capacity and potential for density transfer.</p>	
<p>Total number of dwelling units generated by the zoning on the site</p>	<p>$4a$</p>
<p>The capacity of the parcel without consideration of any potential density transfer is the sum of the capacity in dwelling units from the buildable portions of unconstrained (5c), TSA (6d) and HCA (7c) lands</p>	<p>$8a = 5c + 6d + 7c$</p>
<p>The capacity of the parcel including all potential density transfers is the sum of the capacity in dwelling units from the buildable portions of unconstrained (5d), TSA (6e) and HCA (7d) lands. This represents the total number of units that can be built on the site if density transfers are available pursuant to Section 16.63.020(F)(2)</p>	<p>$8b = 5d + 6e + 7d$</p>
<p>Minimum density represents the minimum number of dwelling units required to be built on a parcel of land. It is based on 80% of the capacity of the buildable unconstrained land (5c). There is no minimum density requirement for constrained or partially constrained lands</p>	<p>$8c = 5c \times 80\%$</p>
<p>Number of dwelling units that can be transferred TO the site (if qualified)</p>	<p>$8d = 8b - 8a$</p>
<p>Number of dwelling units that can be transferred FROM the site (if qualified)</p>	<p>$8e = 4a - 8c$</p>

<i>Number of dwelling units that can be transferred FROM the site after full use of density transfer within the site</i>	$8f = 4a - 8b$
Step 9: <i>Calculate the net developable area, for purposes of FAR and open space calculations.</i>	$9a = 3b - 1c$

[...]

Staff Response:

The applicant has submitted density calculations that were prepared in accordance with the process outlined in the above section and support the 168-unit site plan for the residentially zoned portion of the subject site. Therefore, these criteria have been satisfied.

16.63.060 Approval criteria—Preliminary plat.

A. General Approval Criteria. The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with the applicable Development Code sections and all other applicable ordinances and regulations. At a minimum, the provisions of this article, and the applicable chapters and sections of Article 16.2 (Land Use Districts), Article 16.3 (Specific Area Plan Districts and Overlay Zones), and Article 16.4 (Community Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Article 16.7;

Staff Response:

As demonstrated in this report, the applicant has met the requirements of all applicable sections of the LDC. This criterion has been satisfied.

2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;

Staff Response:

The applicant will be required to submit a final plat to the Clackamas County Surveyor’s Office, which will determine if the name on the plat is appropriate. Per Condition of Approval Number 2, this criterion has been satisfied.

3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;

Staff Response:

The applicant’s proposal was determined to provide congruity with all adjoining developments, by all the means listed above, and all proposed public improvements and dedications are identified on the preliminary plat (Exhibit 2, Sheet A1.4). Therefore, this criterion has been satisfied.

4. *All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat; and*

Staff Response:

The applicant has identified all new private common areas on the preliminary plat as individual tracts of land. This criterion has been satisfied.

5. *Evidence that any required State and Federal permits have been obtained, or shall be obtained before approval of the final plat;*

Staff Response:

The applicant has provided, or has been conditioned to provide, all necessary State and Federal permits to facilitate the proposed development. Per Condition of Approval Number 75, this criterion has been satisfied.

6. *Evidence that improvements or conditions required by the City, road authority, Clackamas County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; and*

Staff Response:

The City has reviewed the applicant’s proposal and provided a list of conditions of approval that appear to be reasonable for the applicant to meet. This criterion has been satisfied.

7. *If any part of the site is located within a specific area plan district, overlay zone, or previously approved master planned development, it shall conform to the applicable regulations and/or conditions.*

Staff Response:

A portion of the subject site is subject to the City’s requirements for lands within the Natural Resource Overlay Zone and Steep Slopes Development Overlay Zone. The applicant has proposed impacts to these areas and has submitted an ERP addressing the requirements of Chapters 16.32 and 16.34. Staff Responses to these requirements were incorporated into this report. Per previous findings, this criterion has been satisfied.

B. Layout and Design of Streets, Blocks and Lots. All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:

1. All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (Article 16.2) and Section 16.50.030, Transportation standards, with the exception of lots created specifically for the purposes of fee acquisition in conjunction with either public or private utility projects, which may be any size.

2. Setbacks shall be as required by the applicable land use district (Article 16.2).

3. Each lot shall conform to the standards of Chapter 16.41, Access and Circulation.

4. Landscape or other screening may be required to maintain privacy for abutting uses. See Article 16.2, Land Use Districts, and Chapter 16.42, Landscaping.

5. In conformance with the Uniform Fire Code, a twenty (20) foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than one hundred fifty (150) feet from a public right-of-way or approved access drive. See Chapter 16.41, Access and Circulation.

6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.

7. All applicable engineering design standards for streets, utilities, surface water management, and easements shall be met.

8. All cuts and fills shall comply with the standards and provisions in Section 16.50.100.

[...]

Staff Response:

The applicant's proposal has been reviewed for compliance with the above standards. Compliance with these standards is demonstrated within previous "Staff Responses" to the listed sections of the LDC. These criteria have been satisfied.

D. Minimum Improvement Standards. All new public street improvements shall conform with the adopted minimum installation, material and construction standards for all public street improvements pursuant to Chapter 16.50, the Happy Valley Transportation System Plan, and the City's Engineering Design Standards Details Manual.

1. All new streets within proposed subdivisions and PUDs shall be developed as City streets regardless of the size of the total development or the average lot size within the development; such developments may have private roads developed within them as approved by the City and pursuant to the criteria of Section 16.50.030; and

a. It shall clearly state on the final plat all the reservations and restrictions relating to such private roads;

b. A private road shall provide access to no more than five dwelling units. Private roads may not constitute the total length of roads within a planned unit development;

c. The improvement standards to which such private roads are to be developed shall be determined by the City's Engineering Design and Standard Details Manual;

d. To insure maintenance of such private roads there shall be established within the organization of any land division a legal and permanent procedure to insure said maintenance. Such procedure shall be prepared by the developer and/or property owner and approved by the City.

2. *All City streets within all proposed partitions, subdivisions and planned unit developments shall be a continuation of a County road or City street. A private street may serve a partition if the extension of a public street is not possible, but may provide access for no more than five total dwelling units and must meet the private street standards as described in subsection (D)(1)(c) of this section. All new City streets shall be compatible with and in accordance with the City's existing street development pattern and the adopted transportation plan.*

Staff Response:

The applicant has illustrated within the plan set that was submitted as part of this application that the proposed development would not have direct vehicular access to the surrounding Major Arterial Facilities (172nd Avenue and Sunnyside Road), and would be accessed via two Collector Facilities (169th Avenue and Misty Drive) that the applicant has proposed to construct as part of Phase 1 of this project. The location of these Collector Facilities has been proposed in compliance with the City's TSP and have been designed to provide a street "stub" to the northern site boundary. It is illustrated on the applicant's Concept Plan (Exhibit 2, Sheet A1.1) that the cross-section for Misty Drive, between 169th Avenue and 172nd Avenue would be "reduced" to eliminate some impacts to an adjacent wetland. Staff concurs with the applicant's proposed reduction along the Northside of Misty Drive, the side that is adjacent to the previously mentioned wetland. However, staff does not support the reduced width for the south side of Misty Drive and has included a condition of approval (Number 26) requiring this position. Per Condition of Approval Number 26, these criteria have been satisfied.

E. County Surveyor's Requirements. The Clackamas County Surveyor shall require that all surveying and monumentation be pursuant to the appropriate State statutes.

Staff Response:

The applicant will be required to submit a final plat for the proposed partition to the Clackamas County Surveyor's Office to ensure compliance with all state statutes pertaining to surveying and monumentation. Per Condition of Approval Number 2, this criterion has been satisfied.

F. Conditions of Approval.

1. *The City may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. See Chapter 16.50 (Public Facilities).*

2. *As a condition of any approval, a waiver of remonstrance against the formation of a local improvement district for the construction, improvement or extension of Level I and Level II services which benefit the property owner shall be required by the City.*

3. *In situations where this Code requires the dedication of real property to the City, the City shall either: (a) include in the written decision evidence that shows that the required property dedication is directly related to and roughly proportional to the projected impacts of the development on public facilities and services, or (b) delete the dedication as a condition of approval.*

Staff Response

Staff has applied conditions of approval deemed necessary and appropriate based on internal review and the review of each service provider. These criteria have been satisfied.

16.63.130 Planned unit development.

[...]

D. Area of Applicability. PUDs may be established in residential, commercial or industrial districts on parcels of land, which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of this section.

E. All residential developments shall be developed as PUDs pursuant to the provisions in Section 16.63.130 whenever one or more of the following criteria apply:

1. Any site larger than two acres where a minimum of ten (10) percent of the site contains environmentally constrained areas subject to Chapters 16.35 and/or Sections 16.34.010 through 16.34.080;

2. All properties, either individual tax lots or contiguous lots under common ownership, consisting of fifty (50) or more acres on which are proposed to be developed more than one hundred (100) units;

3. Any development in a residential district proposing more than four manufactured homes or twenty (20) percent attached or common-wall units;

4. Any development utilizing density transfer pursuant to the provisions of Chapter 16.63.

Staff Response:

A PUD is required per Subsection 1, above. By the very nature of the current submittal, these criteria have been satisfied.

F. Necessity for Application. For the purpose of considering any planned unit development, the developer shall apply to the City at any time after the preapplication conference and review, using such forms as may be provided for the processing of a preliminary planned unit development. If the planned unit development includes a subdivision, one form for both purposes will be satisfactory.

G. Filing Requirements.

1. These requirements shall be the same as found in Section 16.63.050.

2. At the time of formal application, the developer shall submit the following plan elements in detailed graphic form:

a. Proposed land use and densities (see Section 16.63.020(F) for density and calculations);

b. Building types and densities;

c. Circulation pattern;

d. Parks, playgrounds, open space, land dedication and easements;

e. Existing natural features;

f. Related land maps (topography, etc.);

g. Location, arrangement, etc. of auto parking;

h. Preliminary renderings of typical buildings;

i. Preliminary tree planting schedule;

j. Preliminary landscape plan in accordance with the requirements of Chapter 16.42.

3. At the time of formal application, the developer shall submit the following program elements in detailed written form:

- a. Proposed ownership pattern;
- b. Operation and maintenance proposal;
- c. Waste disposal facilities;
- d. Lighting;
- e. Water supply;
- f. Tables illustrating acres for dwellings, off-street parking, streets, parks, playgrounds, dedicated lands, open space, schools and percentages of the gross and net development areas for each;
- g. Tables illustrating overall density, density by dwelling types and details of any density bonus or calculations;
- h. Preliminary documents providing for maintenance of open space and dedication of public spaces, development rights, easements, drainageways and land dedications or fees in lieu thereof;
- i. General time table of development;
- j. Qualifications of Proposed Design Team. All master plans for residential and neighborhood planned unit developments shall be prepared by professionals qualified in at least two of the four following: (1) a licensed architect, (2) a registered professional engineer, (3) a registered landscape architect, or (4) a member of the American Planning Association;
- k. Proof of authorization for the agent to act on the landowner's behalf, if appropriate, on a form supplied by the City, with all signatures notarized;
- l. Stages of development and construction.

[...]

Staff Response:

The applicant has provided a complete application package that includes all of the above submittal requirements. These criteria have been satisfied.

