

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF RECOMMENDING A) RESOLUTION NO. 80-210
CONTINUANCE OF THE CITY OF HAPPY)
VALLEY'S REQUEST FOR ACKNOWLEDGMENT) Introduced by the Regional
OF COMPLIANCE WITH THE LCDC GOALS) Planning Committee

WHEREAS, Metro is the designated planning coordination body under ORS 260.385; and

WHEREAS, Under ORS 197.255 the Council is required to advise LCDC and local jurisdictions preparing comprehensive plans whether or not such plans are in conformity with the Statewide Planning Goals; and

WHEREAS, The city of Happy Valley is now requesting that LCDC acknowledge its Comprehensive Plan as complying with the Statewide Planning Goals; and

WHEREAS, LCDC Goal #2 requires that local land use plans be consistent with regional plans; and

WHEREAS, Happy Valley's Comprehensive Plan has been evaluated for compliance with LCDC goals and regional plans adopted by CRAG or Metro prior to June, 1980, in accordance with the criteria and procedures contained in the "Metro Plan Review Manual" as summarized in the staff reports attached as Exhibit "A" and "B"; and

WHEREAS, Metro finds that Happy Valley's Comprehensive Plan does not comply with the LCDC Goals #2, 5, #7, #10, #11 and #12; now, therefore,

BE IT RESOLVED,

1. That the Metro Council recommends to LCDC that Happy

Valley's request for compliance acknowledgment be continued to correct deficiencies under Goals #2, #5, #7, #10, #11 and #12 as identified in Exhibit "A."

2. That the Executive Officer forward copies of this Resolution and Staff Report attached hereto as Exhibits "A" and "B" to LCDC, city of Happy Valley and to the appropriate agencies.

3. That, subsequent to adoption by the Council of any goals and objectives or functional plans after June, 1980, the Council will again review Happy Valley's plan for consistency with regional plans and notify the city of Happy Valley of any changes that may be needed at that time.

ADOPTED by the Council of the Metropolitan Service District this 18th day of December, 1980.



Presiding Officer

JC:ss
1236B/188

A G E N D A M A N A G E M E N T S U M M A R Y

Res 80-210

TO: Metro Council
 FROM: Executive Officer
 SUBJECT: Recommending a Continuance of the City of Happy Valley's Request for Acknowledgment of Compliance with LCDC Goals

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: That the Council adopt the attached Resolution No. 80-210 recommending that LCDC grant a continuance of the city of Happy Valley's request for compliance. The Council should act on this item at its December 18 meeting in order to ensure that its recommendation is considered by LCDC (see background).
- B. POLICY IMPACT: This acknowledgment recommendation was developed under the "Metro Plan Acknowledgment Review Schedule," June 20, 1980. This process provides jurisdictions an opportunity to work with Metro staff and interested parties to discuss and clarify acknowledgment issues prior to Regional Planning Committee (RPC) action.
- C. BUDGET IMPACT: None

II. ANALYSIS:

- A. BACKGROUND: Happy Valley submitted its plan to LCDC for acknowledgment in August, 1980. LCDC has scheduled a hearing on the City's request for acknowledgment for January 22, 1981.

Metro conducted a draft review of Happy Valley's plan in April of 1980, and forwarded a copy of its comments to the City at that time. Happy Valley subsequently adopted a development ordinance and made substantial changes to its plan, that meet many of Metro's comments.

Happy Valley is a sparsely populated community of about 1,400 acres located in suburban Clackamas County near I-205 and the Clackamas Town Center.

Staff is concerned that the Happy Valley plan does not comply with Statewide Goal #10 and regional expectations for housing. The City has established very low densities, provided an inadequate buildable lands inventory, ignored its constraints and suitability information in establishing land use designations, failed to recognize its responsibility for meeting regional housing needs and created vague and discretionary approval standards for needed housing types, including all multi-family housing and mobile homes. In addition, the staff has identified

compliance problems with Goal #5 (Natural Resources), inadequate compensation mechanisms; Goal #7 (Hazards), an unadopted drainage ordinance; Goal #11 (Public Facilities), no sewer plan or policies.

After materials were prepared for the RPC, staff received from the City a traffic study containing also a policy which raised two additional goal compliance issues. The City's transportation policy is inconsistent with its housing policy (Goal #12) and its population projections are too low causing Goal #2 problems. These issues were presented in the staff report to the RPC, but were excluded from the draft resolution. Staff has, therefore, included Goal #2 and Goal #12 in the Resolution, consistent with the staff report.

Happy Valley does not concur with the staff analysis. The City maintains that it is free under Goal #10 to choose whatever housing densities it likes. Happy Valley argues that its land is unsuitable for urban densities because of slope and drainage problems. The housing issues, according to the City's attorney, will ultimately be resolved by the courts. On Goals #6 and #11, the sewer issue, the City says it will develop a sewer plan corresponding to the densities it is finally ordered to develop by LCDC. Happy Valley maintains that Goals #9 and #13 do not require it to zone land for commercial use.

The Metro Staff Report and recommendation was prepared according to the "Metro Plan Acknowledgment Review Schedule," June 20, 1980. Under the previous plan review procedures, the RPC was provided with a complete Plan Acknowledgment Review Report. Under the June 20 schedule, the RPC will receive an "Acknowledgment Issues Summary" for each plan, developed from a "Plan Review Work Session" involving the jurisdiction, interested parties and Metro staff. The Summary will identify acknowledgment issues raised at the Work Session, describing areas of agreement and presenting the Metro staff position and rationale on unresolved issues.

The Council's role is to receive the Staff Report, hear further comments from interested parties and act upon the RPC's recommendations.

- B. ALTERNATIVES CONSIDERED: Metro staff did not find any issues which warranted serious consideration of an alternative recommendation (i.e., for denial).

C. CONCLUSION: Metro's recommendation for a continuance will support local planning efforts while protecting regional interests.

JC:ss
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HAPPY VALLEY ISSUE OUTLINE

	<u>ISSUE</u>	<u>CITY RESPONSE</u>
Goal #1	Citizen Involvement No issues identified	
Goal #2	Land Use Planning	
	1. Implementation of Dual Interest Area (Agreement (Clackamas County)	See Goal #6
	<u>Staff Position:</u> Not a Goal 2 Issue, See Goal #6.	
	2. Land Partitioning Time Requirement (OBPC, Portland Homebuilders)	NR
	<u>Staff Position:</u> Not a Compliance Issue	
Goal #3	Agricultural Lands No Issues Identified	
Goal #4	Forestry Land No Issues Identified	
Goal #5	Natural Resources	
	1. Historical Preservation Implementation (1000 Friends)	Inadequate funds
	<u>Staff Position:</u> Though Metro concurs, staff does not consider this an acknowledgment issue of regional concern	
	2. Inadequate Findings for Development Restrictions; no compensation (Metro)	NR
	<u>Staff:</u> City must analyze social, economic, environmental and other impacts of development limitations and adopt adequate compensation provisions.	
Goal #6	Environment	
	1. No sewer plan submitted (DEQ, Clackamas County, Metro)	Plan being drafted, City lacks funding. Inappropriate to adopt sewer plan before densities are established.

