



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

1/6/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Ashland Plan Amendment
DLCD File Number 003-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, January 19, 2010

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

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

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

Cc: Derek Severson, City of Ashland
Gloria Gardiner, DLCD Urban Planning Specialist
John Renz, DLCD Regional Representative
Bill Holmstrom, DLCD Transportation Planner

<paa> N

Notice of Adoption

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



Jurisdiction: **City of Ashland**

Local file number: **PA-2009-01151**

Date of Adoption: **12/26/2009**

Date Mailed: **12/28/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 9/25/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

A Zoning Map Amendment to extend the "Freeway Sign Zone/Freeway Overlay District" from its previous 700-foot radius to include the westernmost 100 feet of a portion of 545 Clover Lane and two additional properties along the west side of Clover Lane, 555 and 565 Clover Lane.

Does the Adoption differ from proposal? Yes, Please explain below:

The proposal was to extend the "Freeway Sign Zone" to encompass two additional properties in their entirety. The Adoption extended the "Freeway Sign Zone" overlay to include only the westernmost 100 feet of the subject properties.

Plan Map Changed from:

to:

Zone Map Changed from: **Outside "Freeway Sign Zone"** to: **Inside "Freeway Sign Zone"**

Location: **545, 555 and 565 Clover Lane**

Acres Involved: **1**

Specify Density: Previous: **Commercial Use**

New: **Commercial Use**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Associate Planner Derek Severson

Phone: (541) 552-2040 Extension: 0

Address: 20 East Main Street

Fax Number: 541-552-2050

City: Ashland

Zip: 97520-

E-mail Address: seversod@ashland.or.us

ADOPTION SUBMITTAL REQUIREMENTS

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

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

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

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on 8-1/2x11 green paper only. You may also call the DLCD Office at (503) 373-0050; or Fax

December 10, 2009

Jon Warren
Holiday Inn Express
565 Clover Lane
Ashland, OR 97520

RE: RE: Planning Action #2009-01151

Notice of Decision

At its meeting of November 10, 2009, based on the record of the public meetings and hearings on this matter, the Ashland Planning Commission approved your request for a zoning map amendment to extend the "Freeway Sign Zone/Freeway Overlay District" for the property located at 545-555-565 Clover Lane -- Assessor's Map # 39 1E 14 AA; Tax Lot 3200, 6700 & 6800.

The Ashland Planning Commission approved and signed the Findings, Conclusions and Orders document, on December 8, 2009.

Please review the attached findings and conditions of approval. The conditions of approval shall be met prior to project completion.

Copies of the Findings, Conclusions and Orders document, the application and all associated documents and evidence submitted, applicable criteria and standards are available for review at the Ashland Community Development Department, located at 51 Winburn Way.

This decision may be appealed to the Ashland City Council if a Notice of Appeal is filed within 15 days of the date this notice was mailed and with the required fee (\$304), in accordance with Chapter 18.108.110 (A) of the Ashland Municipal Code. The appeal may not be made directly to the Land Use Board of Appeals. The appeal shall be limited to the criteria listed in Chapter 18.108.110 of the Ashland Municipal Code, which is also attached.

If you have any questions regarding this decision, please contact the Community Development Department between the hours of 8:00 am and 4:30 pm, Monday through Friday at (541) 488-5305.

cc: Urban Development Services LLC 485 W Nevada St Ashland, OR 97520
Thomas Heumann 634 Sutton Place Ashland, OR 97520
Robert Peffer 626 Sutton Place Ashland, OR 97520
Gary Mallicoat, Ashland Hills Shell Station 2496 Highway 66 Ashland, OR 97520
A-Tech-76 2490 Highway 66 Ashland, OR 97520
David J Pyles, ODOT 100 Antelope Road White City OR 97503



Per AMC 18.108.060.C.2, the decision of the Planning Commission may be appealed to the Council as provided in section 18.108.110...

SECTION 18.108.110 Appeal to Council.

