

CITY OF
ASHLAND

ASHLAND PLANNING COMMISSION

STUDY SESSION

FEBRUARY 26, 2008

7:00 PM

COUNCIL CHAMBERS

1175 E. MAIN STREET

AGENDA

- I. Call to Order**
- II. Approval of Agenda**
- III. Announcements**
- IV. Public Forum**
- V. Public Arts Master Plan Presentation**
– *Public Arts Committee presentation*
- VI. Housing Incentives and Regulatory Barriers**
– *Brandon Goldman, Senior Planner*
- VII. Other Informational Items**
 - 1. Measure 49 – Transfer of Development Rights**
- VIII. Adjournment**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development office at 541-488-5305 (TTY phone number is 1-800-735-2900). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting (28 CFR 35.102-35.104 ADA Title 1).

***HOUSING INCENTIVES AND
REGULATORY BARRIERS***

Planning Commission Memo

TO: Planning Commission
Title: Housing Incentives and Regulatory Barriers
Date: February 26, 2008
Submitted By: Brandon Goldman, Senior Planner

Housing Incentives and Regulatory Barriers

An examination of Housing Incentives and Regulatory Barriers was requested by the Ashland City Council on October 16th, 2007 following a discussion regarding the Lithia Lot affordable housing proposal. During that discussion it was noted by members of the City Council that in Ashland the development of multi-family rental housing has been hampered by market conditions in the recent past. The issue of barriers to development of rental housing had also been raised in review of the Condominium Conversion Ordinance amendments by members of the Housing and Planning Commissions, as well as members of the City Council. Taking this into consideration Councilor Chapman suggested that the City should examine why this is the case, and further research what the City could potentially do to address this problem.

To undertake this examination, Council directed staff to conduct an informal joint meeting of the representatives of the Housing Commission, Planning Commission, and City Council to research ideas to make the construction of apartments cost effective through land use changes and incentives.

To facilitate a better understanding of Housing Incentives and Regulatory Barriers that may effect the development of multi-family rental housing and affordable housing in general, Staff has produced the attached listing of barriers and incentives employed in other communities.

The informal meeting requested by the City Council of the Housing Commission, Planning Commission, and City Council, has not yet been scheduled. However, exposure to these items in advance of that future discussion will ensure that the discussion at the joint meeting is well informed. This information was presented to the Housing Commission on November 29th 2007 and is being provided to the Planning Commission for study and discussion on February 26th, 2008.

The Planning Commission is not being asked to provide recommendations at this point, rather to explore these, and any additional, items that should be topics of consideration by the joint group with the objective of encouraging the development of market rate, and affordable, multifamily rental housing.



CITY OF ASHLAND



Housing Incentives and Regulatory Barriers

**Planning Commission Study Session
February 26, 2008**

In order to enable market forces to develop needed housing types a two pronged approach is needed. In identifying what regulatory barriers exist a community can take measures to limit such policies, rules, processes, or procedures that function to prohibit, discourages, or excessively increase the cost of new or rehabilitated housing without sound compensating public benefits. The other action communities can take is to identify what incentives are available to encourage the development of needed housing types. In October of 2007 the Ashland City Council expressed an interest in examining what could be done to promote the development of multi-family housing. To accomplish this goal it is important to evaluate the tools within the City of Ashland's control to promote the development of needed housing. These tools include the municipality's regulatory powers, taxing authority, and direct financial support.

The effort of reducing regulatory barriers involves identifying what local and state policies or procedures impede the production of housing that is most needed by the community. Many policies and regulations that restrict housing are implemented or promulgated with other worthy goals. Each community should aim to evaluate any and all restrictive policies or regulations to ensure that the countervailing interests that function to increase the cost of housing production are necessary to protect the public interest. In addition to removing existing regulations that impede affordable housing, cities and counties can enact new ordinances that support development of needed housing.

Listed below are a number of such policies and procedures to assist local governments in reducing the cost of producing affordable housing. Affordable housing in a community serves a vital public interest and removal of barriers is one step, within government control, to encourage well-designed, attractive affordable housing as an economic and social asset to a community. Instituting specific incentives to entice the development community to provide the needed housing types can be another effective means of fulfilling the City's housing needs.



Barriers

Barrier

Insufficient land zoned and available for multi-family development at medium and high densities.

Impact

A high percentage of total municipal land area is frequently zoned for larger lots and/or houses with lot coverage requirements that limit the number of units permitted per acre. Lack of land available at the densities necessary for high density development drives up land costs and limits opportunities for affordable housing development. Specifically in Ashland much of the land area outside the existing City Limits but within the Urban Growth Boundary has a Comprehensive Plan Designation of single family housing. The *Affordable Housing Action Plan* identifies rezoning of Single Family land to multi-family higher density zones as one strategy to promote a needed housing type (Goal 3, A.1)

Oregon Law

197.307 Effect of need for certain housing in urban growth areas; placement standards for approval of manufactured dwellings.

(1) The availability of affordable, decent, safe and sanitary housing opportunities for persons of lower, middle and fixed income, including housing for seasonal and year-round farmworkers, is a matter of statewide concern.

(2) Many persons of lower, middle and fixed income depend on government assisted housing as a source of affordable decent, safe and sanitary housing.

(3) When a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, needed housing, including housing for seasonal and year-round farmworkers, shall be permitted in one or more zoning districts or in zones described by some comprehensive plans as overlay zones with sufficient buildable land to satisfy that need.