ISSUE

CITY RESPONSE

Staff Position: Prior to acknowledgment, City must submit plan with policies for sewerage urban development

Goal #7 Hazards

Too much land is classified unbuildable (Landowners)

Much land is unbuildable due to slope, soils and drainage

Staff: Metro had identified no Goal #7 compliance issues (See Goal #10, item 6)

Goal #8

No issues identified

Goal #9 Economy

1. City has responsibility to provide housing for the region's workers as its part in the economy (Landowners)

NR

Staff Position: This is properly a Goal #10 Issue

2. No land is designated for Commercial development

Present residents do not want commercial uses. The Goals do not require commercial land; the City will consider commercial needs in the future.

Staff Position: This is not a Goal #9 compliance issue.

Goal #10 Housing

1. Requirements, Goal #10 requires certain densities inside UGBs; Happy Valley is bound by findings and policies stemming from the regional UGB (DLCD, Homebuilders, 1000 Friends, Landowners, Manufactured Housing Dealers, OBPC, Metro)

Happy Valley is free to choose its own densities

ISSUE

CITY RESPONSE

Staff Position: Happy Valley should build to approximately 6 units per net acre and provide a 50/50 SF/MF new construction ratio or fully document necessity for variance

2. The plan contains vague and discretionary review standards
- Impact statements
 - Neighborhood compatibility requirements
 - Site plan review
 - (Manufactured Housing Dealers, Metro)

NR

Staff Position: Happy Valley must comply with the St. Helens decision and provide clear and objective approval standards

3. The City has established excessive land donation requirements for new development

NR

Staff Position: The City must analyze the impacts of its dedication requirements and find they do not unreasonably raise housing costs

4. Density transfer provisions are inadequate (Manufactured Housing Dealers, Landowners, Metro)

NR

Staff Position: Density transfer provisions should allow full transfer of rights and increase underlying densities

5. No provision for multi-family housing (DLCD, 1000 Friends, Landowners, Metro)

Goal #10 does not require 50/50 mix

Staff Position: Happy Valley must meet 50/50 SF/MF new construction ratio or fully justify any departure from that ratio

6. Densities area not related to buildability and constraints; densities for buildable land are too low (Metro)

Happy Valley has serious constraints -- drainage and slope -- that make higher densities on "buildable" land impossible

ISSUE

CITY RESPONSE

Staff Position: Happy Valley must relate density to suitability and not restrict densities on buildable lands and average 6 UNA overall

- 7. Happy Valley lacks a sewer plan (Metro)

See Goals #6 & #11

Staff Position: Until a sewer plan is adopted Happy Valley's ability to meet Goal #10 cannot be determined

- 8. The City may require developers to increase lot sizes at its discretion irrespective of plan designations (Metro)

Staff Position: The City should eliminate these provisions.

Goal #11 Public Facilities and Services

- 1. The City has not developed a sewer plan or definitive sewer policies for urban development.

Staff Position: Happy Valley must adopt a sewer plan providing for urban densities prior to acknowledgment

Happy Valley will provide sewers consistent with the densities it is required to plan for and consistent with its financial ability

- 2. Sewer Service must provide for urban densities (Landowners, Homebuilders)

Sewers will be based on LCDC required densities.

Staff Position: City must plan for sewers for urban densities in acknowledged plan

Goal #12 Transportation

After the work session, Metro received a copy of Happy Valley's traffic study. Metro is concerned that the City has not provided adequate streets and roads for its planned density (Metro)

NR

Staff Position: The City should plan for transportation facilities adequate to serve its planned density

ISSUE

CITY RESPONSE

Goal #13 Energy Conservation

See Goal #9

No commercial use will be allowed in Happy valley, forcing residents to drive outside the community to shop, wasting energy, (Metro)

Staff Position: This is not a Goal #13 compliance issue.

Goal #14 Urbanization

See Goal #10

Happy Valley must provide densities consistent with the UGB findings (Landowners)

Staff Position: This is properly a Goal #10 issue

JC/et
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HAPPY VALLEY ACKNOWLEDGMENT REVIEW

INTRODUCTION:

Happy Valley has had a long and controversial history in the planning for the Portland metropolitan region. The City was initially classified rural by Columbia Region Association of Governments (CRAG) when CRAG drew its first Urban Growth Boundary (UGB). Subsequently, the Land Conservation and Development Commission (LCDC) ordered CRAG to review that finding. In the final UGB, Happy Valley was designated urban. The City is now before Metro seeking Metro's recommendation on its request to LCDC for acknowledgment of its comprehensive plan.

The key issue underlying the staff's recommendation for a continuance of Happy Valley's plan is the City's failure to plan for an urban future. The City plans to develop to residential density of 2-2 1/2 units per acre. Metro staff finds that Goal #10 and Goal #14 requires at least six units per acre. The difference is between an urban and a rural future. Staff considers this to be a crucial shortcoming for both policy and practical reasons.

Policies adopted by Metro and the LCDC have clearly designated Happy Valley as part of the urban area. LCDC, under the UGB and its review of Metro area jurisdictions, has established the principle - with which Metro has concurred - that cities within the Boundary must assume responsibility for meeting the region's housing needs. To acknowledge Happy Valley's plan which contemplates an essentially rural future, undermines the adopted UGB and treats unfairly other cities and counties who have worked in good faith to meet their responsibilities.

As a practical matter, Happy Valley should develop at urban densities. The City's location and accessibility and the future economic trends of the area make Happy Valley uniquely suited to accommodate an important share of regional growth.

Already, regional investments have improved transportation in and to the Happy Valley area. The I-205 freeway is and will continue to be the only major uncongested freeway in the Portland area. Other investments planned in Regional Transportation Plan (RTP) - improving McLoughlin Blvd. and widening Sunnyside Road to four lanes - will further improve Happy Valley's transportation access. In the year 2000, according to the RTP, the Clackamas Town Center area, including Happy Valley, will have access to the only major radial corridor - Clackamas Expressway/McLoughlin Blvd. - not operating at or above capacity. In addition, I-205 will be below capacity from Orchards, Washington, to Wilsonville. Tri-Met's Transit Improvement Program calls for bus service to Happy Valley by 1985. A north/south busline will connect Happy Valley with Light Rail Transit (LRT) at 122nd and Burnside and to Clackamas Town Center. Clackamas Town Center itself will be a major transit center with direct service downtown and along I-205.

Happy Valley will also have access to nearly 100,000 new jobs in the next two decades. Metro's Transportation Department has prepared detailed estimates of new employment by traffic zone. These estimates project that nearly 15,000 new jobs will become available in the Happy Valley and Town Center traffic zones by year 2000, and that nearly 100,000 total new jobs will open in the I-205 Corridor between Orchards and Tualatin. This excludes new downtown jobs which will be easily accessible to Happy Valley residents.

The Clackamas Town Center area is destined to be a major growth center. A super regional shopping center, the nearby industrial areas in Clackamas County and better than average transportation access give this area a large comparative advantage in accommodating growth over other areas in the region.

The region has made a substantial investment in urban level services in this part of Clackamas County. Developing Happy Valley at low densities will undercut these investments and put more development pressure on jurisdictions whose resources are already hard pressed and who are relatively less capable of handling more growth.