- A. Appeals of Type II decisions** - shall be initiated by a notice of appeal filed with the City Administrator. The standard Appeal Fee shall be required as part of the notice. All the appeal requirements of Section 18.108.110, including the appeal fee, must be fully met or the appeal will be considered by the city as jurisdictionally defective and will not be heard or considered.
1. The appeal shall be filed prior to the effective date of the decision of the Commission.
 2. The notice shall include the appellant's name, address, a reference to the decision sought to be reviewed, a statement as to how the appellant qualifies as a party, the date of the decision being appealed, and a clear and distinct identification of the specific grounds for which the decision should be reversed or modified, based on identified applicable criteria or procedural irregularity.
 3. The notice of appeal, together with notice of the date, time and place to consider the appeal by the Council shall be mailed to the parties at least 20 days prior to the meeting.
 4.
 - A. Except upon the election to re-open the record as set forth in subparagraph 4.B. below, the review of a decision of the Planning Commission by the City Council shall be confined to the record of the proceeding before the Planning Commission. The record shall consist of the application and all materials submitted with it; documentary evidence, exhibits and materials submitted during the hearing or at other times when the record before the Planning Commission was open; recorded testimony; (including DVDs when available), the executed decision of the Planning Commission, including the findings and conclusions. In addition, for purposes of City Council review, the notice of appeal and the written arguments submitted by the parties to the appeal, and the oral arguments, if any, shall become part of the record of the appeal proceeding.
 - B. The Council may reopen the record and consider new evidence on a limited basis, if such a request to reopen the record is made to the City Administrator together with the filing of the notice of appeal and the City Administrator determines prior to the City Council appeal hearing that the requesting party has demonstrated:
 - a. That the Planning Commission committed a procedural error, through no fault of the requesting party, that prejudiced the requesting party's substantial rights and that reopening the record before the Council is the only means of correcting the error; or
 - b. That a factual error occurred before the Planning Commission through no fault of the requesting party which is relevant to an approval criterion and material to the decision; or
 - c. That new evidence material to the decision on appeal exists which was unavailable, through no fault of the requesting party, when the record of the proceeding was open, and during the period when the requesting party could have requested reconsideration. A requesting party may only qualify for this exception if he or she demonstrates that the new evidence is relevant to an approval criterion and material to the decision. This exception shall be strictly



construed by the Council in order to ensure that only relevant evidence and testimony is submitted to the hearing body.

Re-opening the record for purposes of this section means the submission of additional written testimony and evidence, not oral testimony or presentation of evidence before the City Council.

- C. Oral argument on the appeal shall be permitted before the Council. Oral argument shall be limited to ten (10) minutes for the applicant, ten (10) for the appellant, if different, and three (3) minutes for any other Party who participated below. A party shall not be permitted oral argument if written arguments have not been timely submitted. Written arguments shall be submitted no less than ten (10) days prior to the Council consideration of the appeal. Written and oral arguments on the appeal shall be limited to those issues clearly and distinctly set forth in the Notice of Appeal; similarly, oral argument shall be confined to the substance of the written argument.
- D. Upon review, and except when limited reopening of the record is allowed, the City Council shall not re-examine issues of fact and shall limit its review to determining whether there is substantial evidence to support the findings of the Planning Commission, or to determining if errors in law were committed by the Commission. Review shall in any event be limited to those issues clearly and distinctly set forth in the notice of appeal. No issue may be raised on appeal to the Council that was not raised before the Planning Commission with sufficient specificity to enable the Commission and the parties to respond.
- E. The Council may affirm, reverse, modify or remand the decision and may approve or deny the request, or grant approval with conditions. The Council shall make findings and conclusions, and make a decision based on the record before it as justification for its action. The Council shall cause copies of a final order to be sent to all parties participating in the appeal. Upon recommendation of the Administrator, the Council may elect to summarily remand the matter to the Planning Commission. If the City Council elects to remand a decision to the Planning Commission, either summarily or otherwise, the Planning Commission decision shall be the final decision of the City, unless the Council calls the matter up pursuant to Section 18.108.070.B.5 .
- F. Appeals may only be filed by parties to the planning action. "Parties" shall be defined as the following:
 - 1. The applicant.
 - 2. Persons who participated in the public hearing, either orally or in writing. Failure to participate in the public hearing, either orally or in writing, precludes the right of appeal to the Council.
 - 3. Persons who were entitled to receive notice of the action but did not receive notice due to error.