I. Preliminary Approval.

1. As found in Section 16.63.060;
2. In considering the preliminary planned unit development proposal, the Planning Commission shall apply the following additional criteria when making a determination:
 - a. Density.
 - i. The number of dwelling units permitted in a development is based on the net development area which is determined by subtracting twenty (20) percent of the gross development area and dividing by the minimum lot area per dwelling unit as required by the development district,
 - ii. Where any site contains more than one development district within its project boundaries, any density calculations shall be applied in the same proportion as that of the development district which are represented in the project area,

iii. *In any planned unit development, the total siting of density as calculated through Section 16.63.020(F) in any steep slopes and natural resource overlay area shall not exceed the net density of the applicable district.*

Staff Response:

The applicant has submitted density calculations that were prepared in accordance with the process outlined in section 16.63.020.F and support the 168-unit multifamily development phase. Therefore, these criteria have been satisfied.

b. *Open Space.*

i. *All planned unit developments shall have a minimum of twenty (20) percent of the development's gross land area dedicated to public or commonly held open space and/or recreational area. The extent to which any type of open space satisfies the total open space requirement shall be in the sole discretion of the City. This twenty (20) percent requirement does not affect the density calculation.*

(A) *Publicly dedicated open space must be adequate to carry out the City's parks and recreation master plan, at the determination of the City. In all other instances, lands which are least suitable for development and/or which offer the greatest natural habitat potential should be given the highest priority for dedication as open space. Dedicated open space shall be suitable for linkage through a network of trails, bike paths, and greenways.*

(B) *Considering the existing and planned public parks within the City, publicly dedicated open spaces within any PUD should focus on activities not otherwise available or planned for in existing and planned public parks.*

ii. *Land area to be used for scenic, landscaping or open recreational purposes within the development shall not include streets, rights-of-way, driveways or parking spaces.*

iii. *All open space areas shall be improved, preserved and maintained as a natural area and/or recreation area. All proposed open space areas that are identified as significant natural resources by the City's significant wetlands and riparian corridors map, the urban forestry plan tree inventory, or any other ordinance of the City, shall be enhanced, preserved and maintained as natural areas. Prior to preliminary plat approval, the applicant shall submit a landscape plan showing the required elements detailed below in the corresponding subsections c, Natural area and d, Recreational area, for approval by the Planning Commission. Landscape plans shall incorporate existing natural features wherever possible.*

iv. *All trees, except hazard trees and trees in utility or access easements, over six inches in diameter at breast height (DBH) shall be retained on the site regardless of proposed use and incorporated into the required landscape plan. Open space areas shall provide assurance to the City for one hundred twenty-five (125) percent of the estimated cost of the project through a bond, escrow account or certified letter of credit. Open space areas shall be completed as shown in the approved plans and inspected and approved by the City prior to final approval ("walk-through") of the infrastructure improvements, or shall be provided for by financial guarantee. Assurances for the open space improvements will be held for two years after improvements are made to assure plant survival. Plants that do not survive shall be replaced by the applicant during the first two years after the open space is improved. The applicant may obtain park system development charge credits for open space areas that are*

improved according to this section and then dedicated to the City. The City reserves the right to refuse offers of dedication.

v. *For all natural features on the site, including streams, intermittent streams, ponds and/or wetlands, the applicant shall obtain verification from the appropriate State and Federal agencies of jurisdiction over the feature. If a State and/or Federal agency claims jurisdiction over a natural feature on the site, and where the requirements of this chapter conflict with the requirements of the regulatory agency(s), the most stringent requirements shall apply.*

[...]

d. *Recreational Area. Proposed recreational uses may be passive or active recreational activities. The recreational use shall be approved by the Planning Commission and shall conform with the City's park master plan and transportation system plan. Passive recreational facilities proposed in a natural area are subject to the requirements of the Natural Area (subsection (I)(b)(5)(A) of this section). Active recreational facilities in a recreational area are subject to the criteria of this subsection and shall not abut arterial roadways. Recreational facilities located near an arterial roadway shall be separated by a minimum distance of twenty (20) feet, to include landscaping per subsection (I)(2)(d)(i) and a minimum six-foot tall solid wood fence. The required landscape plan for a recreational area shall be prepared by a certified professional landscape architect or other qualified professional and shall include:*

i. *Planting plans to include a mix of at least three species each of groundcover, shrubs, and trees. Plantings shall not include any plants on the City's nuisance plant list (see Happy Valley Plant List, Appendix A). Plantings shall provide for at least fifty (50) percent groundcover of the site and shall provide for at least twenty (20) percent of the site being planted with a mix of trees and shrubs. Use of native plant species is encouraged;*

ii. *A plan for removal of harmful or invasive species, as identified by in the nuisance or prohibited plants sections of the Happy Valley Plant List (Appendix A), on the site detailing specific treatments, timing, and long-term maintenance to rid the site of invasive species. All harmful or invasive species on the site shall be removed prior to dedication of the site to the homeowner's association or the City. The use of herbicides for controlling harmful and invasive species should be minimized. The following best management practices are required where herbicide application is deemed necessary by the professional preparing the landscape plans:*

(A) *If herbicides, pesticides and/or fertilizers are proposed, an evaluation of application methods, effects on target and nontarget species, and the potential impacts to aquatic and terrestrial systems shall be included in the plan. Consider persistence, soil/water mobility, toxicity and plant uptake when selecting appropriate chemicals,*

(B) *Treatments for the control or removal of invasive plants in riparian/wetland areas shall be limited to hand or wick applications by qualified personnel,*

(C) *Apply chemicals during calm, dry weather to avoid transport from target areas by wind and/or water. Avoid applications where irrigation water may wash chemicals from target areas,*

(D) *Maintain unsprayed buffer areas near aquatic habitats and other sensitive areas. A minimum two hundred (200) foot radius, no-spray buffers shall be maintained around all known populations of sensitive, threatened and endangered plant and animal species,*

(E) Application shall not occur in the vicinity of wetlands or ponds from January through June to minimize the potential for adverse impacts to amphibians during the breeding and egg development periods;

iii. A description of the recreational use provided and a plan for installing the associated capital improvements to provide the recreational use. Plans shall include facilities for pedestrian access to the use and around the site. All pedestrian connections shall conform to the City's transportation system plan;

iv. Plans for an irrigation and drainage system to serve the site. Timed irrigation systems and drainage systems shall be installed prior to landscaping the site;

v. A ten (10) year maintenance plan for the open space with cost projections to be provided to the future owners of the property (the homeowner's association or Happy Valley). If the open space is dedicated to the homeowner's association, the codes, covenants, and restrictions of the PUD shall include a provision requiring the homeowner's association to abide by the approved ten (10) year maintenance plan or submit an alternative plan to the Planning Official or designee for approval. If the open space is dedicated to the City, the City Public Works Department agrees to abide by the ten (10) year maintenance plan or provide an alternative plan to be approved by the Planning Official or designee.

[...]

Staff Response:

The LDC requires applicants who propose a development as a PUD to dedicate 20 percent of the total site area as usable open space. As described within the "Master Plan" section of the narrative, above, due to the "mixed-use" nature of the applicant's proposal, the PUD usable open space requirement is met via the proposed Master Plan, which provides approximately five acres of usable open space, equating to approximately 14 percent of the gross acreage of the subject site. The applicant has submitted as part of their proposal a landscape plan that illustrates some of the proposed amenities within the open space/recreational area (Exhibit 2, Sheet L1). These amenities include: walking paths; picnic areas, seating/viewing areas. Therefore, these criteria have been satisfied.

e. Lot Size. Minimum area, width, depth, frontage and setback requirements may be less than development district minimums if in accordance with the general development plan, except that the garage of any structure shall not be located less than twenty (20) feet from a public right-of-way. Lots which are located on the perimeter of a proposed development in all residential zones except PMU, which are adjacent to lots in an R-10, R-15, R-20, or R-40 zone upon which are constructed single-family dwellings, may not be less than seventy-five (75) percent of the average lot area per unit of the immediately abutting lots, or the development district minimum lot size of the subject parcel, whichever is less. If adjacent lands are undeveloped or minimum densities on the subject parcel cannot be met due to natural resource protection requirements, this provision does not apply. All PUD development involving clustered development or attached housing shall be subject to a perimeter setback equal to the minimum rear yard setback of the adjacent residential district.

[...]

Staff Response:

The applicant has proposed to comply with the development standards for the MCC zoned portion of the development site and has not “opted” to utilize the provisions of this section for flexible development standards, as the development standards for the underlying land use districts are fairly non-restrictive. This criterion has been satisfied.

CHAPTER 16.65 MASTER PLANNED DEVELOPMENTS

[...]

16.65.020 Applicability.

A. A master plan prepared in accordance with this chapter is required for the following:

1. A quasi-judicial application to rezone sites (twenty (20) acres and larger). A preliminary master plan may be submitted for review concurrently with the zone change application or at a later date; however, in no case shall a change to the official zoning map become effective until a final master plan has been approved and effective for the site.

2. Master plans within these areas shall encourage mixed use developments which will provide commercial retail and office employment opportunities, and compact residential neighborhoods close to the commercial services within the City.

3. Development within the Regional Center Mixed Use (RC-MU) zone.

B. An applicant may elect to develop a project as a master planned development in compliance with the requirements of this chapter provided the site is at least five acres in size. A site may be within any zone or combination of zones and the master plan may allow any combination of uses permitted by the underlying zone or zones.

Staff Response:

The applicant has proposed a Comprehensive Plan Map/Zoning Map Amendment as part of a mixed-use development that encompasses more than 20 acres. Therefore, the applicant has also submitted a Master Plan, to be processed concurrently with the PUD and ERP’s. These criteria have been satisfied.

16.65.030 Review and approvals process.

A. Review Steps. There are two required steps to master plan approval, which may be reviewed individually or combined into one package for concurrent review:

- 1. The approval of a preliminary master plan; and*
- 2. The approval of a final master plan.*

Staff Response:

The applicant has requested approval of a preliminary master plan for the entire 34.6 acre subject site and a final master plan for Phase 1 of the development. Phase 1 consists of the MCC zoned portion of the development. This criterion has been satisfied.

B. Approval Process.

1. The preliminary master plan shall be reviewed using the Type III procedure in Section 16.61.040, the submission requirements in Section 16.65.050, and the approval criteria in Section 16.65.060.

2. The final master plan shall be reviewed using the Type II procedure in Section 16.61.030, to ensure substantial compliance with the approved preliminary plan and the criteria in Section 16.65.090.

C. The preliminary master plan may be reviewed concurrently with other applications including a comprehensive plan map, specific area plans, land use district map and text amendments.

Staff Response:

The applicant has requested that the Preliminary Master Plan for the proposed development be processed concurrently with: the final master plan for Phase 1; the PUD for the entire site; a Comprehensive Plan Map/Zoning Map Amendment for the entire site; and two ERP's. These applications will be evaluated utilizing the City's Type "III" review process.

D. A land division, design review, conditional use permit or variance application that implements the various phases of proposed development shall not be submitted concurrently with the preliminary master plan. These applications may be submitted after final master plan approval becomes effective, as described in Section 16.65.100.

Staff Response:

The applicant has proposed to process the Design Review applications for the various structures shown on the Master Plan as separate applications. The applicant has also proposed a "land division" as part of the PUD application that has been submitted for concurrent review. Being that this PUD does not implement any of the phases proposed within the applicant's Master Plan, this criterion has been satisfied.

E. A neighborhood meeting is required prior to submittal of a preliminary master plan application. In order to provide the opportunity for early citizen involvement in the master plan review process, the applicant shall provide notice and invite citizen participation by initiating a neighborhood meeting. The meeting shall be scheduled after the pre-application meeting and prior to the formal submittal of a preliminary master plan application. The applicant shall be responsible for scheduling and organizing the meeting, arranging the meeting place, notice and all related costs. The notice shall provide a brief description of the proposal and shall be mailed to those property owners and residents within three hundred (300) feet of the proposed master plan. The meeting may be held in any public or private building capable of accommodating the proceeding. The building selected should be in the vicinity of the proposed development. The applicant shall submit a summary of the questions raised and responses made at this meeting with the preliminary master plan application as required in Section 16.65.050.

Staff Response:

The applicant has provided meeting notes from a neighborhood meeting that occurred on September 20, 2013 regarding the subject proposal. This criterion has been satisfied.