4) Subsection (3) of this section shall not be construed as an infringement on a local government's prerogative to: (a) Set approval standards under which a particular housing type is permitted outright; (b) Impose special conditions upon approval of a specific development proposal; or (c) Establish approval procedures.

Potential Remedies

Evaluate existing land supply by zone and comprehensive plan designation to ensure adequate supply for medium and high density development. Evaluation should consider the percentage of total housing stock necessary to accommodate population growth within the established Urban Growth Boundary. Additionally jurisdictions can examine existing densities allowed and consider increasing base densities to maximize the utilization of available land. Zone a greater amount of land for medium and high density residential development to promote multi-family housing development.

Barrier

Density limitations do not currently provide a density bonuses sufficient to offset the cost of building below market units as an incentive for any market rate residential development that includes a portion of affordable housing.



Impact

Developers can be enticed to build affordable housing if it is shown to be in their financial interest. Increasing the density allowed, without discretionary land use decisions, can be a valuable tool to encourage affordable housing development by the private sector. The same mechanism could be utilized to promote market rate apartment development if that was seen as a community goal.

Potential Remedies

Increase or establish Density Bonus opportunities for affordable housing development. In cases where a developer can increase density 1 for 1 (meaning an increase equal to the % of affordable units provided) there is little incentive to build the additional affordable units. To develop an affordable unit it costs more to build than can be captured through rent and or sale price. Thus there is no financial incentive to take advantage of Ashland's existing density bonus allowance. A more attractive density bonus to developers would be one where additional market rate units could also be provided in addition to any affordable housing units. For example if a developer of a sixteen unit development could get a bonus of 25% where all four bonus units had to be affordable, bringing the total number of units up to 20, they would forgo the density bonus and develop only 16 units. With an incentive based bonus if those four bonus units were allowed to contain two market rate units and two affordable units, there would be a financial incentive to develop the 20 unit development.

Barrier

Land zoned for multifamily uses can be developed as Single Family housing thereby reducing supply of land for higher density uses and reducing the development of multi-family apartments.

Impacts

Urbanizable areas are developed inefficiently and the per unit cost of development is higher than if the properties were developed to maximum density allowed.

Multifamily zoned land is developed as ownership housing, even at intended densities. Land zoned for multi-family is in limited supply, its use for housing types that do not provide for the housing type of rental housing undermines Ashland's ability to meet our land/housing need balance.

Potential Remedies

The City of Ashland established Minimum Densities within multi-family zones. This ordinance amendment passed in 2005 ensures maximum utilization of multifamily and single family zoned properties through adoption of minimum density requirements (i.e. 80% of base density). This effectively precludes large lot single family development in an area intended for apartments or small lot single family units.



Regarding the development of ownership housing on multi-family zoned property the *Affordable Housing Action Plan* addressed this concern in recommending the strategy of restricting or precluding Single Family development in Multifamily zones. By stipulating clearly that a multi-family zoned land must be developed as rental apartments the City would be assured that the limited land supply would be developed with this needed housing type.

Barrier

In Ashland Accessory Residential Units (also known as “Accessory Dwelling Units” and “mother-in-law units”) are currently conditionally allowed in single family zones. In some communities they are permitted outright, and in others they are precluded entirely.

Impact

ARUs address a needed housing type and are consistent with the infill strategies employed by many Oregon jurisdictions. It is important to note that evaluation of such units is necessary to ensure the additional dwellings can be appropriately accommodated on site. Evaluating issues such as parking availability, lot coverage, solar access are a few of the issues that are involved in the approval of such units.

The Conditional Use permit process can be seen as discretionary and a costly undertaking and as such may be a disincentive to creating accessory residential units, and thereby limit their development. Conversely it can be argued that a discretionary review process can function to encourage illegal secondary units completed without City oversight.

Potential Remedies

Ashland could consider allowing ARUs as a permitted use subject to a staff review of parking, and other site design standards. Elimination of the Conditional Use Permit (CUP) process would encourage both the creation of new ARUs as well as provide a more streamlined opportunity to allow illegal units to be brought up to current standards to become legal dwelling units.

Further, without the complicating factor of CUP process developers can more readily incorporate ARUs into planned unit developments and subdivisions to provide a mix of housing types and maximize the use of common facilities.

Barrier

Discretion within the planning approval process leaves affordable housing projects vulnerable to NIMBY (not in my backyard) concerns and resulting appeals and possible denials.

Impact



Elimination of discretion in the approval process for affordable housing units would require local governments to eliminate any such discretion for like, non-affordable, housing types per Oregon State Law. However, as noted above eliminating discretion (IE Conditional Use Permit requirement) on a specific housing type, such as Accessory Residential Units (ARUs) would encourage their production.

Oregon Law

197.312 Limitation on city and county authority to prohibit certain kinds of housing. (1) No city or county may by charter prohibit from all residential zones attached or detached single-family housing, multiple-family housing for both owner and renter occupancy or manufactured homes. No city or county may by charter prohibit government assisted housing or impose additional approval standards on government assisted housing that are not applied to similar but unassisted housing

Barrier

Zoning ordinance that allows, as-of-right, the conversion of apartments to be individual condominiums.

Impact

Condominium conversion of existing apartments effectively removes existing rental stock from the marketplace and displaces renters

Remedies

The City of Ashland recently passed an ordinance limiting the conversion of multi-family housing into for-purchase housing to address this trend. Further the establishment of tenant rights was completed to protect households from some of the negative impacts of displacement.

Barrier

Commercial and Industrial Lands precluded from incorporating high density residential development.