BEFORE THE PLANNING COMMISSION
December 8th, 2009

IN THE MATTER OF PLANNING ACTION #2009-01151, A REQUEST FOR)
A ZONING MAP AMENDMENT TO EXTEND THE "FREEWAY SIGN ZONE/)
FREEWAY OVERLAY DISTRICT" FROM ITS CURRENT 700-FOOT RADIUS) **FINDINGS,**
TO INCLUDE THE WESTERNMOST 100 FEET OF TWO ADDITIONAL) **CONCLUSIONS**
PROPERTIES ALONG THE WEST SIDE OF CLOVER LANE.) **AND ORDERS**
)

APPLICANTS: Clover Lane, LLC/Holiday Inn Express

RECITALS:

- 1) Tax lot #3200 of Map 39 1E 14 AB and Tax lots 6600 & 6700 of Map 39 1E 14 AA are located at 545-555-565 Clover Lane and are zoned Employment (E-1).
- 2) The applicants are requesting a Zoning Map Amendment to extend the "Freeway Sign Zone/Freeway Overlay District" from its current 700-foot radius to include the westernmost 100 feet of two additional properties along the west side of Clover Lane. The proposed map amendment is outlined on the plans on file at the Department of Community Development.
- 3) The criteria for approval of Zoning Map Amendments Annexation are described in 18.106.060.B as follows:

Zone changes, zoning map amendments and comprehensive plan map changes subject to the Type III procedure as described in subsection A of this section may be approved if in compliance with the comprehensive plan and the application demonstrates that one or more of the following:

- a. *The change implements a public need, other than the provision of affordable housing, supported by the Comprehensive Plan; or*
- b. *A substantial change in circumstances has occurred since the existing zoning or Plan designation was proposed, necessitating the need to adjust to the changed circumstances; or*
- c. *Circumstances relating to the general public welfare exist that require such an action; or*
- d. *Proposed increases in residential zoning density resulting from a change from one zoning district to another zoning district, will provide 25% of the proposed base density as affordable housing consistent with the approval standards set forth in 18.106.030(G); or*
- e. *Increases in residential zoning density of four units or greater on commercial, employment or industrial zoned lands (i.e. Residential Overlay), will not negatively impact the City of Ashland's commercial and industrial land supply as required in the Comprehensive Plan, and will provide 25% of the proposed base density as affordable housing consistent with the approval standards set forth in 18.106.030(G)*

The total number of affordable units described in sections D or E shall be determined by rounding down fractional answers to the nearest whole unit. A deed restriction, or similar legal instrument, shall be used to guarantee compliance with affordable criteria

for a period of not less than 60 years. Sections D and E do not apply to council initiated actions.

4) The Planning Commission, following proper public notice, held a public hearing on November 10th, 2009 at which time testimony was received and exhibits were presented. The Planning Commission approved the application for a Zoning Map Amendment to extend the "Freeway Sign Zone/Freeway Overlay District" from its current 700-foot radius to include the westernmost 100 feet of two additional properties along the west side of Clover Lane.

Now, therefore, the Planning Commission of the City of Ashland finds, concludes and recommends as follows:

SECTION 1. EXHIBITS

For the purposes of reference to these Findings, the attached index of exhibits, data, and testimony will be used.