16.65.040 Modification of district standards (Article 16.2) and community design standards (Article 16.4).

The district standards in Article 16.2 and design standards of Article 16.4 may be modified through the master plan approval without the need for variances, except that the following standards within Articles 16.2 and 16.4 shall not be modified:

- A. Public improvement standards and engineering design criteria shall not be modified without variance to such standards approved by the City Engineer. The City may grant such variances concurrently with other planned development approvals;*
- B. Residential densities, as allowed under the Comprehensive Plan; and*
- C. Industrial and commercial uses, if not otherwise allowed in a residential district, shall not be allowed in a residential district master plan.*

Staff Response:

The applicant has not proposed to modify any development standard found within Articles 16.2 or 16.4 and has not requested to modify the items listed in Sections A-C above. Furthermore, the applicant has proposed to utilize the development standards of the underlying MCC zone for the proposed shopping center and has not requested customized or reduced development standards for the multifamily or employment zoned properties. These criteria have been satisfied.

16.65.060 Preliminary master plan approval criteria.

The City shall make findings that all of the following criteria are satisfied when approving or approving with conditions, the preliminary master plan. The City shall make findings that not all of the criteria are not satisfied when denying an application:

- A. Comprehensive Plan. All relevant provisions of the Comprehensive Plan are met;*
- B. Articles 16.2, 16.3 and 16.4 Standards. All of the land use, development, and design standards contained in Articles 16.2, 16.3 and 16.4 are met, except as may be modified in Section 16.65.040;*
- C. Open Space. A residential master plan shall contain a minimum of twenty (20) percent useable open space and a nonresidential master plan shall contain a minimum of ten (10) percent useable open space. A mixed use master plan shall contain a percentage of open space based on the proportional amount of gross site area used for residential and nonresidential uses. This requirement may be satisfied by Section 16.63.130, if part of a planned unit development. Public open space shall be integral to the master plan. Plans shall emphasize public gathering places such as plazas, neighborhood parks, trails, and other publicly accessible spaces that integrate land use and transportation and contribute toward a sense of place. Where public or common private open space is designated, the following standards apply:
 - 1. The open space area shall be shown on the final plan and recorded with the final plat or separate instrument, and**

2. *The open space shall be conveyed in accordance with one of the following methods:*

a. *By dedication to the North Clackamas Parks and Recreation District (NCPRD) as publicly owned and maintained open space. Open space proposed for dedication to NCPRD must be acceptable to NCPRD with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide a level one environmental assessment), and budgetary and maintenance abilities,*

b. *By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity, with NCPRD retaining the development rights to the property,*

The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to NCPRD;

D. *Transportation System Capacity. With the addition of traffic from the proposed development, there is either sufficient capacity in the City's existing transportation system to accommodate the development proposed in all future phases or there will be adequate capacity by the time each phase of development is completed. Adopted State and/or local mobility standards, as applicable, shall be used to determine transportation system capacity;*

E. *Circulation and Parking. Circulation and parking have been designed to facilitate traffic safety and avoid congestion and to provide bicycle and pedestrian connectivity within the property and to nearby transit stops and public areas;*

F. *Public Utilities. Existing public utilities either have sufficient capacity to support the proposed development in all future phases adequately, or there will be adequate capacity available by the time each phase of development is completed;*

G. *Physical Features. Physical features, including, but not limited to slopes subject to the City's Steep Slopes Development Overlay, areas with susceptibility to flooding, significant clusters of trees and shrubs, riparian, wildlife, and wetland resources subject to the City's Natural Resource Overlay Zone, rock outcroppings and open spaces and areas of historic and/or archaeological significance will be preserved to the extent feasible;*

H. *Phasing Plan. The Phasing Plan demonstrates that the construction of required public facilities shall occur in a logical sequence, either in conjunction with, or prior to each phase, or that there are appropriate financial guarantees to ensure the phased public facilities construction will occur;*

I. *Compatibility with Adjacent Uses. The proposed preliminary master plan contains design elements including, but not limited to landscaping/screening, parking/traffic management, and multi-modal transportation that limit and/or mitigate identified conflicts between the site and adjacent uses;*

J. *Planned Mixed Use Areas. The following list provides a list of objectives of the master plan portion of this title and shall be utilized as general guidelines when evaluating master plans:*

a. *To provide for a desirable urban living and working environment with a compact urban form, and a mixture of uses,*

b. *To provide for the protection of natural resources, while meeting the employment and population targets set by the Metro Urban Growth Management Functional Plan for the City of Happy Valley,*

c. *To encourage developers to use a more creative and flexible approach in the development of commercial and residential areas within the City,*

d. *To provide a process that allows creativity and flexibility.*

Staff Response:

As demonstrated within previous “staff responses”, the applicant’s Master Plan meets or is conditioned to meet all applicable requirements found within the City’s Comprehensive Plan and LDC, including applicable sections of Articles 16.2, 16.3 and 16.4, in addition to Chapter 16.63. The applicant has proposed to dedicate more than 14 percent of the subject site as usable open space and has illustrated within Exhibit 2 (Sheets A1.2, C4.0 and L1.0) the proposed amenities. Per the City’s proposed conditions of approval, these criteria have been satisfied.

16.65.070 Administrative procedures.

A. Preliminary Master Plan—Conditions. The City may attach conditions as may be reasonably necessary to the preliminary master plan in order to ensure compliance with the approval criteria in Section 16.65.060, and with all other applicable provisions of this Code. All conditions shall be satisfied prior to final master plan approval. Certain conditions may require an adequate financial guarantee in a form acceptable to the City to ensure compliance.

B. Time Limit. Within two years after the date of approval of the preliminary master plan, the applicant or the applicant’s successor shall prepare and file with the City a final master plan, in conformance with Section 16.65.080.

C. Extension. The City may, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year provided that:

- 1. No changes have been made on the preliminary master plan as approved;*
- 2. The applicant can show intent of applying for final master plan review within the one-year extension period;*
- 3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based; and*
- 4. The extension request is made before expiration of the original approval period.*

Staff Response:

The City has incorporated into this report a list of conditions of approval that have been crafted to ensure that the applicant’s proposal complies with the applicable state, regional and local development regulations. If the applicant’s proposed Master Plan is approved, the City will amend its combined Comprehensive Plan Map/Land Use District Map (“one-map” system) to reflect that the subject site has been partially rezoned per the applicant’s Master Plan (Condition of Approval Number 1). The applicant has simultaneously submitted their conceptual and final development plans for Phase 1 and will have two years to file a final Master Plan for the remainder of the development. Per Condition of approval Numbers 1 and 3, these criteria have been satisfied.

16.65.090 Final master plan approval criteria.

The City may approve the final master plan upon finding that the final plan conforms to the preliminary master plan and required conditions of approval. Minor changes to the approved preliminary master plan may be approved with the final master plan, when the approval body finds that the modification(s) is/are consistent with the criteria in subsections A through G below. Changes exceeding those in subsections A through G below, must be reviewed as major modifications under Section 16.66.030.

- A. Increased residential densities (overall or reallocated between development phases) by no more than twenty (20) percent, provided such increase conforms to the Comprehensive Plan and underlying district;*
 - B. Increase in lot coverage or impervious surface (overall or reallocated between development phases) by no more than fifteen (15) percent over that which is approved;*
 - C. Reduction in open space or landscaping by no more than ten (10) percent provided the minimum open space requirements in Section 16.65.060(C) are still met;*
 - D. Increase in overall automobile parking spaces by no more than ten (10) percent;*
 - E. Land Use. No change in land use shall be permitted without a major modification to the concept plan;*
 - F. Proposals to add or increase lot coverage within natural resource areas or areas subject to a potential hazard shall require a major modification to the concept plan;*
 - G. Major changes in the location of buildings, proposed streets, parking lot configuration, utility easements, and landscaping or other site improvements shall require a major modification pursuant to Chapter 16.66. "Major" in this subsection means by more than one hundred (100) feet, or fifteen (15) percent, relative to setbacks; and*
 - H. Other substantial modifications not listed in subsections A through G above, shall require approval of a major modification, in conformance with Chapter 16.66.*
- [...]*

Staff Response:

As discussed in the previous finding, the applicant has simultaneously submitted their conceptual and final development plans for Phase 1 and will have two years to file a Final Master Plan for the remainder of the development. If the applicant's proposal is approved, the City will perform an evaluation of the future final Master Plan and any modifications that might be proposed, as described in the above section. These criteria have been satisfied.

16.65.120 Final master plan—Modifications.

A. Proposed final master plan modifications shall be reviewed in accordance with Chapter 16.66 Modifications to Approved Plans and Conditions of Approval.

B. An applicant may also request an extension of the final master plan time limit beyond the maximum approved time limit of seven years. In no case shall the extension exceed fifteen (15) years from the date of final master plan approval as specified in Section 16.65.100(A). An extension request shall be filed in writing with the City at least sixty (60) days prior to the expiration of the initial seven-year period or any subsequently approved extensions. The time line extension may be granted provided the applicant has made reasonable progress in the implementation of the final master plan and public services and facilities remain available. A request for a time extension shall be processed as minor modifications in accordance with Section 16.66.040.

Staff Response:

Per the above section, the applicant has seven years to implement an approved final Master Plan. Per Condition of Approval Number 3, these criteria have been satisfied.

CHAPTER 16.67- COMPREHENSIVE PLAN MAP, SPECIFIC AREA PLANS, LAND USE DISTRICT MAP AND TEXT AMENDMENTS

[...]

16.67.030 Quasi-judicial amendments.

A. Applicability of Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision, and not the adoption of new policy (i.e., through legislative decisions). Quasi-judicial Comprehensive Plan map/district map amendments shall follow the Type III procedure, as governed by Section 16.61.040, using standards of approval in Section 16.67.030(C). The approval authority shall be as follows:

- 1. The Planning Commission shall be the review authority for Comprehensive Plan map/land use district map amendments paired with master plans under twenty (20) acres in size.*
- 2. The Planning Commission shall make a recommendation to the City Council on an application for all other Comprehensive Plan map/land use district plan map amendments. The City Council shall decide such applications.*
- 3. The City Council shall be the review authority for annexations that involve the legislative conversion of existing Clackamas County Comprehensive Plan designations/zoning districts to City Comprehensive Plan designation/zoning districts, per the provisions of Section 16.67.070.*

Staff Response:

The applicant's proposal includes a Comprehensive Plan Map/Zoning Map Amendment and Master Plan that pertains to five properties totaling 34.6 acres in size. As a result, the proposed amendments are being processed utilizing the City's Type "III" quasi-judicial procedure per the applicable requirements of Section 16.61.050 (see finding, above), which involves two hearings, one before the Planning Commission and one before the City Council. This criterion has been satisfied.

B. Filing requirements.

1. In order to have a complete application for any proposed text amendment, the applicant shall submit the necessary application forms, and a narrative addressing applicable Comprehensive Plan objectives and policies, as well as the review criteria within Section 16.40.041.

2. In order to have a complete application for a proposed Comprehensive Plan map/zoning map or specific area map amendment, the applicant shall submit:

a. The necessary application forms, and a narrative addressing applicable Comprehensive Plan goals and policies, as well as the review criteria within Section 16.61.040;

b. A conceptual development plan illustrating a proposed street system, lot pattern, neighborhood circulation plan within a five hundred (500) foot radius of the subject site, and any natural resource or steep slopes areas;

c. A traffic study prepared by a professional, Oregon-licensed traffic engineer. If a master plan that requires a full traffic impact analysis is required for a Comprehensive Plan map amendment/land use district map, a subsequent master plan may satisfy this provision, as determined by the Planning Official.

Staff Response:

The Comprehensive Plan/Zoning Map Amendment application that was submitted by the applicant was reviewed and determined to contain the above items. City staff sent a notice to the applicant that their application was complete on March 11, 2015. These criteria have been satisfied.

C. Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Approval of the request is consistent with the Statewide Planning Goals;

2. Approval of the request is consistent with the applicable goals and policies of the City's Comprehensive Plan;

3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and

Staff Response:

As demonstrated within the findings of this report, the proposed amendments are consistent with the Statewide Planning Goals, Metro Functional Plan and the City’s Comprehensive Plan. Also, the subject site is located in an area that is adequately served by all Level 1 services and is adjacent to a transportation network that has adequate capacity to support the uses allowed in the applicable zones. These criteria have been satisfied.