Impact

Limitations on Mixed-Used development opportunities essentially require housing to be outside of employment centers. Allowing High density development in Employment Centers (2nd, 3rd, 4th...stories) is a cost effective development strategy which encourages multi-family and affordable housing in areas with immediate proximity to jobs.

Potential Remedies

Allow as a permitted use, high density residential development within commercial zones provided the target use of the zone (commercial development) is included.



Barrier

Development of Commercial and Industrial Lands places additional demand on the housing market in its need for qualified workers to fill the jobs created.

Impact

The economic development fostered by the establishment of new businesses, or the annexation of new commercially zoned lands into the City, has many benefits to the community . However, if the jobs created by the new businesses do not provide wages that are not commensurate with existing housing costs this can place additional demands on existing transportation systems as workers commute from lower cost areas. Specifically if the employment created is essentially comprised of low-income jobs, that will place added demand on limited low-income housing stock and a need to develop new housing to accommodate the workforce.

Potential Remedies

Many communities have attempted to correlate the housing demand created by new businesses through the establishment of commercial "linkage fees" in which a new development contributes either housing for its workforce directly, or provides funding to assist in the development of housing elsewhere.

As mentioned above it is also possible to incorporate housing within commercial developments to create mixed-use areas which have the benefit of both providing additional housing, and reducing reliance on a commuting workforce.

Barrier

Excessive off street parking requirements

Impact

Requiring a substantial number of parking spaces per affordable unit requires dedication of land area as well as the added cost of developing the excess spaces. Parking standards often do not relate to the number of cars or trips generated by a particular use. A small apartment may be required to supply the same number of parking spaces as a large single family home.

Potential Remedy

Local governments can evaluate their parking requirements to determine whether a reduction for multi-family units, or for affordable housing developments in the proximity of public transportation, is advisable. Further standards can be examined to see if dimensions of required parking spaces can be reduced (IE a percentage of compact spaces).

Barrier

Landscaping requirements, such as large minimum tree sizes, inflexible street tree requirements, and screening buffer standards.



Impact

Landscape requirements can add considerable cost both in terms of dollars as well as dedication of land area. The dedication of land and the expense of landscaping can limit development potential in some cases, and add upfront development costs. It is important to balance the long term value of the landscaping both to the housing development and the public (Street trees, stormwater retention, etc.) when evaluating the public benefit of landscaping requirements.

Potential Remedies

Examine existing site design standards relating to landscaping to ensure they are appropriate and not too cumbersome for needed housing developments. In support of needed housing types (IE Affordable Housing) the City could consider financial assistance to help reduce the cost of public street tree installation, or through the planning review process consider reductions in landscaping and openspace requirements as a variance to established standards when doing so promotes a public benefit.

Barrier

Traditional zoning frequently uses a proliferation of residential districts with rigid prescriptive lot size, lot coverage and bulk requirements for each district.

Impact

Performance zoning, as an alternative, recognizes that all land is not created equal. It tailors density to the natural carrying capacity of the site and protects environmental features. Care must be taken to avoid stifling construction of affordable housing by demanding excessive performance standards that reduce the net buildable area.

Potential Remedies

Ashland currently allows for "Performance Standards" subdivisions which enables clustering on the "net buildable area". Further refinements to a form based approach to land development could allow for a broader mix of dwelling types and densities on a given property. This flexibility can both assist in accommodating natural conditions as well as being more responsive to the marketplace and housing needs. Further this approach can be used to incorporate mixed use developments clustering both commercial and residential uses.

Barrier

Lack of uniformity among land use ordinances adds time and, therefore, increases costs to developers.



Impact

Land use ordinances vary tremendously from one community to the next. This lack of uniformity in format and substance adds time to the process of understanding the requirements. This confusion also adds unnecessary costs because small builders must hire a consulting planner or engineer.

Land use ordinances can be poorly drafted. Poorly drafted ordinances consist of a collection of amendments tagged onto an outdated base, lack an index or only contain an out-of-date table of contents, and are devoid of illustrative material. Confusing and vague ordinances are difficult to understand and administer, and engender appeals resulting in more expense and delay.

Potential Remedies

Ashland has completed an audit of our land use ordinance and a number of recommended changes are presently being forwarded to the City Council for review. The intention of ensuring the ordinances is clear and free of conflicting provisions should clarify existing standards for both developers and the regulating body. Additionally coordination with nearby communities to identify areas where consistency between codes could be implemented could alleviate confusion by providing a uniform target for developers working within the region. The Uniform Building Code is a good example of consistent standards from one jurisdiction to the next, however in the Land Use Planning arena much of the land use code is reflective of community values that may differ from jurisdiction to jurisdiction, making such uniformity difficult to obtain.

Barrier

After planning approval, a long permitting process through the planning, engineering, and building departments can add significant cost to an affordable housing development

Impact

Communities can consider “fast track” permitting and approvals for all affordable housing projects, or multi-family rental housing, as a way to reduce the costs associated the approval process.

Potential Remedies

The issue of efficient use of the limited time available before the Planning Commission has been a topic of much discussion in recent years. However to be efficient it is incumbent upon applicants to ensure that their development plans are complete and include all required supplemental materials. (Most delays are due to incomplete plan submissions, the need for zoning amendments or prior zoning approvals and hearings related to special exceptions and conditional uses.)