Each of the major issues identified by staff in reviewing the Happy Valley comprehensive plan relate to the City's role in providing urban land for future growth. Housing density, housing types, septic tanks, sewers, street and road standards and commercial land are controversial because, in each case, the City is attempting to retain a fundamentally rural character. Metro staff points out that it is necessary - because of Happy Valley's inclusion in the UGB - and appropriate - because of Happy Valley's advantageous location - for the City to develop at minimally urban levels.

Basis for Metro Review

Happy Valley prepared a draft comprehensive plan and submitted it to Metro earlier in 1980. Metro staff reviewed this draft in detail and provided the City with a draft plan review in April, 1980. Metro's comments included specific recommendations on how the City could comply with Statewide Goals. At that time, the City omitted needed implementation measures such as zoning and building ordinances and sewer plans. The City has since submitted an adopted development ordinance and a draft drainage ordinance.

Metro's acknowledgment review is based on our earlier draft review. New comments are offered only on documents prepared and submitted since our draft review was prepared (i.e., on the development ordinance). It is Metro's intent to stand by the policies and recommendations laid out in they draft review.

General Requirements

Metro's draft plan review noted that Happy Valley had not submitted its zoning ordinance, map and subdivision ordinance. Since then the City has adopted a development ordinance relying comprehensive plan

map designations and including subdivision regulations. This meets Metro's earlier concerns. Substantive comments on these ordinance provisions made under Goal #10 (Housing).

At the time of Metro's draft plan review, Happy Valley had not signed an Urban Planning Area Agreement with Clackamas County. In June, 1980, the City signed a Dual Interest Area Agreement with the County. The City agreed to the County's designations for land use in the unincorporated areas east of Happy Valley. The County agreed to notify the City of land use changes in the unincorporated area. The City has also agreed to provide sewers to the dual interest area in an "orderly, timely and efficient manner" and both parties have agreed to ultimate annexation of the area to Happy Valley.

The Metro draft plan review noted that Happy Valley had not adopted regionally required "opening" language. The City has subsequently adopted the following language:

"This plan and all of its elements and implementing documents shall be open for amendments that consider compliance with the goals, objectives and plans of the Metropolitan Service District (MSD). This procedure shall occur every two years and may be so amended or revised annually if deemed necessary by the City Council. Amendment and revision for compliance with regional goals, objectives and plans should be consistent with a schedule for reopening of local plans which has been approved by the Land Conservation and Development Commission (LCDC)."
(Happy Valley Plan Addendum, p.1)

Goal #1 - Citizen Involvement

Metro's draft plan review did not identify any goal compliance issues under Goal #1 - Citizen Involvement.

Conclusion: Happy Valley complies with Goal #1.

Goal #2 - Land Use Planning

Happy Valley has adopted a development ordinance which meets Metro's earlier concern for the lack of a City Zoning Ordinance. According to Metro's earlier review, the City failed to include a disclaimer for goal provisions which the City deemed inapplicable to Happy Valley. The City has adopted qualifying language addressing a variety of goal issues. Specifically:

"The following list of inventory requirements of LCDC are not pertinent to Happy Valley and consequently are not addressed in this plan:
Commercial Forest; Mineral and Aggregate Resources; Energy Sources; Fish and Wildlife; Wilderness; Historic Sites; Cultural Areas;

Oregon Recreational Trails; Scenic Waterways; Earthquakes; Archeological Sites; Travelways, Sports, Cultural Events; Camping, Picnicing and Recreational Lodging; Angling; Winter Sports; Mineral Resources; Resource availability including underutilized natural resources; Rural Services; Rail Transportation; Air Transportation; Water Transportation; Goal - #15 Willamette River Greenway." (Happy Valley Plan Addendum, p.1)

Coordination

Happy Valley has planned for densities of about 2.5 UNA and an ultimate population of about 6,500. It has based various elements of its plan - recreation facilities, roads and public services - on these estimates. If the City develops at 6 UNA, as Metro recommends under Goal #10, the City's ultimate population will be between 10,000 and 12,000 -- 50 percent to 100 percent higher than forecast by the City's present plan. This implies that elements of the City's plan which rest upon the low population estimate will need to be revised.

Metro staff suggests that the City review its analysis and policies under Goal #6 (Recreational); Goal #9 (Economy); Goal #11 (Public Facilities); Goal #12 (Transportation); and Goal #13 (Energy Conservation) based on the revised housing policies it adopts to meet Goal #10. Goal #2 recognizes the interrelationship among these goals and requires the City's plan to be internally consistent.

Conclusion: Happy Valley does not comply with Goal #2. In order to comply, the City must assure that its plan provisions for population-related policies are consistent with any revisions it makes to its housing policies.

Goal #3 - Agricultural Lands

Metro's draft plan review noted that the City had adopted an inappropriate "public need" standard for the conversion of existing agricultural land to urban uses. Metro staff was concerned that the public need standard was inappropriate for areas which were inside UGB and, therefore, already committed to urban use. Happy Valley has deleted the public need standard and now complies with regional requirements under Goal #3.

Conclusion: Happy Valley complies with Goal #3.

Goal #4 - Forest Lands

Metro's draft plan review pointed out technical problems in Happy Valley's creation of a forest classification (generally implying commercial timber harvest) within its city limits.

In revising its plan, the City deleted these policies. Metro's draft plan review pointed out that if Forest Land classifications were established to preserve timber stands, the City would have to either acquire the lands or establish some compensation provisions. The City has adopted a policy (Policy #13) dealing with this issue, as discussed under Goal #5.

Conclusion: Happy Valley complies with Goal #4.

Goal #5 - Natural Resources

Metro's draft plan review asked for further information historic sites. Happy Valley has added discussion describing its historical sites and now complies with regional requirements.

The City has adopted several policies which prohibit or severely limit development on land within the City. Metro's draft plan review noted that, under Goal #5, the City should evaluate the economic, environmental, social and energy consequences of its policy. The City has adopted a blanket statement that:

"The environmental and social benefits associated with the avoidance of hazards and the retention of scenic open space should outweigh any development restrictions imposed upon property owners. (Happy Valley Plan Addendum, p. 7)"

This statement is made without referring to specific restrictions or justifying the criteria on which the designations were based. Staff concludes that this is not an adequate analysis in light of Goal #5 requirements.

In addition, the City argues that its density transfer mechanism can compensate landowners for any decreased development possibilities. However, the Happy Valley land use plan and development ordinance severely limit density transfers as a form of compensation.

First, landowners may have very little or no density to transfer. The City has designated many constrained areas, about 335 acres in all, for one unit per five acres. This leaves many landowners with very little density to transfer. In addition, landowners whose land is designated park, floodplain or insitutional use have no density to transfer because the City has not created any allowable density for these areas. Second, the City allows only one-half of the allowable density from any zone to be transferred. The transfer section of the Development Code provides that "50 percent of the development potential may be transferred to developable lands" (Development Ordinance, Section 5.053 E, p. 61). Thus, landowners whose land is designated for one unit per five acres have only one unit per 10 acres to transfer. This is not, in staff's view, adequate compensation, based on Happy Valley's analysis of the social and other impacts of its development restrictions. Third, the City allows density to be transferred only to its lower density

designated areas. For example, areas in the highest density classification - six units per net acre - may not receive any density transfers. This limits the effectiveness of density transfer as a compensation mechanism.