4. *The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the Comprehensive Plan or land use district map regarding the property which is the subject of the application; and*

Staff Response:

The proposed Comprehensive Plan Map/Zoning Map Amendment was requested by the applicant to facilitate the proposed Master Plan. If approved, the applicant’s proposal will work to provide additional housing and retail/economic opportunities in an underdeveloped area. The provision of additional housing and retail/economic opportunities can be considered to be in the public’s interest. This criterion has been satisfied.

5. *When an application includes a proposed Comprehensive Plan map amendment/land use district map amendment, the proposal shall be reviewed to determine whether it conforms to Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – TPR). If a master plan that requires a full traffic impact analysis is required for a Comprehensive Plan map amendment/land use district map, a subsequent master plan may satisfy this provision, as determined by the Planning Official.*

Staff Response:

Section 16.67.060 of the City’s LDC requires compliance with the TPR, which is addressed within the findings of this report (see below finding). Therefore, this criterion has been satisfied.

*16.67.040 Conditions of approval for quasi-judicial amendments.
A quasi-judicial decision may be for denial, approval, or approval with conditions; conditions shall be based on applicable regulations and factual evidence in the record. Legislative amendments may only be approved or denied.*

[...]

Staff Response:

City staff has included within this report what it has deemed an appropriate list of conditions of approval for the subject applications. This criterion has been satisfied.

16.67.060 Transportation planning rule compliance.

A. Review of Applications for Effect on Transportation Facilities. 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 (the Transportation Planning Rule – TPR) and the traffic impact study provisions of Section 16.61.090. “Significant” means the proposal would:

- 1. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a proposal causes future traffic to exceed the levels associated with a “collector” street classification, requiring a change in the classification to an “arterial” street, as identified by the City’s Transportation System Plan (“TSP”); or*
- 2. Change the standards implementing a functional classification system; or*
- 3. As measured at the end of the planning period identified in the TSP, allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or*
- 4. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or*
- 5. 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.*

Staff Response:

It is required that a TIA submitted as part of an application for a Comprehensive Plan Map/Zoning Map Amendment provide an analysis that addresses Oregon Administrative Rule (OAR) 660-012-0060, commonly referred to as the “Transportation Planning Rule” (TPR). Within this analysis, an applicant is required to determine if a proposed Comprehensive Plan Map/Zoning Map Amendment would “significantly” impact an existing transportation facility, and if so, propose mitigating measures. The applicant’s traffic engineer has indicated within the narrative portion of the TIA that the proposed amendments are would result in less vehicular trips than what is allowed under the current zoning, meaning no significant impacts to adjacent roadways would result from the proposed Comprehensive Plan Map/Zoning Map Amendment. However, the TIA did not provide the necessary analysis to support the claim that the applicant’s proposal will result in a net decrease in trips resulting from the proposed applications and will not change the level of service on any of the neighboring transportation facilities. Although the proposed Comprehensive Plan Map/Zoning Map Amendment will result in a net decrease in trips resulting from the proposed applications and will not change the level of service on any of the neighboring transportation facilities, the City’s Traffic Engineer (DKS Associates) challenges whether the TPR (and thus, future forecast) analysis is not necessary and both the City and County Traffic Engineers have written comments and conditions addressing the various inadequacies of the submitted TIA. As conditioned, with particular emphasis on the requirement for the described signal installation at the planned Misty Drive/172nd Avenue, staff believes that the applicant can provide an adequate TIA and site plan. These criteria have been satisfied.

B. Amendments That Affect Transportation Facilities. Except as provided in subsection C, amendments to the Comprehensive Plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility (identified in the TSP). This shall be accomplished by one of the following:

- 1. Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or*
- 2. Amending the TSP to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or*
- 3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or*
- 4. Amending the planned function, capacity or performance standards of the transportation facility; or*
- 5. Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided.*

C. Exceptions. Amendments to the Comprehensive Plan or land use regulations with a significant effect on a transportation facility, where the facility is already performing below the minimum acceptable performance standard identified in the TSP, may be approved when all of the following criteria are met:

- 1. The amendment does not include property located in an interchange area, as defined under applicable law;*
- 2. The currently planned facilities, improvements or services are not adequate to achieve the standard;*
- 3. Development resulting from the amendment will, at a minimum, mitigates the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development; and*
- 4. The road authority provides a written statement that the proposed funding and timing for the proposed development mitigation are sufficient to avoid further degradation to the facility.”*

Staff Response:

As discussed in the previous finding, the proposed Comprehensive Plan Map/Zoning Map Amendment is not anticipated to have any effect on the surrounding transportation facilities. Therefore, these criteria have been satisfied.

III. RECOMMENDATION:

Staff has determined that the above findings demonstrate that the proposed Comprehensive Plan Map/Zoning Map Amendment, Master Plan, Environmental Review Permits and Commercial PUD satisfy the requirements of the Statewide Planning Goals, OAR, Metro Urban Growth Management Functional Plan and City of Happy Valley Comprehensive Plan and LDC. Staff, therefore, recommends the City Council **approve** application MP-01-15/CPA-03-14/LDC-04-14/PUD-01-15/ERP-01-14/ERP-02-15 to the City Council, subject to the proposed and amended Conditions of Approval.

Amended Conditions of Approval for MP-01-15/CPA-03-14/LDC-04-14/PUD-01-15/ERP-01-14/ERP-02-15

Note: Removed text is illustrated by ~~strikethrough~~, proposed text by **bold, underline**.

Administration

1. The City shall amend the Comprehensive Plan Map/Zoning Map and the East Happy Valley Comprehensive Plan for a portion of the subject site to reflect MUR-M1 designation/zoning in a manner that “aligns” with the applicant’s proposed zoning configuration (Exhibit 2, Sheet A1.1).
2. The property owner shall file a final plat pursuant to ORS 92.050 and shall conform to all provisions contained therein. The recorded plat shall be in substantial conformance with the approved preliminary plat and bear the signature of the City’s Economic and Community Development Director. Two recorded copies of the Plat shall be submitted to the City as verification of recordation prior to the issuance of any building permit (with the exception of a building permit for a model home).
3. The preliminary Master Plan approval will expire two years from the issuance of the Notice of Decision. The application for final Master Plan approval shall occur within two years of the Notice of Decision, with the ability to gain a single, one-year extension pursuant to Section 16.65.070.C of the most current revision of the City’s LDC. The applicant has up to seven years to implement an approved final Master Plan.
4. Prior to final plat approval, area computations in square feet for all building lots must be prepared and submitted by an engineer or surveyor registered in the State of Oregon.
5. The applicant shall be allowed to phase the proposed development in accordance with Section 16.63.130.I.2.f of the LDC.

Happy Valley Engineering Division

General Items

6. All submitted project construction plans shall conform to the City's "Engineering Design and Standard Details Manual" (Design Manual) for design and drafting requirements.

7. Public improvement projects are subject to the City's latest "Public Improvement Guarantee" form which requires a performance guarantee based upon the engineer's estimate and a 25 percent two year maintenance bond upon completion and acceptance of the public improvements. Performance guarantees for erosion control and site stabilization outside of the public right-of-way shall equal 25 percent of the on-site construction value.
8. Construction plans shall show all adjacent subdivision names, lot lines and tax lot lines with the tax map and tax lot number noted on each.
9. Construction plan review is subject to these conditions of approval.
10. Prior to the scheduling of the Pre-Construction meeting, issuance of a Notice to Proceed, or beginning any site work, the applicant shall submit all applicable bonds, have paid all applicable fees, and have service provider letters for both stormwater and sanitary sewer services from WES and the SWA.
11. Full time inspection by the developer's engineer is required for all street and storm drainage construction.
12. A sign shall be posted conspicuously at the job site entrance prior to site construction, and shall be maintained throughout construction. Use two-inch high black letters on an orange background. The sign shall read as follows:

“SITE CONSTRUCTION SHALL BE LIMITED TO 7:00 AM TO 6:00 PM ON WEEKDAYS, AND 8:00 AM TO 5:00 PM ON SATURDAYS AND SUNDAYS.

HOWEVER, SITE CLEARING, EARTH MOVING, INSTALLATION OR CONSTRUCTION OF UNDERGROUND UTILITIES, PAVING OF STREETS AND SIDEWALKS, FOUNDATION FRAMING AND POURING, AND FRAMING SHALL BE ENTIRELY PROHIBITED ON SUNDAYS.

TO REPORT VIOLATIONS CALL 503-783-3800.”

The City Manager shall have the authority to waive these requirements in the event of emergency or in the City Manager’s opinion, justifiable cause.

Grading and Erosion Sediment Control

13. The developer’s engineer is required to provide a site specific drainage plan to temporarily collect, route, and treat surface water and ground water during each construction phase. The construction plans shall specifically identify how the storm drainage system and erosion sediment control (ESC) measures will be phased during construction, such that at any time during construction the approved plans shall be capable of providing full erosion and sediment control collection, routing, and treatment of storm water runoff and ground water. No site construction will be allowed to take place if the storm drainage system and ESC measures are not installed per plan and functioning properly.

14. The developer's engineer shall provide plans and documentation, including specific design and construction recommendations from the geotechnical engineer, for the review and approval of the City Engineer demonstrating compliance with the Geotechnical Report dated October 4, 2013 from GeoDesign, Inc.
15. The total disturbed area for this project exceeds one-acre, therefore an NPDES 1200-C permit from DEQ will be required. The applicant shall follow the latest requirements from DEQ for NPDES 1200-C permit submittals. A copy of the approved and signed permit shall be provided to the City prior to holding a pre-construction meeting or commencing any construction activity.
16. Vegetative cover shall be maintained on slopes or established through new plantings for stability and erosion control purposes. Vegetation shall not be stripped from any steeply sloped area except for construction of utilities, streets, pedestrian facilities, and retaining walls.
17. The Erosion Sediment Control Plan shall include a plan to implement and maintain wet weather measures within 14 days of the final grading and between the dates of October 1st and April 30th.
18. All grading activity shall be per the current City of Happy Valley Municipal Code. The developer shall submit a completed Site Development Permit and Engineering Erosion Control Permit to the City prior to beginning any grading work on site.
19. Lot grading and tree preservation shall be in accordance with Municipal Code Section 16.42.050.E.2.
20. The grading limits around protected trees and natural resource zones shall be fenced using the standard four-foot tall orange plastic construction fencing in addition to the required erosion sediment control fences. All fencing, ESC measures and construction gravel entrances shall be installed and maintained by the developer and inspected by the City of Happy Valley prior to beginning work on the site.
21. For retaining walls great than four feet in height, a professional engineer or geotechnical engineer registered in the State of Oregon shall provide stamped design calculations and detail drawings required for the retaining wall construction. The retaining wall detail drawings shall include at a minimum; wall profile, wall cross section at highest point of wall, wall reinforcing geotextile requirements, wall drainage system, and wall backfill requirements.
22. All construction trucks shall perform transfer of trailers on-site. Surrounding public streets shall not be used as a staging area for dump trucks with transfer trailers.

