

To: Salem City Council

From: E.M. Easterly (775 Fir Gardens St. NW)

Date: October 10, 2016

Re: **Inconsistent Application of Development Standards  
USA Development Permit 06-06**

Ten years ago the Salem bureaucracy authorized a West Salem subdivision that will cost Salem tax payers an unwarranted 1.5 million dollars unless this Council acts immediately.

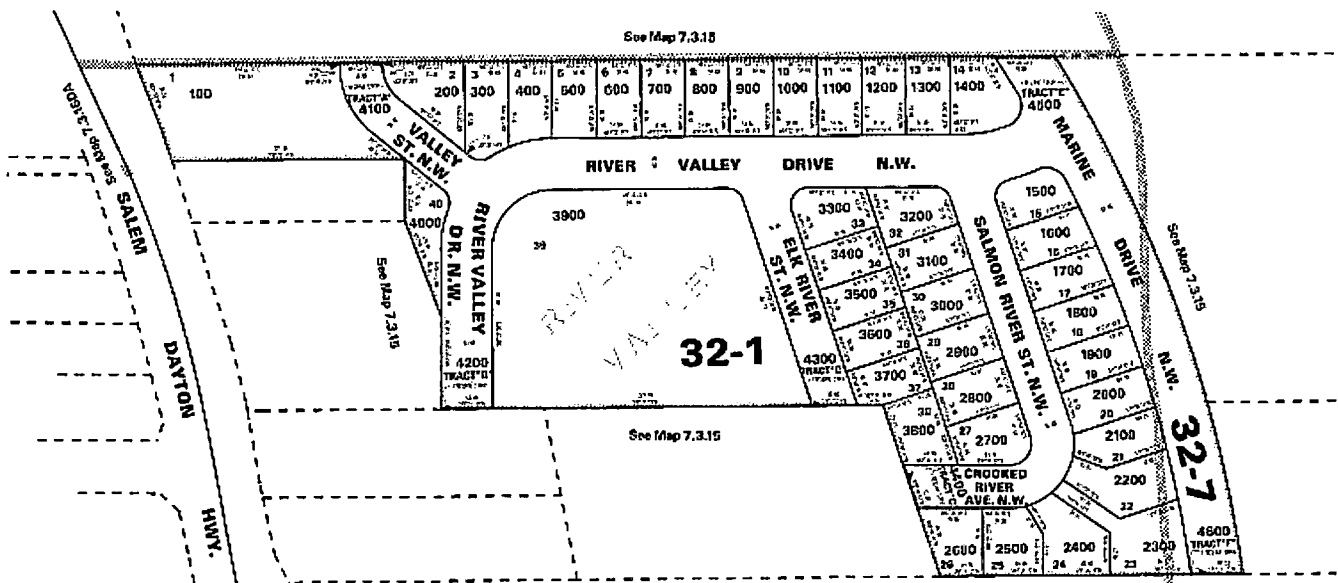
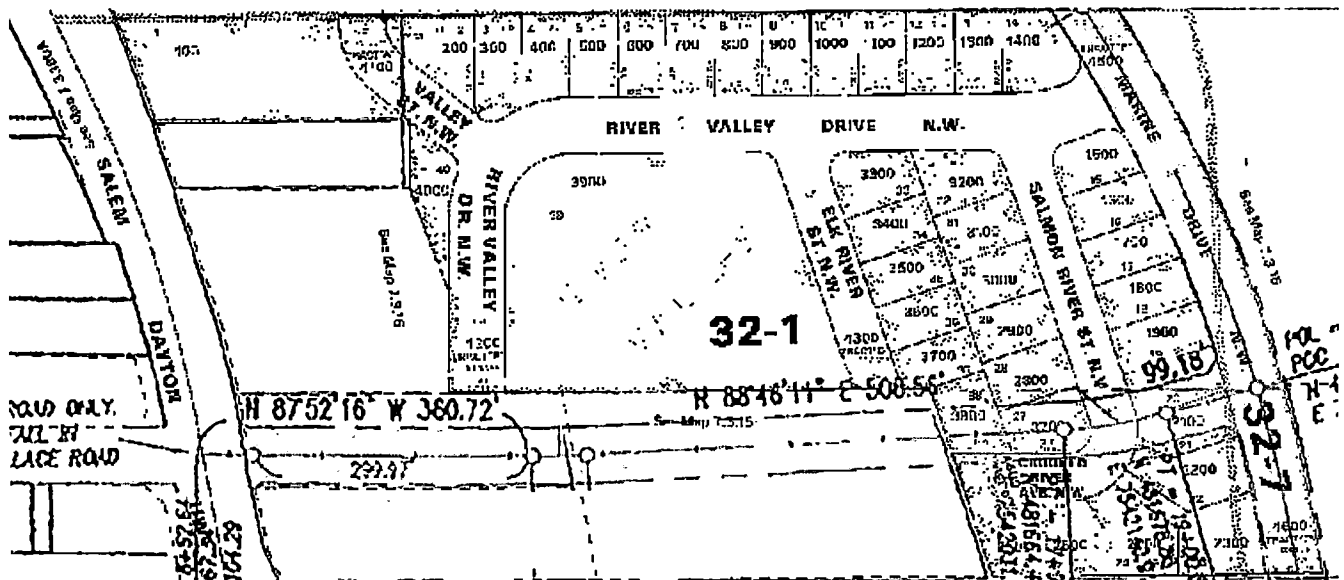
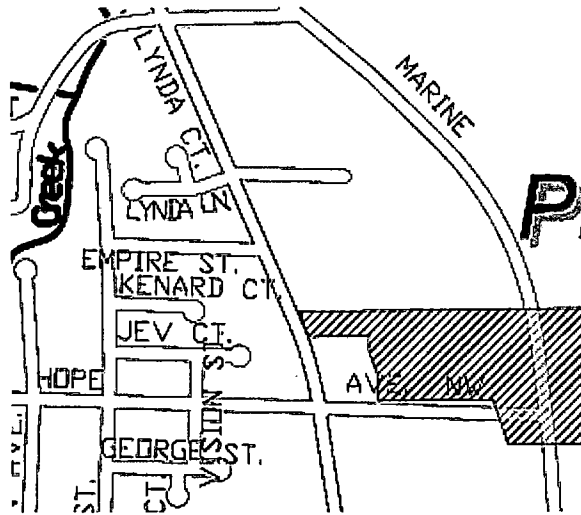
A series of bureaucratic actions resulted in subdivision conditions that were never executed, allowed procedures that contradicted the Salem Revised Code, approved lots extending illegally outside the Salem City limits, ignored a surveyed and recorded street right-of-way within the subdivided parcels and approved lots in the original Hope Avenue right-of-way. Ironically the City required the developer to construct a street on an adjoining parcel then not owned by the applicants along a portion of the same surveyed and recorded street right-of-way that was destroyed when the subdivision was platted.