Expedited reviews have been employed by other communities where the project proposed meets a specified target, such as affordable housing goals. In Oregon it would be imperative that an expedited review process did not have the result of delaying other projects beyond a 120 limit established by state law (see below)

Oregon Law

Under Oregon State law there is established time limits for government review and approval or disapproval of development permits in which failure to act, after the application is deemed complete, by the local government within the designated time period (120 days), results in automatic approval. Typically applications are addressed on a first-come-first-served basis by municipalities. In “fast tracking” affordable projects a jurisdiction would have to ensure other applications did not inadvertently exceed the 120 day period to avoid automatic approval due to prioritizing affordable projects.



Incentives

Land Use Incentives

Higher density allowance

Examine providing a higher density allowance for development of apartments in exchange for commitment to retain as rentals for a set period (essentially a density bonus for workforce rental housing as opposed to condominium development).

Urban Growth Boundary (UGB) Expansion

The City may be in a position to examine the potential for UGB expansion to meet the housing demand in keeping with the State law requiring municipalities to maintain at least a 20 year land supply. The inclusion of a property into the UGB, and ultimately City limits adds considerable value to a property due to the increased densities that can be achieved. This incentive would enable the City to balance the value of such an inclusion through application of specific affordable/workforce provisions. To consider an UGB expansion for affordable/workforce housing it would be necessary to ensure the benefit exceeds the minimums established through the annexation standards as part of the consideration.

Rezoning of lands within the Urban Growth Boundary

Similar to the UGB expansion noted above, the rezone of property currently within the UGB that is anticipated to come into the City as single family, to a comprehensive plan designation of multi-family would increase the density allowable and as such provide a greater incentive to build multifamily housing. Coupled with the minimum density standards for multi-family zoned lands recently adopted by the City, such a rezone would ensure a greater number of units per available acre.

Financial Incentives

Tax exemption for affordable housing

Requires adoption of implementing ordinance with 20 year exemption for deed restricted low income housing (ORS 307.515) – units must be built by 1/1/2010 benefiting households at below 60 percent of median. The point of this exemption would be to encourage these project owners not to convert to market rents. Housing owned by non-profit organizations or the Housing Authority routinely receive an exemption through the County Assessors. However this enabling legislation allows the City to adopt an ordinance, with concurrence of the School District and potentially the County, wherein privately owned low-income housing units could be exempt from property taxes.

Tax exemption for Multiple Unit Housing in Core Areas: ORS 307.600 to .637

A municipality within Oregon can use its taxation power to promote the development of multi-family housing within core areas (designated by the City) by



providing tax exemptions for a ten year period. The State has passed enabling legislation to allow for this incentive provided construction is completed by 1/1/2012.

Exemption covers the multiple-unit housing buildings only, not the land or any other buildings. The structure must have a minimum number of dwelling units as specified by the city pursuant to ORS 307.610. The city or county shall designate an area within which it proposes to allow exemptions provided for under the provisions of ORS 307.600 to 307.691. Core areas, light rail station areas or transit oriented areas may be designated by a city. A city may designate the entire city as the area in which the city proposes to allow exemptions under ORS 307.600 to 307.691 for housing subject to a low income housing assistance. Additionally the City could designate areas along transit that would be eligible for tax exemption provided they were apartments of a certain size as designated by the City. The point of this exemption would be to encourage these developers to create market rate rental apartments and not convert to Condominiums and thereby promote multifamily development.

Waiver of development fees

The City currently waives the development fees for units sold to households earning 80% AMI, or rented to households earning less than 60% AMI. This program is an ongoing incentive which contributes between \$7,000 to \$10,000 in direct assistance to each affordable dwelling built within the City. We are the only jurisdiction to provide this incentive in the region and as such it provides an enticement to affordable housing projects to develop within Ashland.

Provide City owned property

One way the City can facilitate the development of affordable workforce housing is through the supply of property to affordable housing providers.

Providing for a mix of incomes targeted (30, 60, 80, 120% Area Median Income) the City can promote "workforce housing" in addition to meeting affordable housing goals. This income mix also allows for some measure of recapture of subsidy provided to buy-down to affordable housing units.

The City can use its resources to purchase vacant property as is typically done with annual CDBG allocations.

The City can also dedicate the use of land, or airspace, currently owned by the City to promote the development of new affordable/workforce housing. An evaluation of City facilities and potential surplus property will be completed in the coming year and properties could also be examined to determine whether an intensification of use to accommodate affordable/workforce housing is feasible on given properties.



The City should continue to work with existing non-profits and affordable housing developers (ACCESS, HAJC, ACLT, RVCDC, Habitat, OnTrack) to identify available property and develop mixed income or low income tax credit projects.

The City has not been a “developer” of housing and has relied on development partners to achieve our housing goals. Given the capacity of each local housing provider it is likely that to meet the Council Goal of 200 units no single organization could achieve this output, but rather the City should anticipate working with all of them during the coming years to maximize their individual output, and specifically to promote their development activities in Ashland. It is important to note that these housing developers would be applying to the state for the same limited subsidy amount and thus the capacities of each organization can not be viewed as additive. Regionally there are approximately 50 units developed by all affordable housing providers on an annual basis. Through incentives the City can entice affordable housing providers to focus their efforts within Ashland. Ashland is at a competitive disadvantage in this arena due to our high land costs relative to the rest of the valley. Therefore the financial incentives provided must exceed the difference in land costs at a minimum to be effective.

Direct Financial Subsidy

Land use requirements alone will not likely accomplish the goal of meeting Ashland’s unmet housing needs, and the limited annual CDBG subsidy provided for affordable housing (~\$160,000) is sufficient to create only 3-5 units. Thus an additional amount of subsidy will be necessary to comprehensively address out Housing needs.