Street/Pedestrian System

23. Street design plans shall conform to the requirements delineated in the City’s “Engineering Design and Standard Details Manual” (Design Manual), current revision, and the City’s TSP, current revision. The referenced documents are available on the City’s website.
24. Street lights will be required within the development. The property owner shall submit a request in writing to CCSD #5 for the installation of streetlights and the formation of an assessment district to pay for the operation and maintenance of lighting, and shall provide a copy of the request to the City.
25. All current ADA requirements for streets and intersections shall be met.
26. Misty Drive is classified as a three lane collector facility in the City’s TSP. The facility shall be constructed with a 68 foot right-of-way between 172nd Avenue and 169th Avenue, including travel lanes, bike lanes, a landscape strip and sidewalk. A reduced cross section will be permitted through the wetland that eliminates the landscape strip on the north side of Misty Drive and constructs a six-foot wide curb-tight sidewalk.
27. The right-of-way for Misty Drive between 169th Avenue and the west property line shall be dedicated with the final plat. The right-of-way shall be 68 feet wide and continue along the same alignment as Misty Drive east of 169th Avenue. The future developer of Lot 3 may develop the public right-of-way with a private drive serving the envisioned multi-family residential development.
28. The portion of the Mt. Scott/Scouters Mountain regional trail along the western portion of proposed Lot 3 shall be constructed to meet the regional trail cross section, and shall extend from Sunnyside Road to the north property line. A connection between the regional trail and 169th Avenue shall be provided.
29. 172nd Avenue is a Clackamas County facility. Frontage improvements and right-of-way dedication shall be in accordance with the 172nd Avenue Corridor Plan and Clackamas County standards. Overhead utilities shall be installed underground as part of the frontage improvements.
30. Minimum AASHTO sight distance requirements shall be met at all street intersections and driveways. AASHTO requires sight distance to be measured at a point 14.4 feet from the edge of the traveled way with a driver’s eye height of 3.5 feet and an object height of 3.5 feet.
31. A stubbed street shall end as shown in City Standard Drawing No. 310 and/or No. 315.
32. Provide a signing and striping plan as part of the construction plan set, prepared by a registered engineer. The applicant shall be responsible for the installation of all signing and striping as indicated on the plans.

Miscellaneous

33. The Developer shall provide a signed copy of the U.S. Postal Services “*Mode of Delivery Agreement*”. Submittal of this agreement shall be required prior to a pre-construction meeting taking place.
34. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
35. Noise shall be kept at the minimum level possible during construction. The developer shall agree to aggressively ensure that all vehicles working on the development shall have adequate and fully functioning sound suppression devices installed and maintained at all times.
36. All construction sites shall be maintained in a clean and sanitary condition at all times. Construction debris, including food and drink waste, shall be restricted from leaving the construction site through the use of proper disposal containers or construction fencing enclosures. Failure to comply with this condition may result in a “Stop Work” order until deficiencies have been corrected to the satisfaction of the City.
37. Submittal to the City of all required performance bonds, insurance certificates, engineer’s agreements, set-aside account letters and/or sureties shall occur prior to establishing a pre-construction meeting date. Review and acceptance by the City Recorder of these instruments shall be required prior to establishing a pre-construction meeting date.
38. A construction plan deposit shall be paid with the first submittal of the construction plans for each phase of the project. The deposit amount is based upon the construction value of the improvements as noted in the Engineering Division Fee Schedule which can be found on the City website. All remaining engineering plan review and inspection fees, right-of-way permit fees (if any) and tree cutting permit fees (if any), shall be paid at the time of the pre-construction meeting.

Traffic Engineering (DKS Associates & Clackamas County DTD)

39. All sections of the internal roadway, parking, and sidewalk system shall be constructed to meet City of Happy Valley standards for pavement, sidewalk, landscape strip, drainage and curb, as required.
40. The southbound right turn lane on 172nd Avenue at the midblock access shall not be constructed. The final site plan shall be revised and approved by the City’s Engineering Manager.
41. The westbound right turn lane on Sunnyside Road and the midblock access shall not be constructed. The final site plan shall be revised and approved by the City’s Engineering Manager.

42. The southbound left turn lane on 172nd Avenue at Vogel Road shall not be constructed. The final site plan shall be revised and approved by the City's Engineering Manager.
43. Access shall be restricted at the Misty Drive eastern site access to right-in/right-out movements. The treatment design for the turn restrictions (such as raised island at access, narrow raised center median, etc.) shall be approved by the City's Engineering Manager. **The eastern site access to SE Misty Drive will be allowed full access on a temporary basis. If any of the following criteria are met, the access will be converted to right-in/right-out with appropriate traffic control measures to limit left-turns, as approved by the City's Engineering Manager. Costs associated with the potential eventual conversion to right-in/right-out will be covered by the developer. In addition, the developer will contribute \$5,000 to a fund used by the City to monitor traffic conditions at the eastern site access for up to 5 years from point of retail occupancy. The criteria, or triggers, for limiting the access to right-in/right-out movements are:**
- 1. Misty Avenue is extended west over Rock Creek, or**
 - 2. SE Vogel Road east of SE 172nd Avenue is realigned to develop a four-way intersection at SE 172nd Avenue/Misty Road, or**
 - 3. Two or more crashes are reported related to the eastern site access during a three year period, or**
 - 4. Documented reoccurring pattern of westbound left-turn movement causing spillback within 50-feet of the adjacent intersection at 172nd Avenue. Pattern to be determined from video data collection and observations documented by the City.**
44. Access shall be restricted at the Misty Drive western site access to right-in/right-out/left-in movements. A 100-foot westbound left turn lane with taper shall be constructed at the western access. The treatment design for the left-out turn restrictions (such as raised island at access, raised center median channelization, etc.) shall be approved by the City's Engineering Manager. **The westbound left-in center turn lane from Misty Drive into the west site access driveway shall have a vehicle storage distance of 75 feet, with appropriate design taper. The access restriction treatment design and turn lane taper design shall be approved by the City's Engineering Manager.**

45. A traffic signal shall be constructed at the Misty Drive/172nd Avenue intersection. The 172nd Avenue corridor is planned for an ultimate 105 foot right of way width along the proposed project frontage. ~~With the proposed development, 172nd Avenue will have inadequate right of way to construct a permanent traffic signal due to undeveloped parcels on the east side of 172nd Avenue.~~ The new Misty Drive/172nd Avenue traffic signal shall be designed to maximize the signal elements located on the west side of 172nd Avenue such as signal poles with mast arms and signal controller. ~~The design shall minimize the use of temporary signal elements on the east side of 172nd Avenue.~~ **If public right-of-way is available for the ultimate location of the traffic signal features, the applicant shall design and construct a traffic signal in accordance with Clackamas County design standards. Improvements shall include curb ramps and pedestrian crossings for each leg of the intersection. If public right-of-way is not available for the ultimate location of the traffic signal features, the applicant shall design and construct a traffic signal in accordance with Clackamas County design standards. No temporary traffic signal poles will be permitted. The applicant shall provide a preliminary traffic signal design that includes that ultimate location of the traffic signal features. The applicant shall design and construct the traffic signal to maximize the reuse of traffic signal features that are not placed in their ultimate locations. Improvements shall include curb ramps and pedestrian crossings for each leg of the intersection. In addition, the applicant shall design and construct communication wiring and conduit in accordance with Clackamas County design standards along the west side of 172nd Avenue from Sunnyside Road to the northern end of the 172nd Avenue frontage.** The traffic signal design shall be approved by the City Engineering Manager **Clackamas County DTD**. These improvements shall be considered by the City/County Joint Transportation District for maximum credibility for Transportation System Development Charges (TSDC's) through a Development Agreement between the developer, City of Happy Valley and Clackamas County.
46. A traffic signal shall be constructed at the Sunnyside Road/169th Avenue intersection **in accordance with Clackamas County design standards.**
47. Frontage (one-half street) improvements to the west side of 172nd Avenue along the site shall be constructed to meet City of Happy Valley standards for a Major Arterial Facility. The frontage improvement requirements shall include pavement, bike lane, sidewalk, landscape strip, drainage and curb consistent with City of Happy Valley standards and the 172nd Avenue/190th Drive Corridor Management Plan. **These improvements shall be considered by the City/County Joint Transportation District for maximum credibility for Transportation System Development Charges (TSDC's) via the Joint Capital Improvement Plan Area Ordinance and SDC Methodology Report.**
48. 169th Avenue shall be constructed to City of Happy Valley standards as a three-lane Collector Facility (69 foot right of way). The street shall include pavement, sidewalk, bike lanes, landscape strip, drainage, curb and utility easement.

49. Misty Drive shall be constructed to City of Happy Valley standards as a three-lane Collector Facility (69 foot right of way) along the eastern and western portions of the facility. A two-lane Collector Facility (57 foot right of way) shall be constructed between the westbound left turn lane at the western site access and the eastbound left turn lane at 172nd Avenue. Misty Drive shall be constructed with appropriate roadway transition striping between the two and three lane sections. The street shall include pavement, sidewalk, bike lanes, landscape strip, drainage, curb and utility easement.
50. Sidewalks and pedestrian markings shall be provided to connect the proposed developments with sidewalks on surrounding public streets.
51. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with *Clackamas County Roadway Standards*.
52. The applicant shall dedicate approximately 22.5 feet of additional right-of-way along the entire north and south portions of the site frontage of 172nd Avenue as necessary to accommodate the public improvements and shall verify by survey that there is a 52.5-foot wide one-half right-of-way width.
53. The applicant shall grant an eight-foot wide public utility easement adjacent to the public rights-of-way along the entire site frontage of 172nd Avenue and Sunnyside Road.
54. The applicant shall design and construct improvements along the entire site frontage of 172nd Avenue, extending to the north project site boundary in accordance with *Clackamas County Roadway Standards*.

These improvements shall consist of:

- a. Up to a 36.5-foot wide half-street improvement for a major arterial roadway. Structural section for 172nd Avenue improvements shall consist of 7.5 inches of asphalt concrete per Clackamas County Roadway Standards Standard Drawing C100. Inbound and outbound tapers shall be provided per Section 250.6.4 of the Clackamas County Roadway Standards.
- b. Standard curb, or curb and gutter if curblin slope is less than one percent, and pavement with the face of the new curb located approximately 36.5 feet from right-of-way centerline.
- c. The applicant shall design and construct a northbound left turn lane at the 172nd Avenue/Misty Drive intersection in accordance with the Corridor Plan and Clackamas County Roadway Standards. The left turn storage queue shall be provided as recommended in the TIA. The left turn lane design shall be consistent with Section 250.8.8 of the Clackamas County Roadway Standards. Inbound and outbound tapers shall be provided per Section 250.6.4 of the Clackamas County Roadway Standards.
- d. The median shall be extended north to the existing 172nd Avenue/Vogel Road intersection.

- e. A striping plan shall be provided consistent with the Clackamas County Roadway Standards.
 - f. Adjacent to any lane transitions on the east or west side of 172nd Avenue, a minimum four-foot wide shoulder shall be provided. Where curb is proposed, the shoulder shall be paved between the curb and travel lane.
 - g. A minimum seven-foot wide unobstructed setback sidewalk, with an eight-foot landscape strip, including street trees, shall be constructed along the entire site frontage. The applicant shall relocate mailboxes, fire hydrants, utility poles, etc., when they are located within the limits of the sidewalk or construct an eyebrow so that the full width of the sidewalk is provided around the obstruction. Additional easement, as necessary, shall be granted to provide for any sidewalk eyebrows.
 - h. If the sidewalk does not connect to sidewalk on adjacent property, the end of the sidewalk shall require the construction of a temporary asphalt ramp, adjacent to the end of the sidewalk, providing a transition from the new sidewalk to the edge of the pavement. The ramp shall meet ADA guidelines and shall be a minimum of two inches in thickness.
 - i. Curb ramps shall be constructed at the Misty Drive intersections, per Standard Drawing S910.
 - j. The site driveway south of Vogel Road shall be designed and constructed per Standards Drawing D675. The plans shall be revised to eliminate the right turn lane from 172nd Ave.
 - k. Drainage facilities in conformance WES regulations and Clackamas County Roadway Standards, Chapter 4.
55. The applicant shall design and construct improvements along the Sunnyside Road frontage in accordance with *Clackamas County Roadway Standards*. These improvements shall consist of:
- a. The applicant shall design and construct a traffic signal at the intersection of 169th Avenue/Sunnyside Road in accordance with the latest Clackamas County traffic signal design requirements.
 - b. The intersection of 169th Avenue/Sunnyside Road shall be designed and constructed in accordance with the Clackamas County Roadway Standards.
 - 1. Curb ramps shall be constructed, per Standard Drawing S910.
 - 2. The intersection angle shall be addressed for consistency with Section 250.8.2.
 - 3. The intersection tangent shall be addressed for consistency with Section 250.8.4.
 - 4. The site driveway between 169th Avenue and 172nd Avenue shall be designed and constructed per Standards Drawing D675. The plans shall be revised to eliminate the right turn lane from Sunnyside Road.