We cannot change the past. But Council can demand that the appearance of bureaucratic favoritism be minimized. Of the land use development approvals granted by the City of Salem east of Wallace Road NW since 2002, only the Fry River Valley project has by way of an administrative non-decision been granted relief from the Urban Growth Area Development boundary street requirement C.3<sup>1</sup>.

Tonight I ask Council to take a simple step and save tax payers tens of thousands of dollars. I ask that you require that the C. 3. provision of UGA Development Permit 06-06 to build or defer construction of Marine Drive NW per **COUNCIL POLICY NO. T-5<sup>2</sup>** be executed before the City issues an occupancy permit for the River Valley apartment complex.

Your action in this matter is important. Tonight you adopted the staff recommended first reading of amendments to the Salem Urban Growth Boundary and Comprehensive Plan that will sweep over these earlier unjustified decisions and place even more homes in jeopardy.

# Inconsistent Application of Development Standards USA Development Permit 06-06



The map displays a grid of land parcels with the following details:

- Parcel 400:** PAR 1, 2.00 AC
- Parcel 402:** PAR 2, 2.54 AC
- Parcel 401:** 8.20 AC, Parcel 2
- Parcel 500:** 2.63 AC
- Parcel 501:** 8.58 AC
- Parcel 502:** 32-1
- Parcel 600:** 8.47 AC
- Parcel 601:** 8.5 AC
- Parcel 602:** 14.22 AC
- Parcel 603:** 32-19
- Parcel 1000:** 9.66 AC
- Parcel 1200:** 8.67 AC
- Parcel 1201:** 1.24 AC
- Parcel 1300:** 8.5 AC
- Parcel 1301:** 1.89 AC
- Parcel 1302:** 1.89 AC
- Parcel 1303:** 1.89 AC
- Parcel 1304:** 1.89 AC
- Parcel 1400:** 14.58 AC
- Parcel 1500:** 4.05 AC
- Parcel 1600:** 11.34 AC
- Parcel 1800:** 6.18 AC
- Parcel 1801:** 1800
- Parcel 1900:** 22 10

The map is titled "Map 7.3 (2008)" and "Map 7.4 (2008)". The zoning designations "32-1" and "32-7" are prominently displayed across the map. The map is a black and white line drawing showing the boundaries of the parcels and the streets. The map is oriented with North at the top.