Because underlying densities are severely limited (or nonexistent), and because the landowner can transfer only one-half of the land's development potential, the Happy Valley ordinance provides an inadequate means of compensating landowners for development restrictions.

The City has not adequately analyzed the economic, social, environmental and energy consequences of its development prohibitions and dedication requirements. Nor has it established an effective means of compensation.

Conclusion: Happy Valley does not comply with Goal #5. In order to comply the City must:

- Analyze the economic, social, environmental and energy consequences of its development prohibition and dedication requirements;
- Adopt compensation mechanisms that will deal with the adverse impacts which are identified in its analysis of its development prohibition and dedication requirements.

Goal #6 - Air, Water and Land Quality

Metro's draft plan review identified several potential acknowledgment difficulties with the Happy Valley plan, all of which have been corrected by Happy Valley in its latest plan submission. Specifically, Happy Valley failed to include the required information about air pollution and did not identify Metro and the Department of Environment Quality (DEQ) as responsible agencies in dealing with air quality. The City has adopted language stating:

"MSD and DEQ are developing a regional control strategy to bring the metropolitan area into attainment by 1987. The city of Happy Valley will cooperate and work with these agencies to realize this goal." (Happy Valley Plan Addendum, p. 6)

The City's draft plan also lacks an adequate analysis of Happy Valley's water quality problem. The plan now describes the surface and subsurface water contamination problems that face the City. Additionally, Happy Valley omitted required language for coordination with regional water quality planning efforts. That language has been added as follows:

"Happy Valley recognizes and assumes its responsibility for operating, planning and

regulating waste water systems as designated in
MSD's Waste Treatment Management Component."
(Happy Valley's Plan Addendum, p. 8)

Metro's draft plan review also questioned the meaning of vague policy language relating to environment and density. The City has deleted that policy language.

In addition to the issues raised under Goal #6, Metro is concerned that a number of policies relating to sewerage in the Happy Valley area remain unresolved. DEQ has found a number of failing septic tanks in the Happy Valley area and has instructed the City since 1978 to prepare a sewer plan for the area. The City has not yet completed that sewer plan. While Metro believes that this is a Goal #11 issue, the failure to adequately sewer Happy Valley could result in severe water quality problems which may ultimately raise Goal #6 issues. This matter is more fully discussed under Goal #11.

Conclusion: Happy Valley complies with Goal #6.

Goal #7 - Natural Hazards

The City has, since Metro's draft plan review was completed, drafted a drainage ordinance implementing the City's drainage control policies and Metro's Johnson Creek guidelines. Metro's Environmental Services Division has reviewed that draft ordinance and finds that it is not only acceptable but is exemplary. All that remains is for the City to adopt this ordinance.

Conclusion: Happy Valley does not comply with Goal #7. In order to comply the City must adopt its draft drainage ordinance.

Goal #8 - Recreational Needs

Metro's draft plan review identified no Goal compliance issues under Goal #8.

Conclusion: Happy Valley complies with Goal #8.

Goal #9 - Economy of the State

Though Happy Valley has designated no land for commercial development, it has said it will reconsider the need for commercial land if residents should want it at some future time.

Conclusion: Happy Valley complies with Goal #9.

Goal #10: Housing

Overview: The major issue in the acknowledgment of the Happy Valley plan is housing. Metro's Draft Plan Review identified a number of plan policies that do not comply with Goal #10. This review reiterates those objections and further analyzes material presented by the City since Metro's initial review.

Metro's chief concerns fall into four areas; first, the analysis of development constraints; second, the analysis of its regional housing role; third, provisions for low cost housing and cost-moderating options; and fourth, lack of a sewer plan.

Constrained Lands Analysis

Happy Valley has a number of development hazards, notably steep slopes and poor drainage, which in some areas severely limit possible development. The City's analysis of these constraints has, according to Metro's Draft Plan Review, exaggerated the degree of constraint and unjustifiably limited the density of housing development within the City. Metro's objections fall into two areas. First, the City has exaggerated the degree of constraint on buildable land, and second, the City has failed to coordinate its density designations with its own analysis of site suitability.

Happy Valley has properly excluded much of the City's land - 335 acres in all - as being unbuildable because of slope, floodways and drainage problems. This portion of the City's analysis is consistent with the practice of other cities and is acceptable to Metro.

This exclusion left the City with slightly less than 800 acres of buildable lands. The City has taken the additional step of further classifying its buildable land according to the degree of constraint. In assigning densities to this buildable land, the City developed a composite of factors (slope, drainage and so forth) and applied these factors to the buildable land, even though it had already excluded all land made unbuildable by any of these factors.

Metro, in its Draft Plan Review, noted that while it is appropriate to vary densities based on site suitability, all of the density classes Happy Valley chose were too low and were unjustified by the constraint analysis. Happy Valley uses a very low five-acre minimum lot size to protect unbuildable areas. Yet it has taken this same category and applied it to nearly one-half of its buildable land. Metro's Draft Plan Review pointed out that this is inconsistent and unacceptable.

In addition, since the lowest class of buildable land is designated at a density that is also applied to unbuildable land, densities for all other land (which are set relative to the lowest density) are skewed downward. Thus, unconstrained land, flat and well-drained, is allowed to develop only to six units per acre - approximately 7,500 square foot lots.

Metro's Draft Plan Review noted that "the plan should be revised to designate land use densities consistent with the following guidelines:

1. All buildable land designated for at least one unit per net acre.

2. All buildable land with low-moderate, or better building suitability, unless demonstrated to be physically unfeasible to sewer designated for at least two units per net acre; and
3. All land with highest building suitability designated for a minimum of six units per net acre with provision for development at substantially higher densities (e.g., 12 units per net acre) as would be justified through a discussion of Happy Valley's role in meeting the regional housing need." (Metro Draft Plan Review, April 22, 1980, p. 8).

Metro stands by that recommendation and further notes that the City's ultimate aggregate densities should be consistent with an analysis of Happy Valley's role in meeting regional housing needs.

In addition to its inappropriately low densities, Happy Valley's plan also failed to establish a close correspondence between its suitability findings (as shown on a composite suitability map) and its land use density designations. For example, some areas with high suitability are given lower densities than areas with low suitability ratings. A detailed analysis by Metro staff shows that there are a number of areas in the two highest density classifications - four units per net acre and six units per net acre - which are also in the lowest suitability classifications. (See Map B). On a significant portion of the land designated for high density the City has not followed its own development suitability analysis.

The City's planning consultant explained that a number of factors produced deviations from the suitability analysis. In particular, the City considered existing neighborhoods, the need to spread development throughout the community, transportation factors and property owner desires in establishing densities different than those implied by the composite suitability analysis. Metro staff concludes that the composite development suitability factors do not represent limits on the buildable land in Happy Valley. Consistent with our earlier analysis and recommendations, Happy Valley can and should provide for a higher level of densities as indicated by its responsibility to meet regional housing needs.

Regional Housing Role

Metro's Draft Plan Review found that Happy Valley's plan blocked any discussion of Happy Valley's role in meeting regional housing needs. The City has not offered any new analysis of its responsibility to the region for housing supply.