- c. The existing driveway approach shall be removed and replaced with curb, landscape strip with street trees and sidewalk to match existing.
56. The applicant shall provide an updated TIA prior to any site development that addresses the comments discussed in this Memorandum.
57. The applicant shall design and construct traffic signal improvements at the intersection of 172nd Avenue/Sunnyside Road to include countdown pedestrian signals and accessible pedestrian signals/pushbuttons.
58. Adequate intersection sight distance, per Section 240 of the Clackamas County Roadway Standards shall be provided at the new public road and driveway intersections with 172nd Avenue and Sunnyside Road. A minimum of 555 feet of sight distance shall be provided.
59. Any surface water runoff from the site to the 172nd Avenue public right-of-way shall be detained outside of the right-of-way in conformance with *Clackamas Roadway Standards*.
60. The applicant shall submit an Engineer's cost estimate to be approved by Clackamas County Engineering for the asphalt concrete, aggregates, and any other required public improvement in the 172nd Avenue and Sunnyside Road public right-of-way.
61. Prior to commencement of site work and recording of the plat, the applicant shall obtain a Development Permit from the Clackamas County Engineering Division for design and construction of required improvements to 172nd Avenue and Sunnyside Road. To obtain the Permit, the applicant shall submit plans prepared and stamped by an Engineer registered in the State of Oregon, provide a Performance Guarantee, and pay an Inspection Fee. The Performance Guarantee is 125 percent of the approved Engineer's cost estimate for the required improvements.
62. Streetlights are a requirement of this development. Street lighting shall be in accordance with Clackamas County Service District #5 and City of Happy Valley standards.
63. Prior to commencement of utility work within the public right-of-way, a Utility Placement Permit shall be obtained from the Clackamas County Engineering Division.

Clackamas County Service District #1/Water Environment Services

Sanitary Sewer

64. The development is subject to the Rules & Regulations and Standard Specifications of CCSD #1.
65. Cost of the sanitary sewer systems shall be borne entirely by the developer. The most current rate for SDC's shall apply at the time of building plan approval (permit) or unless otherwise agreed upon by CCSD #1. SDC fees are required to be paid before issuing the building permit.

66. A collection sewer charge (late comer's fee) is due prior to issuing a building permit or recording a subdivision plat.
67. The developer is required to install sanitary sewer and storm drain facilities to the limits of the property in order to allow for continuity in the conveyance systems. Easements shall be provided for gravity connections to the adjoining properties.
68. This development is subject to a minimum plan review fee for sanitary sewer. Plan review fees are due with the first submittal for plan review.

Storm drainage

69. The development is subject to the Surface Water Management and Standard Specifications of CCSD #1 for storm drainage and erosion control.
70. Cost of the Surface Water facilities shall be borne entirely by the developer. This development is subject to a surface water SDC, which shall be applied with the building permit.
71. This development is subject to a minimum plan review fee for Surface Water plan review. Plan review fees are due with the first submittal for plan review.
72. This development is required to meet CCSD #1 requirements for detention, water quality and infiltration.
73. CCSD #1 shall review and approve the final subdivision plat for the sanitary and storm sewer systems prior to recording.
74. CCSD #1 shall review the sanitary and storm sewer site plans prior to issuing the building permit.
75. The approval of the land use application does not include any conclusions by WES regarding acceptability by the DSL or the Corps of the wetland delineation. This decision should not be construed to or represented to authorize any activity that will conflict with or violate the DSL or Corps requirements. It is the applicant's responsibility to coordinate with the DSL or Corps and (if necessary) other responsible agencies to ensure that the development activities are designed, constructed, operated and maintained in a manner that complies with the DSL or Corps approval.

Sunrise Water Authority

76. All water system construction must be in accordance with the rules, regulations, policies, guidelines and standards of SWA. Cost of the improvements and construction shall be borne entirely by the developer, unless other arrangements are made between the developer and SWA.

77. SWA has adequate potable water supplies available in sufficient quantities to provide normal domestic and fire protection needs for this proposal, as required by the Oregon Health Division. Commonly held irrigated 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.

Clackamas Fire District #1

78. The applicant shall provide address numbering on all proposed buildings that is clearly visible from the street.

79. Dead end fire apparatus roads in excess of 150 feet in length shall be provided with an approved turnaround.

80. Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet (26 feet adjacent to a fire hydrant) and an unobstructed vertical clearance of 13 feet 6 inches.

81. Buildings more than 30 feet in height shall have fire apparatus access roads constructed for use by aerial apparatus with an unobstructed driving surface width of not less than 26 feet.

82. Roads 26 feet wide or less shall have "No Parking Fire Lane" signs posted on both sides of the road. Roads 26 feet to 32 feet wide shall have "No Parking Fire Lane" signs posted on one side of the fire lane.

83. "No Parking Fire Lane" signs shall be placed throughout designated hammerhead turnaround or red painted curbs and throughout development on one side.

84. The inside turning radius and outside turning radius for a 20 feet wide road shall not be less than 28 feet and 48 feet respectively, measured from the same center point.

85. Multifamily residential projects having more than 100 dwelling units and where vehicle congestion, adverse terrain conditions or other factors that could limit access, as determined by the fire code official, shall be provided with not less than two approved means of access.

86. Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.

87. Fire apparatus access roads shall not exceed 12 percent grade. Intersections and turnarounds shall be level, maximum 5 percent. When residential fire sprinklers are installed, a maximum grade of 15 percent may be allowed. Grades over 15 percent will not be allowed.

88. The minimum fire flow and flow duration for buildings other than one and two-family dwellings shall be determined according to OFC Appendix B. The required fire flow for a building shall not exceed the available GPM in the water delivery system at 20 psi.

89. Approved fire apparatus access roadways and fire-fighting water supplies shall be installed and operation prior to any combustible construction or storage of combustible materials on the site.
90. Where portions of the building is more than 400 feet from a hydrant on a fire apparatus access road, as measured in an approved rout around the exterior of the building, on-site fire hydrants and mains shall be provided. This distance may be increased to 600 feet for buildings equipped throughout with an approved automatic sprinkler system.
91. The minimum number and distribution of fire hydrants available to a building shall not be less than that listed in Table C105.1
92. A fire hydrant shall be located within 100 feet of a fire department connection (FDC). Fire hydrants and FDC's shall be located on the same side of the fire apparatus access roadway.
93. Indicate on plans "Clackamas Fire District #1 to witness fire line flush of new fire hydrants" Hydrants to be "In-Service" prior to combustible construction.

Clackamas County Service District #5 (Street Lighting)

94. Street lighting exists on the Sunnyside Road. frontage and partially on 172nd frontage. Street lighting does not exist on the 169th Avenue, Misty Drive or a portion of 172nd Avenue frontage, thus new cobra street lighting will be required on new aluminum poles. The applicant will have to work with CCSD #5 on an acceptable plan.
95. The property owner shall submit a request in writing for the formation of an assessment area, which will include any new tax lots created by this partition, to help pay for the operation and maintenance of lighting. The current rate of assessment for commercial street lighting in this area is \$1.21 per frontage foot per tax lot each year.

Utilities

96. The applicant shall provide utility easements where required and shall be responsible for coordinating construction with all utility and service providers and facilitating cooperation among all providers and agencies.
97. All utilities, including electrical power, telephone, cable TV, gas and others shall be underground. Pre-wiring of the project site for street lighting must be approved by CCSD #5.

Design

98. A final landscape plan shall be submitted to the Planning Official or designee for approval prior to construction plan approval. The final landscape plan shall be in substantial conformance with the preliminary landscape plan and shall detail the method of irrigation for all landscaped areas. A street tree planting plan shall also be included as part of the final landscape plan.

99. The developer, property owner/declarant or Homeowner's Association is responsible for the continual maintenance of all hardscaped, landscaped and natural areas located on the site.
100. The applicant shall provide a minimum of two off street parking spaces per residence and shall also provide driveways in accordance with Sections 16.41.030.B and 16.44.010.A.3 of the LDC.
101. The applicant shall encumber the natural resource areas that are proposed to remain in place after site development with a Conservation Easement and shall permanently delineate the boundary of said natural resources with white split-rail fencing or an approved alternative.
102. As part of the construction documents for the proposed development, the applicant shall provide a Construction Management Plan that includes provisions for the installation of orange "construction fencing" to delineate the natural resource areas and vegetation on the subject site that are to remain undisturbed.
103. The future developer of Lots 3 and 4 shall provide perimeter fencing along the residentially zoned portion of the subject site per the requirements of Section 16.42.060.A of the LDC.
104. As part of each phase of the proposed Master Plan, the applicant shall meet the minimum parking requirements found within Section 16.43.030 of the LDC.

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

<p>“172nd Ave. and Sunnyside Rd. Master Plan”</p> <p>Submittal: Master Plan; Planned Unit Development; Comprehensive Plan/Zoning Map Amendment; and Environmental Review Permits (Steep Slopes/Natural Resources)</p> <p>Applicant: Sunnyside 172nd, LLC</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>CITY COUNCIL</p> <p>Approval of Multiple Land Use Applications</p> <p>File No. MP-01-15/CPA-03-14/LDC-04-14/PUD-01- 15/ERP-01-14/ERP-02-15</p>
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Pursuant to the City’s Land Development Code (“LDC”) §16.61.040, 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 days prior to the first evidentiary 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 on May 5, 2015. The approval criteria for these applications are provided in applicable Statewide Planning Goals; applicable sections of OAR Chapter 660, Division 12; applicable sections of the Metro Urban Growth Management Functional Plan; applicable City of Happy Valley Comprehensive Plan Policies; and applicable sections of the City of Happy Valley Municipal Code; Title 16 - Land Development Code, including Chapters: 16.22 (Residential Land Use Districts); 16.23 (Commercial and Employment Districts); 16.32 (Steep Slopes Development Overlay); 16.34 (Natural Resources Overlay Zone); 16.41 (Access and Circulation); 16.42 (Landscaping, Street Trees, Fences, and Walls); 16.43 (Parking and Loading); 16.44 (Special Standards for Certain Uses); 16.50 (Public Facilities); 16.61 (Types of Review Procedures); 16.63 (Land Divisions and Property Line Adjustments); 16.65 (Master Planned Developments) and 16.67 (Comprehensive

Plan Map, Specific Area Plans, Land Use District Map and Text Amendments). After discussion and deliberation, the City Council voted to approve the proposed applications, per the included conditions of approval.

I. DESCRIPTION OF THE APPLICATION

On April 14, 2015 the City of Happy Valley Planning Commission recommended that the City Council approve the “172nd Ave. and Sunnyside Rd. Master Plan”, a proposal to amend the City’s Comprehensive Plan Map/Zoning Map and East Happy Valley Comprehensive Plan to change the current plan designation/zoning district on 10.5 acres of the subject site from Mixed Use Residential – Multifamily Medium Density (MUR-M2) to Mixed Use Residential – Multifamily Low Density (MUR-M1). The applicant also proposes to change the existing plan designation/zoning district for four acres of the subject site from Employment Center (EC) to MUR-M1. Finally, the applicant proposes to concurrently process applications for: Master Plan; Planned Unit Development; and, Environmental Review Permits for steep slopes and natural resources. The subject properties encompass 34.6 acres and are located at the northwest corner of the intersection of 172nd Avenue and Sunnyside Road. Local File No. MP-01-15/CPA-03-14/LDC-04-14/PUD-01-15/ERP-01-14/ERP-02-15.

II. ADOPTION OF FINDINGS

The City Council specifically adopts the Findings within the May 5, 2015 Staff Report to the City Council in support of this Order approving File No. MP-01-15/CPA-03-14/LDC-04-14/PUD-01-15/ERP-01-14/ERP-02-15.