The section outlined in green, including the street connect to Wallace Road, has been constructed. The sections outlined only in red have owners that are obligated to pay

Glen Gross Letter



December 17, 2015

E.M. Easterly  
775 Fir Gardens St NW  
Salem, OR 97304

Mr. Easterly:

Thank you for your December 7, 2015 letter regarding the Valley River subdivision identifying the apparent discrepancy between the final platted boundary of the subdivision and the Urban Growth Boundary ("UGB"). We agree that a small portion of some of the lots within the platted subdivision cross over the UGB. None of the application materials submitted at the time the tentative plan or final plat were approved indicate the subject property crossed over the UGB, and staff was unaware of this issue until your brought it to our attention.

At this time there is no need to undertake any land use or enforcement action to address the issue. The final plat for the subdivision was approved and filed with Polk County in 2007 and homes have been built on the affected lots.

As the map you provided indicates, the subdivision abuts future Marine Drive to the east. The City will be undertaking a land use action to bring into the City those portions of Marine Drive that are outside the UGB. When that land use action is undertaken, this issue may be addressed and the UGB may be adjusted to include these properties.

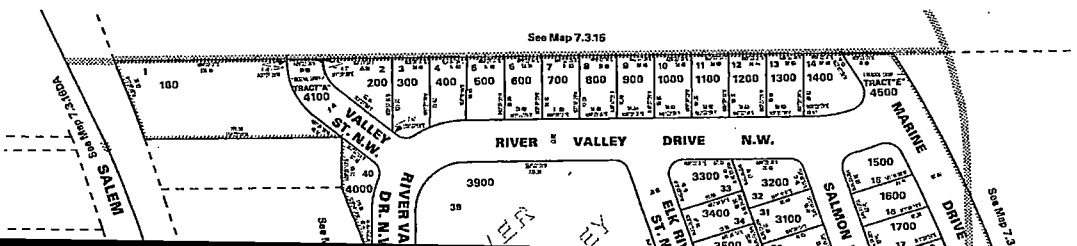
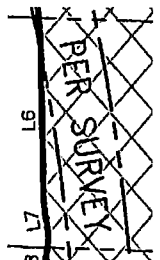
Please contact me if you have any questions regarding this matter.

Sincerely,

Glenn W. Gross  
Community Development Director  
(503) 540-2306  
Fax: (503) 315-2571  
Email: [ggross@cityofsalem.net](mailto:ggross@cityofsalem.net)  
<http://www.cityofsalem.net/CommunityDevelopment>

COMMUNITY DEVELOPMENT

Planning Division • 555 Liberty St. SE / Room 305 • Salem, OR 97301-3513 • (503) 588-6173 FAX (503) 588-6005



Documentation in support of  
**Inconsistent Application of Development Standards**  
**USA Development Permit 06-06**

**775 Fir Gardens St. NW ♦ Salem, OR 97304**  
**emeasterly@comcast.net ♦ 503-363-6221**

September 27, 2016

Steve Powers, Salem City Manager  
555 Liberty St SE  
Salem, OR 97301

Sent by email

Dear Mr. Powers:

Thank you for asking me to resubmit questions.

I invite you to address my queries with some urgency because once an occupancy permit for the second phase of the River Valley Subdivision is issued the City will miss the opportunity to enforce the developer's obligation to contribute towards construction of the adjoining section of Marine Drive.

I also ask you to consider initiating a review that is independent of current management since the issues involve the appearance of a special on-going treatment of the President of the Planning Commission.