Since the April 22, 1980, draft review was prepared, Metro and the LCDC have cooperatively developed a paper clarifying previous commission action interpreting Goal #10 requirements for the metropolitan area (under the UGB adoption and East Multnomah County, Fairview and Durham acknowledgment views). This is contained in a memorandum "Expectations for Goal #10 Acknowledgment in the Metro

Region" dated June 6, 1980. A copy of this memorandum was sent to the City when it was released. In general, Metro expects each of the major jurisdictions within the metropolitan area to plan for a single family/multi-family new construction mix of about 50/50 and densities of between six and ten units per net acre. We are willing to relax these specific density standards where jurisdictions make special provisions - such as smaller lot sizes and density bonuses - to moderate housing costs or where it is demonstrated that special locational considerations preclude higher densities.

While other jurisdictions, with larger current populations and better access to the Metro area have been asked to meet density standards of eight and ten units per net acre, smaller jurisdictions, like Happy Valley are given a lower target of six units per net acre.

Clearly, in light of UGB requirements and in order to assure regional compliance with Goal #10, each jurisdiction must meet the standard of a minimum of six units per net acre on buildable lands. The region is not asking that Happy Valley do more than any other city or county, and in fact, it is being asked to do substantially less than its neighbors (e.g., Clackamas County is required to plan for about 8 units per acre).

Happy Valley, however, seems to be planning to develop at essentially rural densities. A significant proportion of the City's buildable land is slated to develop at five-acre minimum lot sizes. The City's overall density for net buildable land (developed and vacant) is 2.46 units per net acre. The City has not, however, prepared data to enable Metro to compute the density of new development. Data for density categories is shown which combines vacant and built-on land. It is impossible from this tabulation to calculate the allowable densities on vacant land. Thus, while it is clear that Happy Valley has some 600 acres of vacant buildable land, Metro is cannot tell how many units can be built on that land and, consequently, on what will be the overall density of new development. In any case, the development density will be much less than the six units per net acre which Happy Valley needs to achieve to comply with Goal #10.

As part of its discussion of its housing situation, the City has examined several population estimates and developed a household size projection to help determine its future housing supply. Metro's Draft Plan Review noted that the household size which the City chose - 3.3 persons per household- was not justified in light of regional projections. The City has responded that this figure is accurate based on Happy Valley's present population. Their analysis, however, does not consider the fact that household sizes generally - both regionally and nationwide - are shrinking. Even though Happy Valley seems likely to have a higher than average household size that the exact figure will be less than the present 3.3 persons per household. Metro maintains, as it did in its draft review, that Happy Valley should further analyze its calculations to consider the declining household sizes.

Low Cost Housing and Cost Moderating Opportunities

Metro's Draft Plan Review noted that, consistent with Goal #10 as interpreted in Durham, Happy Valley has an obligation to meet the housing needs of the citizens of the region. Much like Durham, Happy Valley has not considered the needs of others. The City should provide the opportunity for housing within the economic reach of the citizens of the entire region.

While allowing jurisdictions ample latitude to develop their own plans, Metro has generally looked for a 50/50 single family/multi-family split as evidence of a city's commitment to providing affordable housing. The City has established a number of provisions in its development ordinance which preclude multi-family housing and which make other forms of moderate cost housing difficult, if not impossible, to provide within the City.

The City's ordinance allows multi-family development under its planned unit development ordinance and allows mobile homes within all zones (on individual lots) subject to subdivision and site design approvals. Metro applauds the City's substantial progress in these areas. The City has not, however, established clear and objective standards for approving multi-family development and mobile homes as required in the St. Helens decision.

Without clear and objective approval standards, developers and landowners have no certainty as to whether these housing types will be permitted by the City. Similarly, without such standards Metro has no way of knowing whether Happy Valley will meet its responsibility to provide for moderate cost housing. Metro staff's detailed analysis of the City's development ordinance is presented in Appendix A. The key points of that analysis are presented here.

Impact Statements: The City requires an extensive impact statement for all subdivisions and planned unit developments on matters ranging from geology to school and economic impacts. According to the development ordinance the City shall not allow projects where the "demerits of the proposal outweigh the merits" (Section 5.033clc). This broad and unfocused impact statement requirement gives the City substantial latitude to approve or deny subdivisions or planned unit developments.

Neighborhood Compatibility Requirement: Planned unit developments must meet a standard of neighborhood compatibility. Neighborhood compatibility is not defined, and could be used to deny a development that is not similar to Happy Valley's present very low density housing. (Section 5.034)

Discretionary Site Plan Approval: All buildings in Happy Valley must receive site plan approval. This applies to single family, multi-family and mobile home developments. In order to be approved the City must find "that the design of the land development is not detrimental to the public health, safety, general welfare or to

adjacent properties" and "the site plan and building design does not impair the desirability of investment or occupation of adjoining area, is not detrimental to orderly development and does not depreciate land values by being unsightly, undesirable or obnoxious in appearance with the surrounding areas" (Section 9.04). These site plan approval standards give the City virtually unfettered discretion to disapprove needed housing types.

Lot Sizes: In addition to discretionary approval standards, the City's development ordinance gives it the power to lower densities at its discretion. Provision for land partitioning and Planned Unit Developments allow the City to increase lot sizes. The Planning Commission may increase minimum lot sizes, irrespective of land use plan designations, based on its judgment about soil and slope building limitations. Metro staff is concerned that these provisions duplicate the City's constraint-based land use designations. Moreover, there are no limits to which the City may increase lots sizes; conceivably all land could be required to be one or five acre lots.

Each of these review processes injects considerable uncertainty into the development process, and makes it impossible for Metro to determine whether any housing development will occur.

In addition, the City's impact statement regulation requires developers to provide extensive technical information on hydrology, geology, vegetation, atmosphere, schools, the economy, transportation and other impacts. Metro objects to this for two reasons. First, this laundry list imposes substantial costs on developers that they will doubtless pass on to home buyers and renters. Second, most if not all, of this information should be collected as part of the City's planning effort.

Metro is not opposed to the impact statement as a planning tool. It can, for example, aid in deciding on the proper development for site specific problems such as drainage and slopes. It is not appropriate, however, to require information that is not reasonably related to a specific planning end. Moreover, the City has already adopted very detailed limitations of the construction on buildable land based on constraints which developers must again analyze as part of the impact statement requirement.

Dedications: Happy Valley's Development ordinance requires that developers dedicate one acre or \$5,000 (at the City's discretion) for every five acres or fraction thereof, to be used for parkland. In addition, there is a \$1,000 per acre park maintenance fee (Section 5.035 H). It is likely that these fees will have an impact on housing costs. The City has not analyzed any impacts. Metro staff suggests that the City consider these impacts in analyzing whether and how it meets its housing needs.

The City's failure to provide for multi-family housing as an outright use and the lack of clear and objective approval standards for all types of housing, including moderate cost housing, raise

severe questions about the City's ability to meet even the low densities which it has projected.

Lack of a Sewer Plan

Happy Valley has been under an order from the DEQ to prepare a sewage facility plan since June, 1977. Metro's Draft Plan Review noted several deficiencies in Happy Valley's current plan relating to sewers: First, it is not possible to determine whether buildable lands are in fact available for development until the City adopts a sewer plan, and second, the City has not adopted any policies requiring sewers for development.