III. ORDER

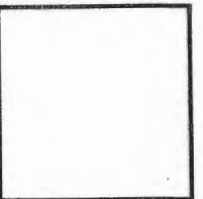
The City Council hereby approves the proposal by Sunnyside 172nd, LLC for the combined applications (File No. MP-01-15/CPA-03-14/LDC-04-14/PUD-01-15/ERP-01-14/ERP-02-15) based on the findings provided herein and specifically adopted under Section II.

This Order requires compliance with the conditions set out in the conditions of approval within the Staff Report to the City Council dated May 5, 2015, including any amended language.

ORDER OF THE CITY COUNCIL dated this 5th day of May, 2015.

CITY COUNCIL, CITY OF HAPPY VALLEY

By:  _____
Lori DeRemer, Mayor



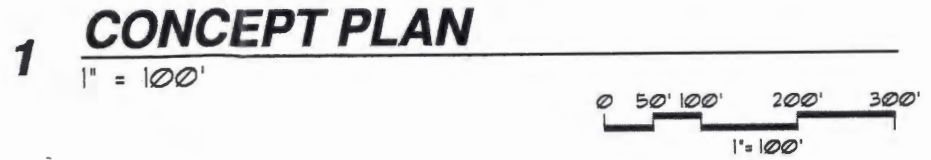
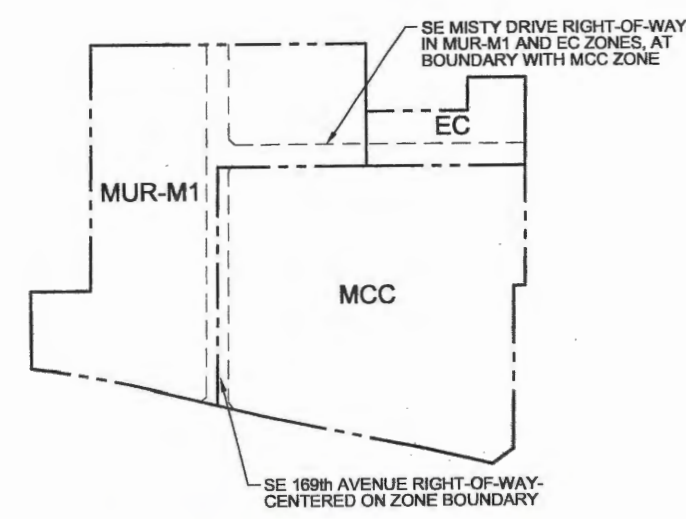
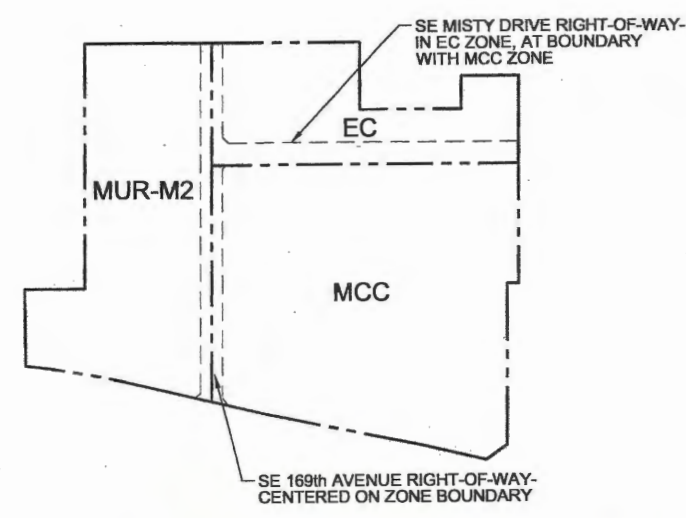
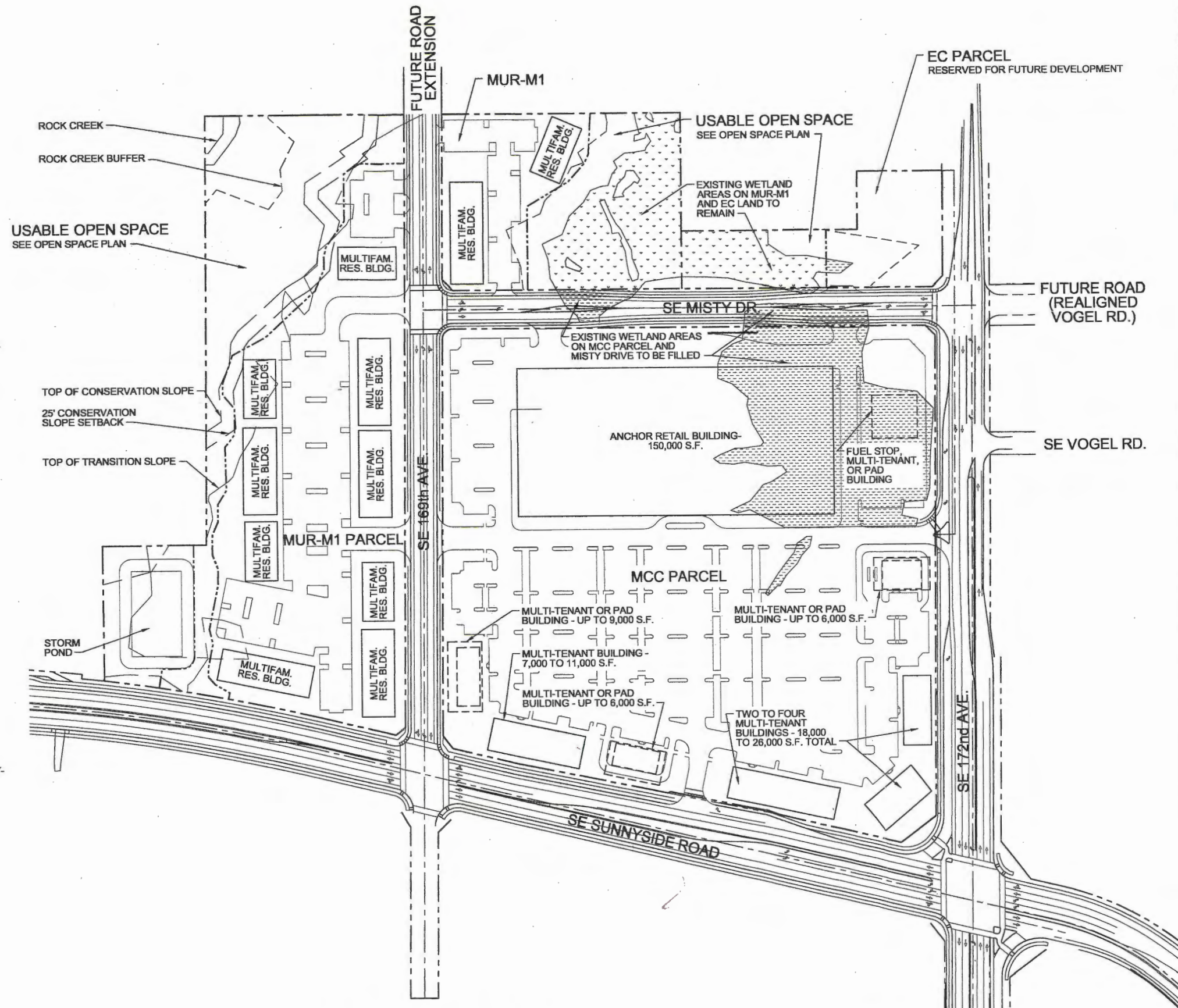
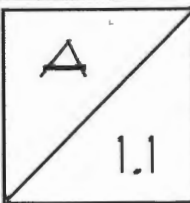
TILAND / SCHMIDT
 ARCHITECTS, P.C.
 3611 5th HOOD AVE.
 SUITE 2000
 PORTLAND, OR 97239
 (503) 220-8511
 FAX (503) 220-8516



**MASTER PLAN APPLICATION FOR
 172nd AND SUNNYSIDE**
 SE SUNNYSIDE ROAD AND 172nd AVENUE
 HAPPY VALLEY, OREGON
SUNNYSIDE 172nd LLC

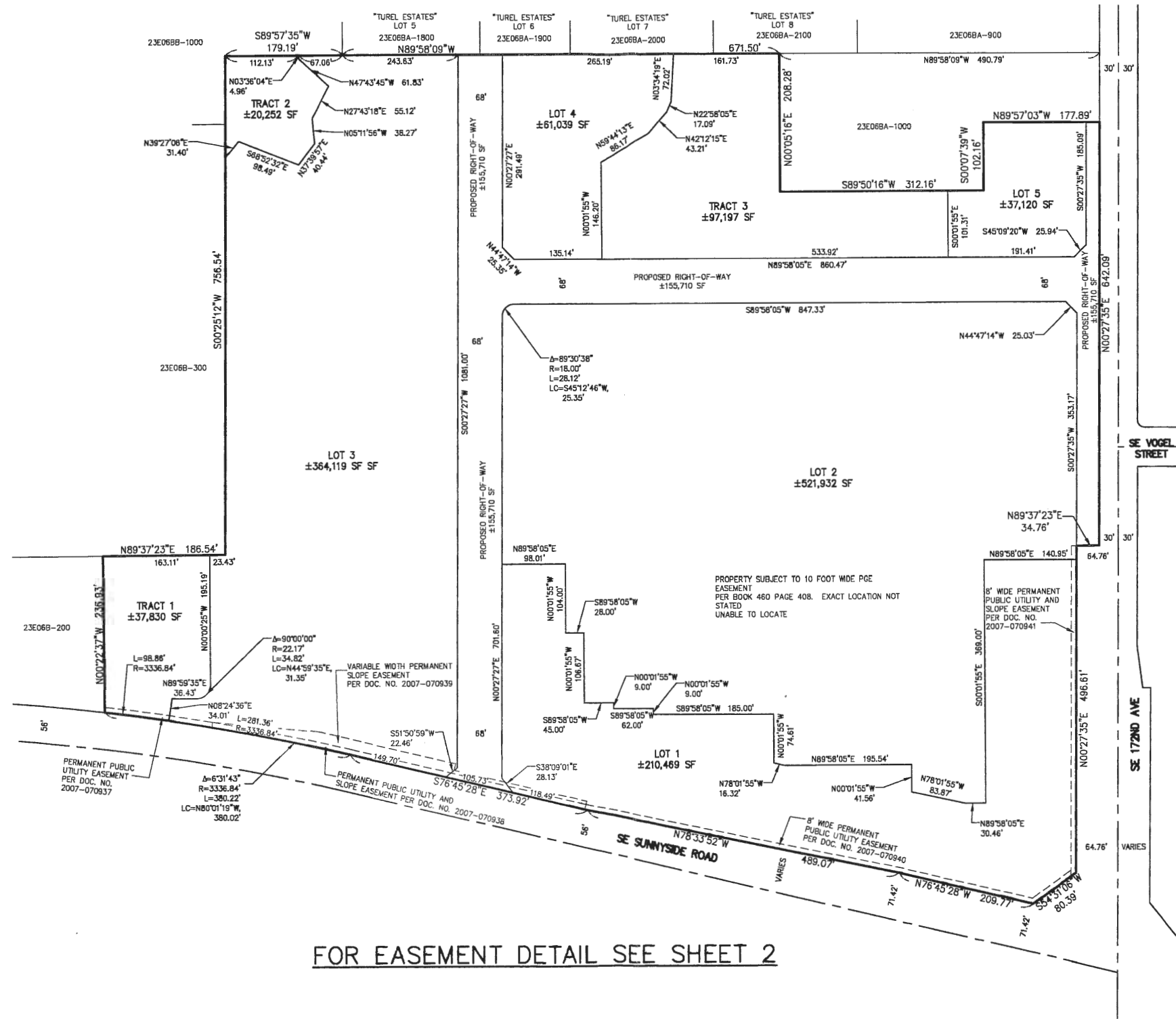
PROJECT NO.
 10115
 DATE:
 12-30-14
 DRAWN BY:
 CDO
 CHECKED BY:

REVISIONS



PRELIMINARY PLAT

LOCATED IN THE NORTHWEST ONE-QUARTER OF THE SECTION 6,
TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN
CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



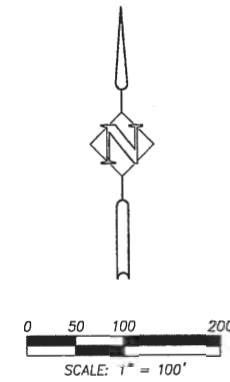
FOR EASEMENT DETAIL SEE SHEET 2

REGISTERED
PROFESSIONAL
LAND SURVEYOR
PRELIMINARY
OREGON
JULY 15, 2003
JOHN T. CAMPBELL
60070 LS
EXPIRES 12-31-15

TILAND / SCHMIDT
ARCHITECTS, P.C.
3611 63rd HOOD AVE.
SUITE 200
PORTLAND, OR 97239
FAX (503) 220-8517

GRAMOR
DEVELOPMENT

Harper
HPPE Houf Peterson
Righellis Inc.