Sincerely,

E.M. Easterly

### QUESTIONS

Question 1:

**Why is SRC 66.140(a)(4) or any of the other requirements under SRC Chapter 66 not applicable to UGA Development Permit 06-6 issued in 2006?**

Question 2:

**Why do neither the 2006 nor 2015 improvement agreements associated with UGA Development Permit 06-6 address the Marine Drive development requirements detailed in section C. Boundary Street Requirements 3. "Construct Marine Drive NW"?<sup>1</sup>**

Question 3:

**Why has the River Valley subdivision developer not been encumbered with obligations under provisions of SRC 66.035?**

Question 4:

**Is the Urban Growth Preliminary Declaration associated with UGA Development Permit 06-6 is no longer valid and are the provisions outlined in SRC 66.050(e) not applicable to UGA Development Permit 06-06 issued in 2006? Please provide a fact based explanation.**

Question 5:

**When will UGA Development Permit 06-6 Boundary Street requirements cited in Section 1 be met and why were these provisions not included in Permit 14-107055-**

Question 6:

**Where in the text of the Salem TSP is the location of Marine Drive specified, how does that text describe the location of Becket, Hope and Harritt and what language in the TSP excludes the Becket, Hope and Harritt surveyed center line alignments from the TSP Policy 4.5 limits?**

Question 7:

**What is the legal basis for using the Salem "street naming system" to override and replace the formal 1999 City Council action naming the future surveyed roadway east of Wallace Road NW "Hope Avenue NW"?**

Question 8:

**Why was the tentative subdivision 06-10 plat approved with single family residential lots authorized over the surveyed Hope Avenue right-of-way in conflict with the Council approved center line alignment of Hope Avenue east of Wallace Road and affirmed by the Salem Transportation System Plan since 2001?**

Question 9:

**Is SRC 200.345 applicable to the 10 year old City of Salem land use development decisions known as Subdivision 06-10 and UGA Development Permit 06-06 and, if it is, what was/will be the total Transportation Systems Development Charges levied against the River Valley Subdivision that will offset the developer's Marine Drive NW construction liabilities?**

**From:** "Steve Powers" <spowers@cityofsalem.net>

**To:** emeasterly@comcast.net

**Sent:** Friday, September 23, 2016 2:16:28 PM

**Subject:** Re: Your September 19 email

Mr. Easterly,

Please send me the questions you believe have not been answered by staff.

Thank you,

Steve Powers  
City of Salem

# **Inconsistent Application of Development Standards**

## **USA Development Permit 06-06**

### Post testimony questions and answers

#### **1. Are you sure that council and public will understand what you are actually saying?**

Whether Council is willing to listen or even understand is the chance I am taking. My primary message: Ten years ago City of Salem staff ignored City codes and development conditions when it granted tentative approval of the River Valley subdivision. That approval will cost Salem tax payers more than a million dollars and staff continues to compound those costs.

Staff was either incompetent or staff, in the aggregate, wanted to support this development and/or this developer more than they wanted to comply with a complex set of rules and codes. The developer saved the cost of a geological assessment. The developer avoided purchasing an excavation permit, one of the subdivision conditions. The developer created lots that are, in part, outside the City of Salem. The developer has been de facto exempted from the expense of Marine Drive construction.

#### **2. What is this \$1.5 million?**

City 2015 estimate half street	\$423,895.00
Marine Drive construction cost	

Current market value of lots in  
the 2002 surveyed Hope Avenue  
R-O-W

Lot - 38	\$188,640.00
Lot - 28	\$185,730.00
Lot - 27	\$175,090.00
Lot - 21	\$188,060.00
Lot - 20	\$185,770.00
Lot - 19	\$185,460.00
Total	\$1,108,750.00

Grand Total	\$1,532,645.00
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The \$1.1 million liability in current dollars was created when the City bureaucracy ignored the adopted Hope Avenue alignment and allowed lots to be platted within that R-O-W. This ten year old decision cannot be corrected. The obligations relating to Marine Drive can still be met.

**3. What is the urgency?** In the not too distant future occupancy approval for the sixty unit River Valley apartment complex will be granted. Once occupancy is approved the City has no leverage to get the developer to comply with the USA Development Permit 06-6 which requires the construction or deferral of construction costs associated with Marine Drive and once again another City of Salem flawed indecision associated with the River Valley subdivision will have transpired.

**4. Have you brought your concerns to City of Salem staff since you began your research, (yes) and if so, what has the response been?**

Efforts were made to answer my questions until such time that staff sensed my questions were challenging their "official" view. **Have you felt "heard"?** Yes; as well as avoided.

**5. Who is ultimately responsible for the differences between the requirements for these developments and other developments in town?** Salem City staff and City Council.