Though this appears to be a Goal #11 (Public Facilities) issue (which it is), sewer availability is critical to housing development and Happy Valley's compliance with Goal #10. Unless sewers are provided with adequate capacity and in those areas where densities require them, planned housing will not be built.

In a city where there are presently no sewers, where a health hazard has been declared by DEQ, where the availability of land for needed higher density development depends on sewers, and where sewer planning has taken more than three years, Metro must continue to insist that a sewer plan or definitive sewerage policies be submitted before compliance with Goal #10 can be ascertained.

Density Transfer

The City's development ordinance includes a provision for density transfer. The City allows landowners whose land is constrained by slope, drainage or flooding problems to transfer one-half of the underlying density to other parts of their developable property. One purpose of this provision is to allow landowners compensation for development restrictions imposed on unbuildable lands. In addition, density transfer is one way in which the City helps to meet Goal #10. Densities transferred from unbuildable land add to the City's total number of projected new housing units. As noted in the discussion under Goal #5 the City's density transfer provisions have a number of flaws which restrict their effectiveness. Most notable from a housing standpoint are provisions restricting transferable density to one-half the underlying density and a prohibition on increasing densities above six units per net acre. This latter provision makes it almost economically impossible to construct multi-family housing in Happy Valley because each unit must have a minimum of 7,500 square feet of lot area. Even minimal apartment densities, eight to twelve units per acre, are not allowed under the City's development ordinance.

Conclusion

Happy Valley does not comply with Goal #10 - Housing.

In order to comply the City must:

1. Recognize its responsibility to help meet regional housing needs;
2. Establish residential densities of approximately six units per net acre and provide the opportunity for a 50/50 single family/multi-family housing mix;
3. Provide clear and objective approval standards for needed housing types;
4. Adopt a sewer plan and/or definitive sewer extension policies which support the housing densities described in point 2 above;
5. Eliminate provisions of its development ordinance allowing the City to arbitrarily increase minimum lot sizes; and
6. Analyze the impacts of its dedication and fee requirements and assure that these requirements do not inordinately raise housing costs.

Goal #11 - Public Facilities and Services

Metro has long taken the position that Goal #11 compliance for the City of Happy Valley requires completion of its sewer plan. Metro's progress review of the City's plan in February, 1979, and its March, 1980, favorable recommendation to LCDC on the City's planning extension request were premised on the understanding that the City would complete its sewer plan and strengthen its policies on sewer provision prior to acknowledgment. That position was reiterated in Metro's April, 1980, draft plan review which stated "the City must complete Step 1 (Sewerage Treatment Alternative Selected) and Step 2 (Sewer System Plan) before acknowledgment." (Draft Plan Review, p. 9, emphasis added).

The present Happy Valley plan does not contain clear policies on sewer extension for development and contains only more assurances that the City will ultimately develop a sewer plan. Clackamas County, which signed a Dual Interest Agreement with the City covering sewerage and annexation issues, has expressed the concern that Happy Valley's sewage treatment plan or lack thereof, will control the development of approximately 400 acres east of Happy Valley recently included in the UGB. Metro staff continues to insist that Happy Valley prepare and adopt a sewage treatment and/or definitive sewer policies prior to the time that it is acknowledged.

The issues of sewer service and densities most clearly illustrate the problems involved in the City's choice of an essentially rural future. At the densities the City has chosen, sewers may be economically infeasible. And since the City has not prepared a sewer plan, Metro does not know whether development will occur as planned and Happy Valley residents and landowners do not have a

clear idea of the costs and consequences of their development options. On a per household basis, the costs of sewers for low density development could far exceed the cost of sewers for urban densities. In the staff's view, this issue is fundamental not only to Goal #10, but also to Goal #11, which implies that cities should make ultimate policy choices about the level and cost of public facilities.

Metro's draft plan review noted that the City lacked a stormwater drainage management plan. The City has since drafted such a plan which Metro's Environmental Services Division has reviewed and commended. The City has not, however, adopted this plan. Adopting this ordinance in a form substantially similar to that submitted to Metro is necessary for Goal #11 compliance.

Metro's draft plan review noted that the City had not adopted regionally required language recognizing Metro's role in solid waste and wastewater management. The City has subsequently adopted that language, which reads:

"Policy 67a: Solid waste disposal is a regional concern requiring regional solutions. The city of Happy Valley recognizes Metro's responsibility and authority to prepare and implement a Solid Waste Management Plan, supports the Metro procedures for siting sanitary landfill and will participate in these procedures as appropriate."

The wastewater coordination language provides:

"Policy 65a: The City of Happy Valley recognizes and assumes its portion of the responsibility for and participation in the operation, planning and regulation of wastewater systems as designated Metro's Waste Treatment Management Component. In addition, Happy Valley supports Metro's role in the overall responsibility for Waste Treatment Management."

Conclusion: The City does not comply with regional requirements for Goal #11. In order to comply the City must:

1. Prepare and adopt a sewage treatment plan and/or definitive sewerage policies for the City.
2. Adopt its draft Stormwater Drainage Plan.

Goal #12 - Transportation

Metro's draft plan review requested submission of more detailed traffic analysis. The City has submitted this information to Metro.

Metro's Transportation Department has identified Happy Valley road designations which are inconsistent with those adopted by the City of Portland and Clackamas County. Metro expects that these discrepancies can be resolved in the Regional Transportation Plan (RTP) process.

Happy Valley's Draft Traffic study presents information requested by Metro in its draft plan review and outlines potential improvements in Happy Valley's road system. The study also contains the statement that:

"It may prove to be a physical impossibility to construct adequate additional surface width. If this is the case, then Mt. Scott Blvd. will never be capable of handling the post development traffic volumes, as its capacity is only 70 percent of projected traffic volumes. In effect, this would limit future development to 70 percent of that which is proposed in the comprehensive plan." (Traffic Study, p. 3)

This statement is particularly troubling. It is not clear whether it is meant as policy or how it relates to other elements of the Happy Valley plan. At a minimum this raises questions regarding compliance with Goal #12 and possibly Goal #2 (Land Use Planning). It causes Goal #12 problems because it indicates that the City has not adequately planned for its expected transportation needs. It causes Goal #2 problems because it indicates that the City's transportation analysis has not been related to the the City's housing and population analysis. In either event, the City should clarify the meaning of this statement.

Conclusion: Happy Valley does not comply with Goal #12. In order to comply the City must clarify its transportation study and relation of road capacity to ultimate development in the City.

Goal #13 - Energy Conservation

The City has included information which Metro asked for on energy conservation in the City.

Though the City provides no commercial land, and consequently residents must shop elsewhere, Metro considers the energy consequences of this action to be of local not regional concern.

Conclusion: Happy Valley complies with Goal #13.