In order to examine potential funding streams and a mechanism for distributing such funds to support needed housing the Housing Commission has been working on the establishment of a Housing Trust Fund (HTF). This effort is a significant undertaking and was a tentative City Council Goal in 2006. To complete the development of a HTF the Housing Commission and Housing Program Specialist is aiming to complete the following over the next year:

- Establish award process and criteria for distribution of Trust Funds
- Establish administrative responsibility to oversee the operation of the Trust Fund
- Adopt ordinance establishing the Housing Trust Fund through public review process
- Determine ongoing (sustainable) funding sources to maintain the viability of the Trust Fund.
- Establish a sustainable funding stream to support the HTF




OTHER

***MEASURE 49 – TRANSFER OF
DEVELOPMENT RIGHTS***

Council Communication

Measure 49: Transfer of Development Credits.

Meeting Date:	February 5, 2008	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	Appicelr@ashland.or.us
Secondary Dept.:	Community Development	Secondary Contact:	Bill Molnar
Approval:	Martha Bennett 	Estimated Time:	15 minutes

Question:

Is the City Council interested in negotiating a cooperative agreement with Jackson County to provide for the voluntary transfer of residential development rights (transferable development credits) from approved Jackson County Measure 49 claims to City of Ashland designated receptor zones?

Staff Recommendation:

The transfer development credit provision in Measure 49 presents an opportunity for the City to mitigate possible adverse public facility impacts caused by rural development in Jackson County pursuant to Measure 49. The City has the opportunity to protect the City's view-shed by providing a more suitable urban location for transferable residential density. Staff recommends pursuit of an agreement.

Background:

Measure 49 was passed by Oregon voters in November 2007 and became effective in December 2007. Previously approved Measure 37 waivers must now be processed as Measure 49 claims. For the most part, valid rural claims will be awarded between 1-3 units under Section 6 or between 4-10 units under Section 7 of the Act. The Measure expressly allows for the transfer of Measure 49 development rights.. The City of Ashland (and other Cities) and Jackson County can enter into a cooperative agreement(s) to transfer the development rights authorized by Measure 49 to more appropriate City locations. The Measure directs such Cities and Counties to use state statutes governing conservation easements and transferable development credits.

Measure 49 Section 11, numbered paragraph (8) provides

(8) A person that is eligible to be a holder as defined in ORS 271.715 may acquire the rights to carry out a use of land authorized under sections 5 to 11 of this 2007 Act from a willing seller in the manner provided by ORS 271.715 to 271.795. Metro, cities and counties may enter into cooperative agreements under ORS chapter 195 to establish a system for the purchase and sale of severable development interests as described in ORS 94.531. A system established under this subsection may provide for the transfer of severable development interests between the jurisdictions of the public entities that are parties to the agreement for the purpose of allowing development to occur in a location that is different from the location in which the development interest arises. (emphasis added)



Related City Policies:

An agreement to transfer density relates to Regional Problem Solving Plans; the City of Ashland Comprehensive Plan; the Ashland Land Use Ordinance; ORS 271.715- 271.795 and ORS 94.531.

The City of Ashland Measure 37 claim ordinance (Chapter 18.110) will need to be amended in the near future to accommodate new claims (Sections 12-14). This amendment should be on the February 5, 2007 agenda.

Council Options:

- (1) Direct staff to develop a draft cooperative agreement and implementing comprehensive plan and land use ordinance amendments. Discuss possible agreement with County staff, RPS, and workshop implementation measures with Planning Commission and Council.[Staff Recommendation]
- (2) Take no action.

Potential Motions:

Motion to approve staff recommendation.

Attachments:

Measure 49 Summary/ Measure 49 / ORS 94.531.



2007 BALLOT MEASURE 49
SECTION-BY-SECTION SUMMARY
12/6/2007

SECTIONS 1 and 1a: CODIFICATION IN ORS CHAPTER 195

The codification of this legislation in chapter 195 instead of 197 is not intended to have any substantive effect. ORS 197.352 is being moved to chapter 195 simply because of the limited remaining room for new sections in chapter 197. LCDC rulemaking authority extends to ORS Chapter 195.

SECTION 2: DEFINITIONS

- (1) Acquisition date is as shown in county deed records. If there are multiple owners, it is the earliest date.
- (2) Claim.
- (3) Enacted.
- (4) Fair market value.
- (5) Farming practice.
- (6) Federal law.
- (7) File.
- (8) Forest practice.
- (9) Ground water restricted area.
- (10) High-value farmland.
- (11) High-value forestland.
- (12) Home site approval.
- (13) Just compensation.
- (14) Land use regulation.
- (15) Measure 37 permit.
- (16) Owner.
- (17) Property.
- (18) Protection of public health and safety.
- (19) Public entity.
- (20) Urban growth boundary.
- (21) Waive/waiver.
- (22) Zoned for residential use.

SECTION 3: STATEMENT OF PURPOSE

Provide just compensation for unfair burdens, while retaining protections for farm and forest uses and water resources.

SECTION 4: AMENDMENTS TO ORS 197.352 (MEASURE 37)

The amendments to ORS 197.352 (Measure 37) define how Measure 49 will operate for claims based on new land use regulations, along with sections 12 through 14.

The amendments repeal the authorization to file a claim for existing land use regulations, along with cause of action for compensation if regulations continue to apply.

The amendments also clarify that a decision by a public entity under Measure 37 or under Measure 49 is not a land use decision.