Staff Exhibits lettered with an "S"

Proponent's Exhibits, lettered with a "P"

Opponent's Exhibits, lettered with an "O"

Hearing Minutes, Notices, Miscellaneous Exhibits lettered with an "M"

SECTION 2. CONCLUSORY FINDINGS

2.1 The Planning Commission finds that it has received all information necessary to make a decision based on the Staff Report, public hearing testimony and the exhibits received.

2.2 The Planning Commission finds that the proposal for a Zoning Map Amendment to extend the "Freeway Sign Zone/Freeway Overlay District" from its current 700-foot radius to include the westernmost 100-feet of two additional properties along the west side of Clover Lane meets all applicable criteria for Zoning Map Amendment approval as described in Chapter 18.106.

2.3 The Planning Commission finds that zoning map amendments are required to be in compliance with the Comprehensive Plan as well as addressing one or more of the approval criteria in AMC 18.106.060.B. The Commission further finds that a more significant expansion of the Freeway Sign Overlay would encourage the establishment of more freeway-oriented businesses providing gas, food and lodging to travelers along the interstate. The Commission would have concerns that a more significant expansion of the overlay than that proposed here, in addition to having aesthetic impacts to the adjacent residential neighborhood and the community at large as discussed below, could not likely be shown to meet the job-creation targets of the Comprehensive Plan which calls for at least ten family wage jobs per acre in the Employment

zoning districts. In this instance however, the Commission finds that the proposed expansion of the overlay is limited to two properties, one of which already contains an established freeway-oriented lodging business and the other of which is already partially developed with parking serving an established freeway-oriented food business and which is likely to further develop in that vein given its relatively small developable area and direct frontage on the freeway, and thus presents no such concerns in terms of the Comprehensive Plans job creation targets.

2.4 The Planning Commission finds that the proposal to amend the Freeway Sign Zone to include the most western 100 feet of Tax Lots #3200 (391E 14AB), #6600 and #6700 (391E 14AA) meets the criteria for a Zoning Map Amendment as described in the Ashland Municipal Code, Section 18.106.060 B. 1. b. as there has been substantial changes in circumstances since the existing plan designation was adopted 36 years ago, in 1973, which necessitates the need to adjust to the changed circumstances relating to the re-alignment of the southern end of Clover Lane which has created the existence of freeway-oriented businesses that do not have freeway signage visibility.

The Commission finds that the vacation of the previous Clover Lane right-of-way, the realignment of the street to a more parallel relationship with Interstate 5, and the reconfiguration of parcels to create lots more conducive to commercial development at the end of Clover Lane in the late 1990's resulted in a substantial change in circumstances since the existing Freeway Overlay District was adopted which necessitates the proposed Zoning Map Amendment to adjust to the change circumstances. The Commission further finds that the existing Freeway Sign Zone's 700-foot radius seems to roughly correspond to the lot configuration that was in place prior to the reconfiguration of the parcels, with the land between Clover Lane and the Interstate 5 right-of-way in the form of a long triangular lot squeezed between the freeway and Clover Lane and significantly constrained from further development by the narrowing lot configuration despite its being directly adjacent to the freeway. The Commission finds that with the realignment of Clover Lane in the late 1990's and the reconfiguration of the lots in this area to better accommodate commercial development, the subject properties were made more able to accommodate freeway-oriented businesses, but at the same time the realignment to extend Clover Lane parallel to the freeway created some visibility issues for potential customers coming from the interchange.

2.5 The Planning Commission also finds that the proposal to only include the most western 100 feet of Tax Lots #3200 (391E 14AB), #6600 and #6700 (391E 14AA) balances the signage needs of freeway-oriented businesses and mitigates against the aesthetic impacts on the rest of the community and specifically the adjacent residential neighbors to the east which are currently screened by fencing, vegetation, buildings, a lower topographic elevation (between 14' and 28') and approximately 400 feet of distance.