Goal #14 - Urbanization

Metro's draft plan review noted that Happy Valley had not acknowledged Metro's role in reviewing and approving changes to the

UGB. The City has subsequently added language recognizing Metro's role as follows:

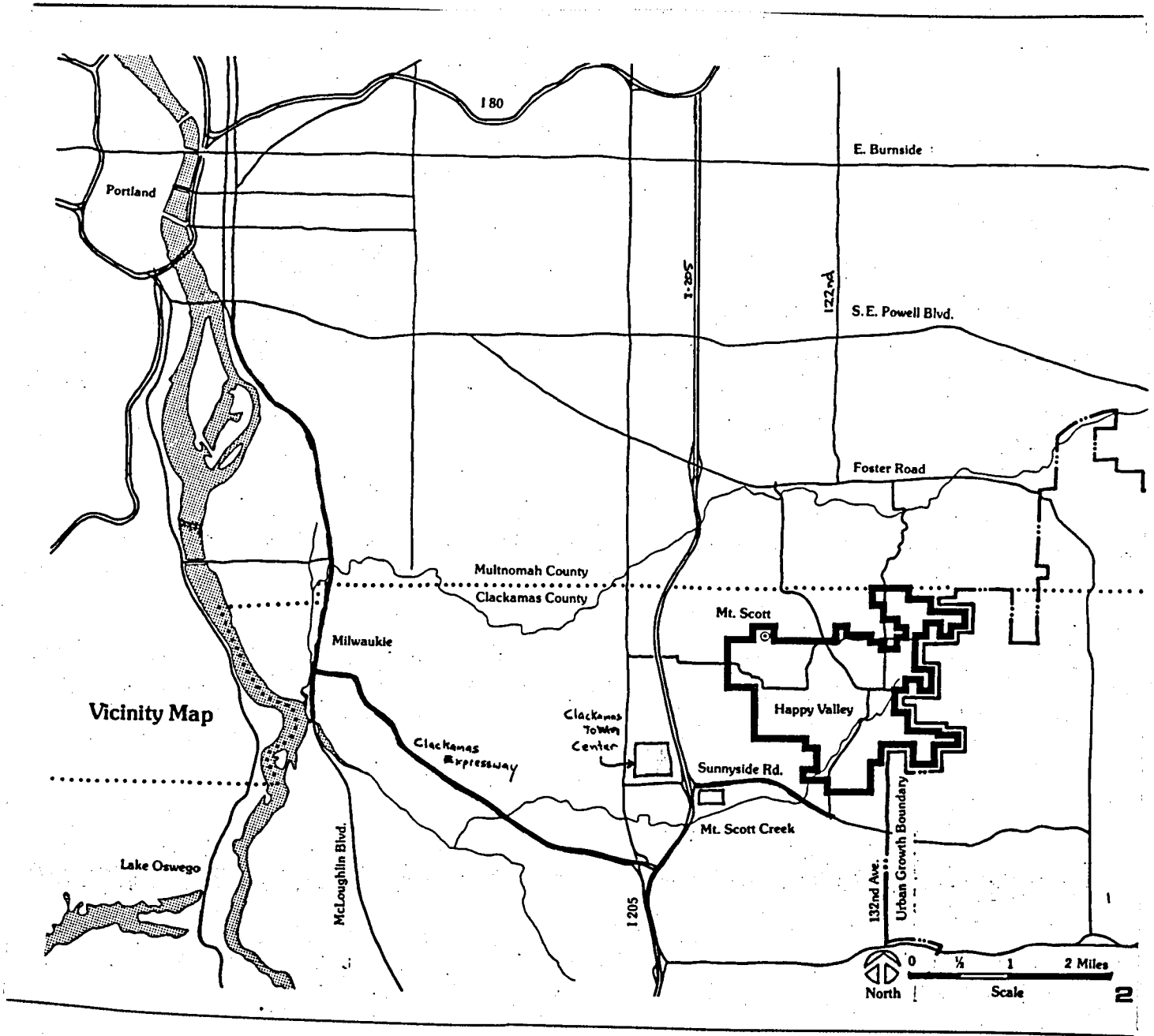
"Applications to amend the Urban Growth Boundary must be submitted to Metro." (Happy Valley Plan Addendum, p. 10).

Conclusion: Happy Valley complies with Goal #14.

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MAP A

Happy Valley's Location in the Urban Area

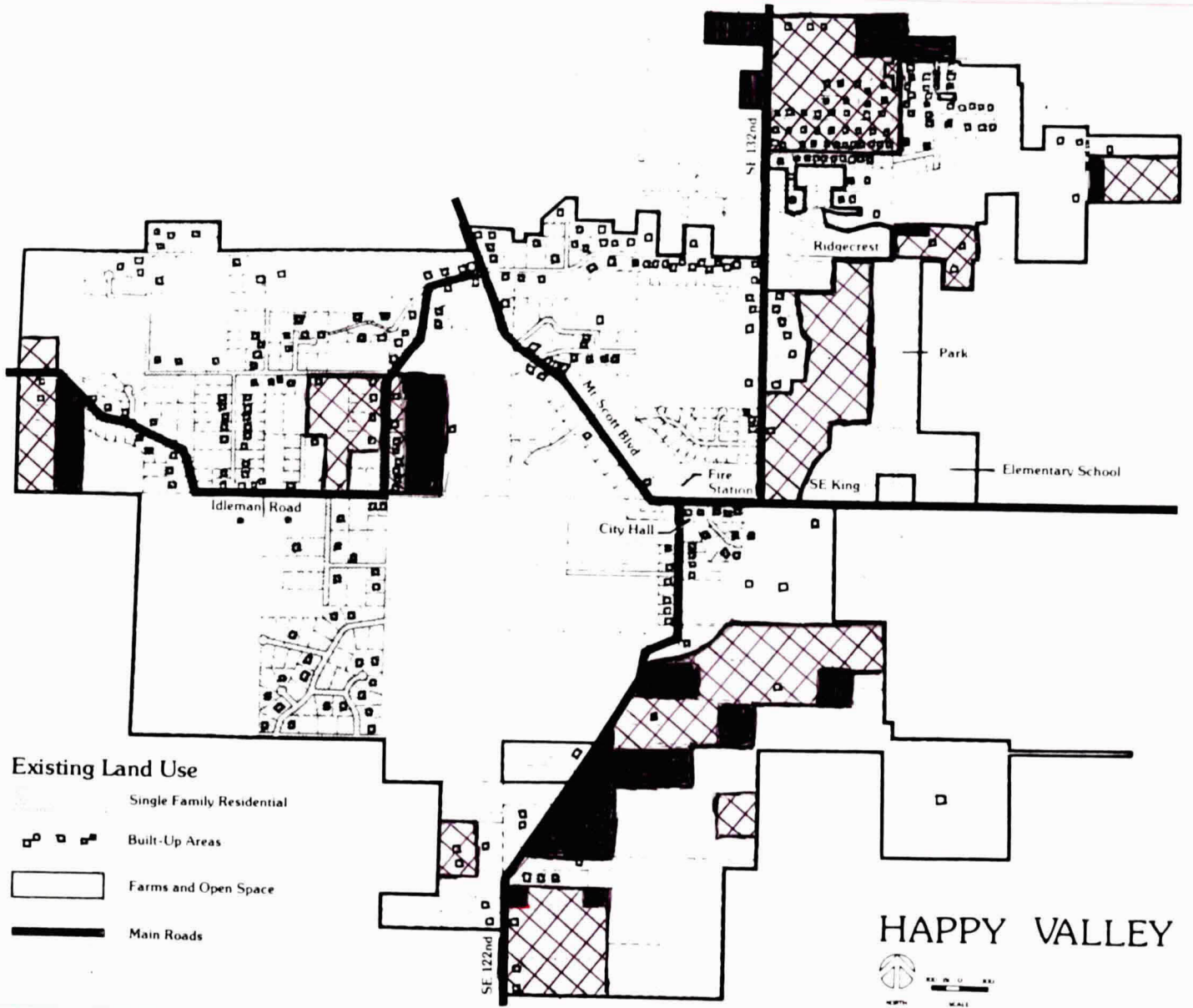


Source: Location Map (Map #2, Happy Valley Plan)