SECTION 5: JUST COMPENSATION FOR CLAIMS MADE BEFORE JUNE 28, 2007

This section sets up three pathways for claims made on or before June 28, 2007, regardless of whether a waiver has been approved.

The three paths are:

- To receive just compensation under the “express” path in section 6;
- To receive just compensation under the “conditional” path in section 7; or
- To continue with any rights under Measure 37 that have vested under common law as of the effective date of the Act, and that comply with the terms of applicable waivers.

SECTION 6: EXPRESS COMPENSATION FOR APPROVED AND PENDING CLAIMS OUTSIDE OF URBAN GROWTH BOUNDARIES (ONE TO THREE HOME SITES)

Section 6 authorizes persons with Measure 37 waivers and pending Measure 37 claims to establish one to three home sites on their property. Claimants may reduce the number of requested home sites to qualify (or amend their claim if they initially sought some other use). To qualify:

- The claimant must own the property and all owners must consent to the claim;
- The property must be outside of an urban growth boundary and a city;
- A land use regulation must prohibit the lot, parcel or dwelling sought;

- The claimant must have filed a Measure 37 claim on or before June 28, 2007 with both the county and the state;
- On the claimant's acquisition date, he/she must have been lawfully permitted to establish at least the number of homesites sought;
- Exempt land use regulations (public health and safety; regulations required by federal law) don't prohibit the home sites; and
- The claim must have complied with applicable state rules for Measure 37 claims (if the claim was filed after December 4, 2006, it must include the denial of a land use application).

There is no fee for these claims, and the expectation is that in most cases little or no additional information will be needed from the claimant.

SECTION 7: CONDITIONAL COMPENSATION FOR APPROVED AND PENDING CLAIMS OUTSIDE OF URBAN GROWTH BOUNDARIES (FOUR TO TEN HOME SITES)

Section 7 authorizes persons with waivers and pending claims to establish four to ten home sites on their property. Claimants may reduce the number of requested home sites to qualify, but may not increase the size of their claim.

To qualify:

- The claimant must meet the requirements under section 6 (above);
- The property must not be located on high-value farmland, high-value forestland, or in a groundwater restricted area; and
- An appraisal demonstrates that the fair market value of the property was reduced by the enactment of one or more land use regulations, and that the amount of the reduction is equal to or greater than the fair market value of the home sites that the claimant wishes to establish on the property.

SECTION 8: PROCEDURES FOR APPROVED AND PENDING CLAIMS OUTSIDE OF URBAN GROWTH BOUNDARIES

DLCD will send notice to virtually all claimants describing what their options are and what (if any) additional information is needed.

Claimants elect what form of relief they want within 90 days of the DLCD notice.

If claimants choose "conditional" relief, they have until mid 2008 to submit an appraisal. They may opt into the "express" path if they do so before submitting their appraisal.

DLCD processes claims in the order received.

Review will include a notice and comment process for public involvement, and will allow claimants to respond to comments received.

If only county regulations are involved, the claim is transferred to the county (Note for pre-1973 claims).

When DLCD or the county approves a claim, they approve a specific number of home sites. The number of homes that may be developed on the property is set, based on the waiver. Landowners still will go through the normal land division and building permit processes to ensure that the homes comply with standards relating to where the homes are built on the property and how they are built.

SECTION 9: JUST COMPENSATION FOR APPROVED AND PENDING CLAIMS INSIDE OF URBAN GROWTH BOUNDARIES

Section 9 authorizes persons with waivers and pending claims for property within an urban growth boundary to establish one or more dwellings, up to a limit of 10.

To qualify:

- The claimant must own the property and all owners must have consented to the claim;
- The property must be inside of an urban growth boundary;
- The property must be residentially-zoned;
- The claimant must have had the right to establish the dwelling(s) on his or her acquisition date;
- One or more land use regulation(s) must prohibit the development of the dwelling(s);
- Exempt land use regulations (public health and safety; regulations required by federal law) don't prohibit the dwellings; and

- An appraisal demonstrates that the fair market value of the property was reduced by the enactment of one or more land use regulations, and that the amount of the reduction is equal to or greater than the fair market value of the home sites that the claimant wishes to establish on the property.

SECTION 10: PROCEDURES FOR APPROVED AND PENDING CLAIMS INSIDE OF URBAN GROWTH BOUNDARIES

The city or county that received the claim under Measure 37 reviews the claim to ensure that it complies with the requirements of the Act.

SECTION 11: DEVELOPMENT STANDARDS, TRANSFERABILITY (FOR APPROVED AND PENDING CLAIMS UNDER SECTIONS 6, 7 OR 9)

New lots/parcels in a resource zone are limited to 2 acres if high-value, 5 acres if not. Twenty home site cap, statewide, per owner.

All claims must comply with current development standards unless a standard would prohibit the use. A standard prohibits a dwelling or a land division if it makes it unlawful or economically unfeasible.

Home site approvals under the Act are transferable and run with the land (when the property is sold, the home site approval will transfer with the sale), with no time limit on when the claimant must carry out the use.

When the claimant conveys the property, however, the new owner(s) have ten years to build the dwelling and/or divide the property as authorized by the home site approval.

If a claimant passes away during the processing of a claim, the claimant's heirs are entitled to the relief that the claimant would have received.

Transfer of authorizations between properties to cluster allowed.

Cooperative agreements between cities, counties and Metro for transfer of development rights acquired through Measure 49 waivers are authorized.

SECTION 12: NEW CLAIMS FOR NEW LAND USE REGULATIONS

New claims are allowed for new land use regulations that are enacted after January 1, 2007.