The Commission finds that the Freeway Overlay District/Freeway Sign Zone has long been used as a means to balance the signage needs of businesses near the freeway with limits on the aesthetic impacts of freeway signage to the rest of the community, and that the potential aesthetic

impacts of the extension are a key consideration in reviewing the request. The Commission finds that the subject properties are separated from the residential neighborhood to the east by the buildings on the subject properties themselves and the buildings built along the east side of Clover Lane, by topography which drops between 14 and 28 feet between the subject properties and the nearest residences, and by a physical separation of 215 to 400 feet or more.

The Planning Commission further finds that the topography here is such that the farther one goes from the center of the interchange, the higher the ground level is relative to the centerline of Highway 66, and as such signs allowed on the subject properties will be proportionally shorter as they get farther from the interchange, and nearer to the residential neighborhood, in order to comply with the height limitation of 2,028 feet above mean sea level.

The Planning Commission finds that the majority of the property at 545 Clover Lane is already located within the overlay, and the existing business, Miguel's Restaurant, already has a freeway sign in place. The Commission further finds that the real effect of the proposed Zoning Map Amendment is to allow a freeway sign for the Holiday Inn Express at 565 Clover Lane, an established freeway-oriented business with direct frontage on the Interstate 5 right-of-way, and for any future building ultimately constructed at 555 Clover Lane, the partially-vacant parcel which has Interstate 5 frontage between Miguel's Restaurant and the Holiday Inn Express. The Planning Commission finds that these two signs will benefit freeway-oriented businesses on the subject properties by better addressing visibility issues created with the realignment of Clover Lane in the late 1990's while having minimal aesthetic impacts on the neighborhood to the east due to the physical separation provided by distance and topography, to the screening provided by buildings and vegetation along Clover Lane, and to the fact that the extension of the Freeway Sign Zone is to be limited to the westernmost 100-feet of the subject properties, as proposed by the applicants.

SECTION 3. DECISION

3.1 Based on the record of the Public Hearing on this matter, the Planning Commission concludes that the proposal for a Zoning Map Amendment to extend the "Freeway Sign Zone/Freeway Overlay District" from its current 700-foot radius to include the westernmost 100-feet two additional properties along the west side of Clover Lane is supported by evidence contained within the whole record.

Therefore, based on our overall conclusions, and upon the proposal being subject to the following conditions, we approve Planning Action #2009-01151. Further, if any of the conditions below are found to be invalid, for any reason whatsoever, then Planning Action #2009-01151 is denied. The following are the conditions and they are attached to the approval:

- 1) That all necessary permits including electrical permits, structural permits, and sign permits from the city, and any necessary permits from the Oregon Department of Transportation, shall be obtained prior to the installation of freeway signs on the subject properties. Permit applications

shall include scalable elevation drawings and a site plan, a clear and accurate identification of the height above mean sea level, and shall clearly demonstrate that all proposed signage complies with the Sign Ordinance (AMC 18.96) and will not project into required fire apparatus access areas.

- 2) That the extension of the Freeway Sign Overlay shall be limited to the westernmost 100 feet of the subject properties as proposed by the applicant.