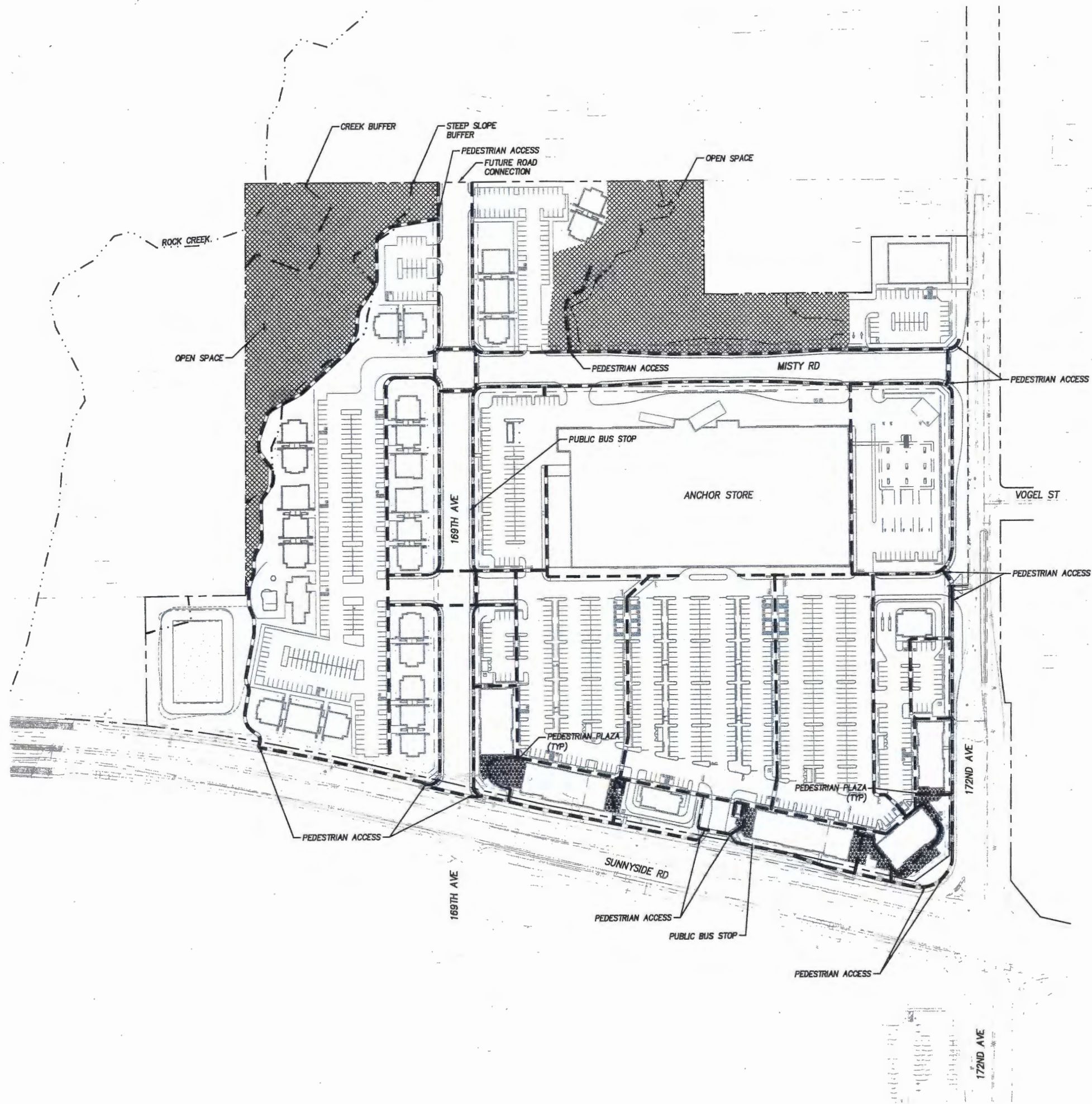


MASTER PLAN APPLICATION FOR
172nd AND SUNNYSIDE
SE SUNNYSIDE ROAD AND 172ND AVENUE
HAPPY VALLEY, OREGON
SUNNYSIDE 172nd LLC

PROJECT NO.
10115
DATE:
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DRAWN BY:
HPR TEAM
CHECKED BY:
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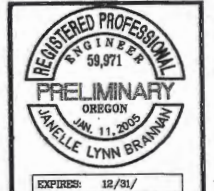
REVISIONS

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1.4



LEGEND

- PEDESTRIAN CIRCULATION
- OPEN SPACE
- PEDESTRIAN PLAZA



TILAND / SCHMIDT
 ARCHITECTS, P.C.
 3611 6th HOOD AVE.
 SUITE 2000
 PORTLAND, OR 97239
 (503) 220-8511
 FAX (503) 220-8516



Harper
HHP Houf Peterson
 Righellis Inc.
200 SE Spokane Street, Suite 200, Portland, OR 97202
 Phone: 503.222.1171 www.hhp.com Inc. 503.222.1171

MASTER PLAN APPLICATION FOR
172nd AND SUNNYSIDE
 SE SUNNYSIDE ROAD AND 172ND AVENUE
 HAPPY VALLEY, OREGON
SUNNYSIDE 172nd LLC

PROJECT NO.
 1015
 DATE:
 12-30-2014
 DRAWN BY:
 HHP TEAM
 CHECKED BY:
 JLB

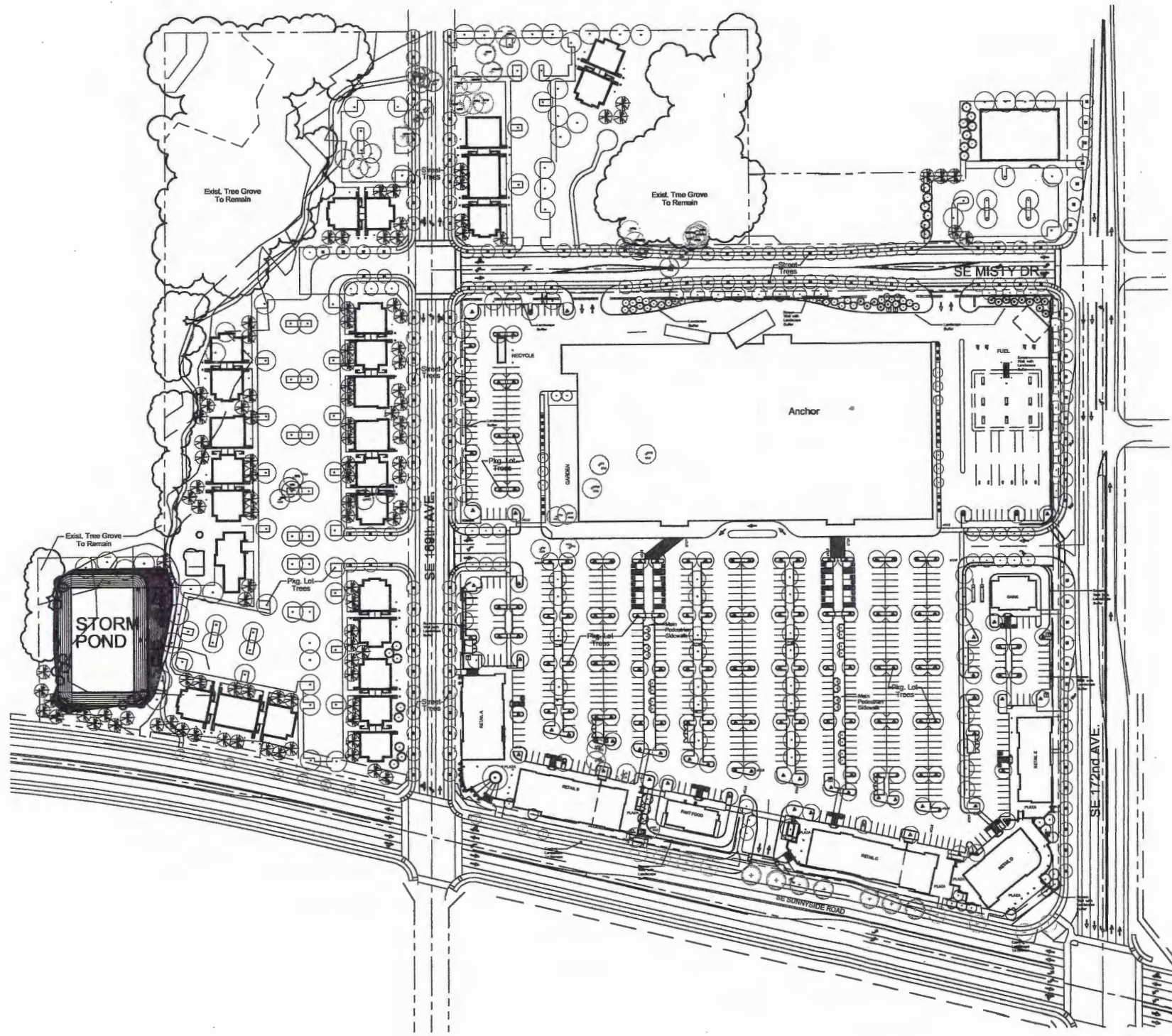
REVISIONS

CIRCULATION PLAN






SCALE: 1" = 100'

C

4.0



LANDSCAPE SYMBOLS

-  Existing Tree To Remain
Caliper DBH
-  Exist. Trees to be Removed
Caliper DBH
-  Proposed Deciduous Street Tree
-  Proposed Deciduous Parking Lot Tree
-  Deciduous Shade Trees
-  Conifer Trees



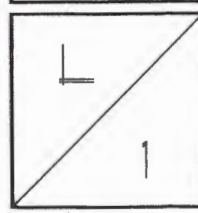
TILAND / SCHMIDT ARCHITECTS, P.C.
3611 9th HOOD AVE. SUITE 2000
PORTLAND, OR 97239
(503) 220-8517
FAX (503) 220-8516



MASTER PLAN APPLICATION FOR
172nd AND SUNNYSIDE
SE SUNNYSIDE ROAD AND 172ND AVENUE
HAPPY VALLEY, OREGON
SUNNYSIDE 172nd LLC

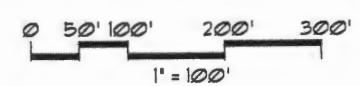
PROJECT NO.
10115
DATE:
12-30-2014
DRAWN BY:
CF
CHECKED BY:

REVISIONS



1 LANDSCAPE PLAN

1" = 100'



CHRISTOPHER FRESHLEY
LANDSCAPE ARCHITECT
1000 S.W. TAYLOR STREET SUITE 200 • PORTLAND, OREGON 97205 • 503/220-8517
(E-MAIL) CFRESHLEY@TILANDSCHMIDT.COM

Y VALLEY
Y DRIVE
EGON 97086



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DEPT OF

MAY 15 2015

LAND CONSERVATION
AND DEVELOPMENT

Plan Amendment Specialist – Angela Houck
Dept. of Land Conservation & Development
635 Capital Street NE, Suite 150
Salem, OR 97301-2540