New land use regulations that trigger claims are restrictions on residential uses, LCDC rules and goals, and restrictions on farm or forest practices.

SECTION 13: NEW CLAIMS, FILING AND REQUIRED CONTENTS

Claims must demonstrate loss of fair market value.

Just compensation is payment of money or waiver of regulations.

Just compensation is not transferable.

SECTION 14: PROCEDURES FOR REVIEW OF NEW CLAIMS

New claims must be filed within five years of the enactment of the land use regulation;

Claims are filed with the public entity that enacted them.

SECTION 15: INTERGOVERNMENTAL COORDINATION

Notice requirements.

SECTION 16: JUDICIAL REVIEW

Judicial review of decisions that a claimant is entitled to relief under Measure 49 are reviewed by the circuit courts. That review is on the record created before the public entity, and issues are limited to those raised before the public entity (raise it or waive it applies).

SECTIONS 17 & 18: OMBUDSMAN, QUALIFICATIONS

State ombudsman to facilitate issues arising with both Measure 37 claims and Measure 49 claims

**SECTION 19: COMPREHENSIVE PLAN OR ZONING AMENDMENTS;
ANNEXATION**

Persons who seek and obtain comprehensive plan or zoning amendments, or who petition for annexation, are not then eligible to file claims for land use regulations enacted before the application was filed.

SECTION 20: APPRAISALS

Specifies qualifications for appraisers under Measure 49.

SECTION 21: ACQUISITION DATE; MULTIPLE CLAIMANTS

Gives a surviving spouse an acquisition date that is the date of the marriage or the date the deceased spouse acquired the property, whichever is later.

If there are multiple claimants that acquired the property at different times, the acquisition date that is used is the earliest date.

SECTION 21b: FAIR MARKET VALUE

Defines term using definition from case law.

SECTION 22: COMPENSATION AND CONSERVATION FUND

SECTION 23: CONFORMING AMENDMENTS


SECTION 24: CAPTIONS

SECTION 25: REFERRAL

I-5 VISITORS INFORMATION CENTER

Council Communication

Update on the Proposed I-5 Visitors Information Center

Meeting Date:	February 19, 2008	Primary Staff Contact:	James Olson 552-2412
Department:	Public Works/Engineering	E-Mail:	olsonj@ashland.or.us
Secondary Dept.:	Planning	Secondary Contact:	Terry Ellis
Approval:	Martha Bennett 	Estimated Time:	20 minutes

Question:

Does the Council have any questions for the Oregon Department of Transportation about the proposed Siskiyou Visitor Information Center to be constructed off the northbound lanes of Interstate 5 at Mile Point 12?

Staff Recommendation:

This is not an action item and requires no decision by Council. The concept of a visitor's information center located south of Ashland along the northbound lanes of I-5 has received universal support from previous Councils, the Chamber of Commerce and other local stakeholders. A tourist information center located just south of at Exit 14 would provide Ashland with a venue to furnish information to potential visitors regarding ongoing events, activities, attractions, facilities, and accommodations.

The public works staff is prepared to assist ODOT in the development of this important project and has invited key ODOT personnel to provide the council with an informational update on this project. Art Anderson, ODOT Area Manager, Tim Fletcher, ODOT Project Manager and Shirley Roberts, ODOT Planner will provide a brief presentation to Council regarding this project.

Background:

In the mid 1960s, the Siskiyou Rest Area was constructed along the northbound lanes of Interstate 5 near Milepoint 6. In 1996 that rest area was closed due to safety concerns and a temporary rest area/information center was set up at the Ashland Ranger District Office on Washington Street. This temporary site operated only for a short time. In early 1997, city staff, Chamber Executive Director Sandra Slattery and state tourism officials began a series of planning meetings with ODOT in order to secure a site for a new permanent location for the visitor's center on I-5. The facility would serve as a "Gateway to Oregon" for thousands of tourists.

During the course of the meetings, it was quickly established that the new facility must meet two important conditions. First, the facility must be out of the snow zone and safely away from steep grades and runaway truck ramps. Second, the new area must serve tourists prior to Exit 14, the Ashland Street exit. The location for the new facility was finalized at the east side of I-5, bordered by the radio towers to the south and Crowson Road to the north.

The former Siskiyou Rest Area was served by City sewer under a contract ratified by the Council in the mid 1970's. It was further agreed that this same sewer line would be available to the new facility. In June of 1997, ODOT also received Council authorization to connect to the City water system. The water connection would be made to the existing 12 inch water main in Crowson Road through a 1 inch



meter established at that location. The 1997 Council approval was based upon a projected 11 year schedule of water usage beginning with a use of 954 gallons / hour in 1998 to 1755 gallons / hour in 2018. With more efficient irrigation techniques and a less water dependent landscape plan, the new facility is expected to use only a fraction of the approved usage. The provision of water and sewer still meets current City requirements and standards.

Related City Policies:

All land use issues for this project are being administered through Jackson County Planning. A public hearing has been scheduled for February 28, 2008 at 9:00 AM in Medford to consider ODOT's application for this rest area development. Any public input regarding this project should be presented at the scheduled public hearing rather than at this council meeting. This meeting is for informational purposes only and is intended to provide the Council with an update to the ongoing development process.

Council Options:

Not applicable.

Potential Motions:

Not applicable.

Attachments:

Vicinity Map.