Additional features added by Metro staff

MAP B

High Density Designated for Low Suitability Areas



- 4-6 acre density in low or low moderate suitability areas
- 4-6 acre density in moderate or higher suitability areas

Source: Composite suitability map (#8, Happy Valley Plan) overlaid on Happy Valley Land Use Map (#10)

Prepared by Metro staff, sizes and locations approximate

APPENDIX A

HAPPY VALLEY DEVELOPMENT ORDINANCE REVIEW

This is an analysis of the Happy Valley Development Ordinance (Ordinance No. 76, August, 1980). Happy Valley's Development Ordinance contains a number of provisions which cause severe Goal #10 problems. First, the ordinance contains vague and discretionary provisions that may preclude needed housing. Second, the ordinance undermines needed density provisions.

Development Ordinance is Vague and Discretionary

LCDC's St. Helens doctrine has established the principle that needed housing types must be subject to clear and objective standards if they are not allowed outright in at least one zone. Happy Valley has established vague and discretionary approval standards on at least three levels in its development process, any one of which could be used to deny needed housing development. The three levels are impact statements, PUD approval standards and site plan review.

Impact Statements

All subdivisions and Planned Unit Developments (PUDs) must file a statement assessing hydrology, geology, vegetation and animal life, the atmosphere, school impacts, economic impacts, transportation and other public considerations. All of these matters are, of course, important to the evaluation of any project. Taken collectively, however, they impose a substantial information burden upon the developer. In addition, the ordinance provides that the impact statement is supposed to be critical to the decision to approve the planned subdivision or PUD and states "if after the analysis of the impact statement, it is seen that the demerits of the proposal outweigh the merits, the proposed subdivision or PUD shall not be allowed." (Ordinance 5.033C1C, p. 37-38).

This would not be a serious problem save for the fact that many of the listed considerations involve discretionary judgments. For example, the public considerations include "a detailed discussion of how the public will benefit from the proposed development" and goes on to say the applicant must "illustrate the demonstrated public need for the proposed project." This sort of catchall language makes approval standards very ambiguous and creates great uncertainty for developers and landowners about how their land may be developed. This long list of review items, without clear, specific and objective criteria for approval, confers virtually unlimited discretion upon the city to approve or disapprove projects as it pleases.

PUD Approval Standards

All PUDs must be approved by the Planning Commission and the City

Council. In addition, subdivisions of more than ten units also require approval under PUD standards (Ordinance Sec. 5.034). In addition to other standards, PUDs must meet the standard of "compatibility with the neighborhood." The ordinance requires that the PUD "plan and program shall be consistent with and ensure compatibility with the neighborhood and comprehensive plan." (Ordinance Sec. 5.042d2b1). Again, this provision provides ample opportunity to arbitrarily deny subdivision and PUD approval.

Site Plan Review Standards

In addition to other requirements, Planning Commission approval is required for all new buildings and additions in Happy Valley. As stated in the ordinance, the purpose of site plan review is to assure that development will "not be detrimental to the public health, safety and general welfare or to adjacent properties." (Sec. 9.01 p. 91). In order to be approved, a site plan requires the City to find that "the design of land development is not detrimental to the public health, safety, general welfare or to adjacent properties" and "the site plan and building design does not impair the desirability of investment or occupation of adjoining areas, is not detrimental to orderly development and does not depreciate land values by being unsightly, undesirable or obnoxious in appearance with the surrounding area." (Sec. 9.04 p. 92).

Each of these provisions creates a substantial uncertainty for builders and landowners as to the future uses allowed on their property. Despite the assurances of the present City Council, future City Councils will have virtually unfettered discretion, by means of any of these provisions, to approve or disapprove development without regard to the comprehensive plan or regional housing needs. As such, the Happy Valley Development Ordinance does not provide for the clear and objective standards for needed housing types that are required by the LCDC St. Helens Development Policy.

Development Ordinance Undermines Density Provisions

In addition to provisions which provide for the outright denial of certain housing types in Happy Valley, the development ordinance also allows the City to limit or condition of development in other ways, short of outright prohibition. Several of these policies, notably those affecting density, impair the City's ability to meet regional expectations for housing.

The plan's density provisions - from which Goal #10 compliance is to be ascertained - hinge on the reliability of the density established in each of the plan's designated residential areas. The plan, we think inappropriately, sets densities for buildable land based on "relative" constraints, i.e., the degree of slope for land with less than unbuildable slopes. What the City does, in effect, is take two cuts at the buildability of residential land. First, it prohibits altogether construction on land with severe hazards. Second, and in addition, it further restricts development possibilities on lands with less than severe constraints. What in effect the City is

doing, is double counting its limitation on buildable land. First, by eliminating some land outright, and then further by constraining the remaining land which is by definition, buildable. In addition to these limitations established by land use designation, the City further reserves to itself the power to further reduce densities through its subdivision and PUD approval processes.

Separate provisions for major partitioning (Sec. 5.024la 1 and 2) and Subdivisions and Planned Unit Developments (Sec. 5.034e 1 and 2) allow the City to increase lot sizes: "The lot size may be increased due to the subsurface soil conditions if determined to be necessary by the City" and "as the percent of slope increases, density shall decrease to partially or completely avoid the problems of drainage, siltation, slippage, flood control and accessibility which are frequently attributable to overdevelopment of slope areas. This shall be ascertained by the Planning Commission." (Ordinance Sec. 5.024cla 1 and 2, p. 33).

This provision, in effect, enables the City to triple count constraints on buildable land in setting densities. First, it determines constraints by excluding altogether land which is determined to be unbuildable. Second, it imposes densities in its land use designation which are further based on constraints, and finally, in its platting process, the City empowers itself to reduce densities still further, once again based on its analysis of land constraints.

This approach clearly lowers densities below those which are justifiable given an accurate analysis of constraints, i.e., one which only counts constraints once.

In addition to severe limits on the allowable density in planned designations and in partitioned land, density transfers - upon which the plan relies for compensating persons whose land is designated for open space or other preservations-are severely limited in the plan. Limits are imposed in two ways. First, density transfers are based on very low allowable densities set in the plan and further set in the platting process. Second, density transfers themselves are limited to 50 percent of the allowable density from the zone which the transfer is being made. The combination of these limitations is to severely limit the efficacy of density transfer as a means of compensating landowners for the dedication of constrained lands.

The Happy Valley Development Ordinance contains a number of provisions providing for vague and discretionary review and a variety of means for reducing densities below those established in the plan. Taken together these problems raise serious questions about the community's ability to assume its responsibility to meet regional housing needs as required by Goal #10.

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