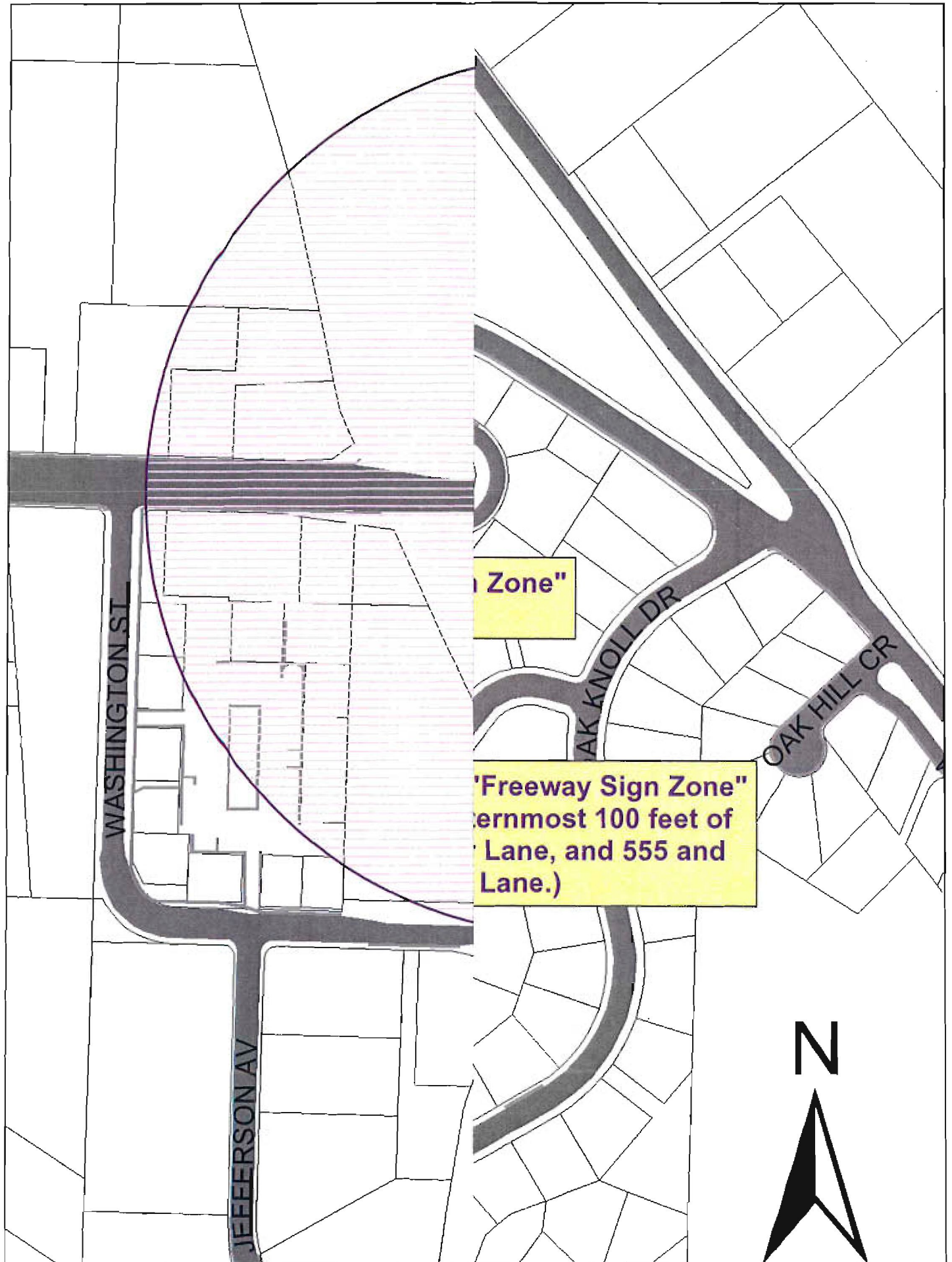


Planning Commission Approval

December 8th, 2009

Date

CITY OF ASHLAND PLANNING ACT

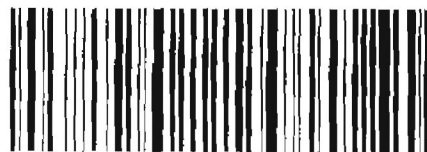


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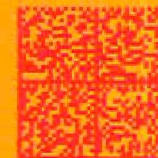
Property lines are for reference only, not scaleable

**CITY OF
ASHLAND**
COMMUNITY DEVELOPMENT & ENGINEERING SERVICES
51 WINBURN WAY
ASHLAND, OR 97520

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UNITED STATES POSTAGE



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ATTN: Plan Amendment Specialist
Dept. of Land Conservation & Development
635 Capitol St. NE, Suite #150
Salem, OR 97301-2540