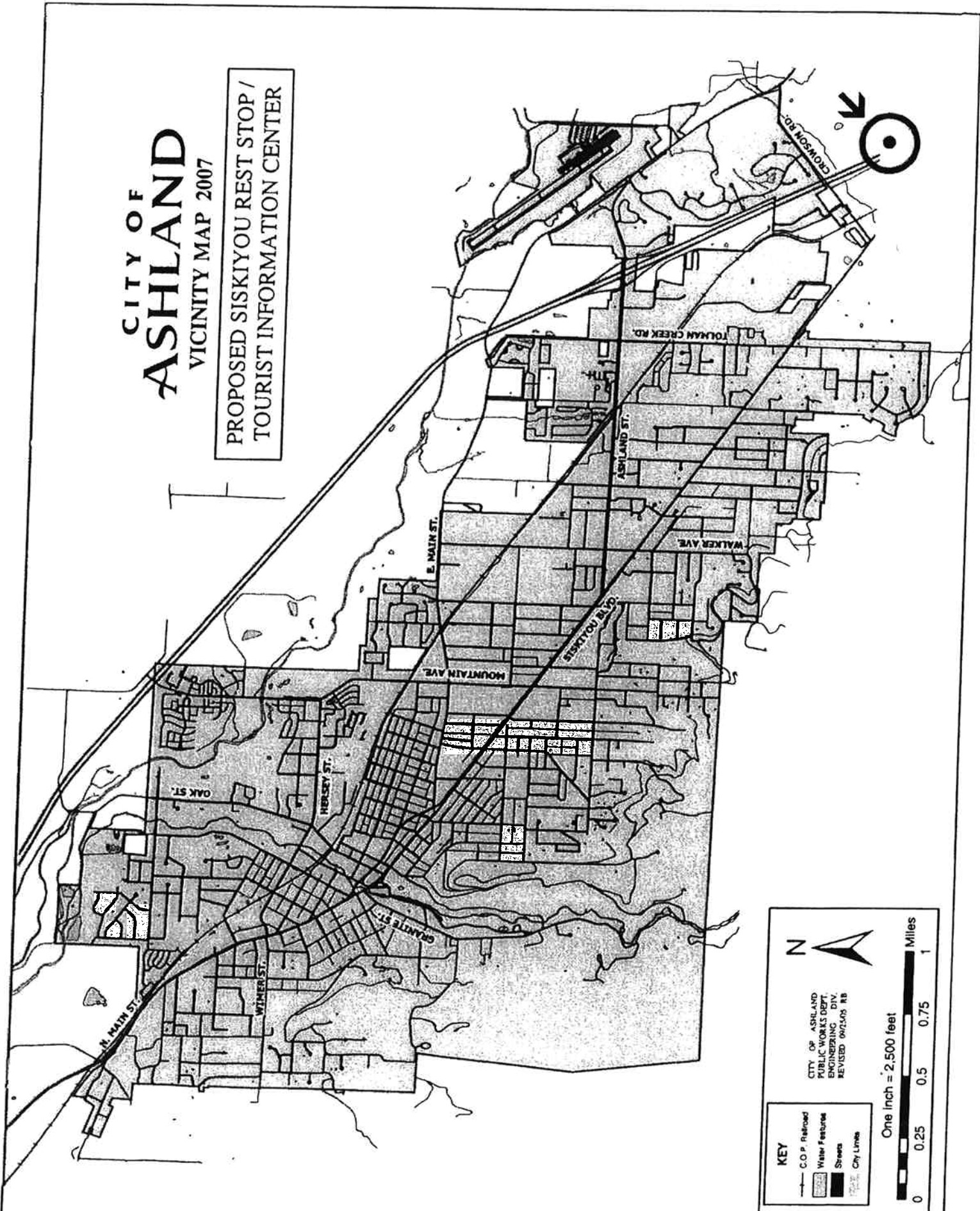
Site Plan (3 sheets)



CITY OF ASHLAND

VICINITY MAP 2007

PROPOSED SISKIYOU REST STOP /
TOURIST INFORMATION CENTER



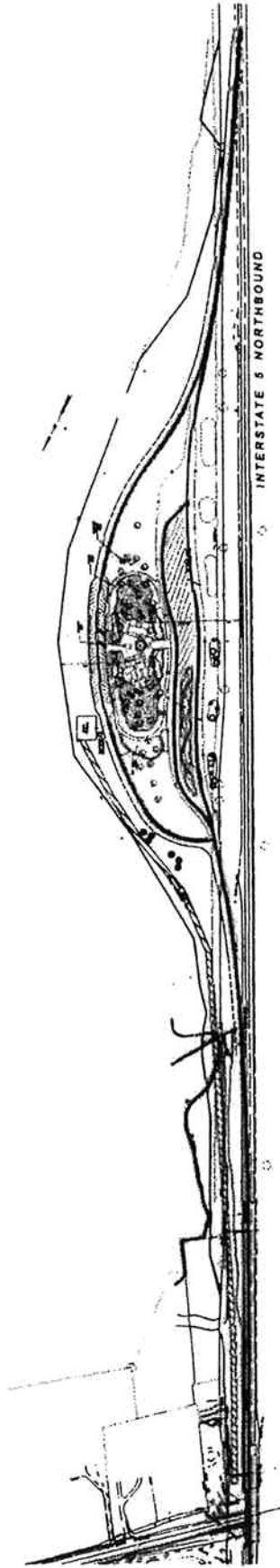
KEY


- C.O.P. Railroad
- Water Features
- Streets
- City Lines

CITY OF ASHLAND
PUBLIC WORKS DEPT.
ENGINEERING DIV.
REVISED 04/15/07 RB

One inch = 2,500 feet

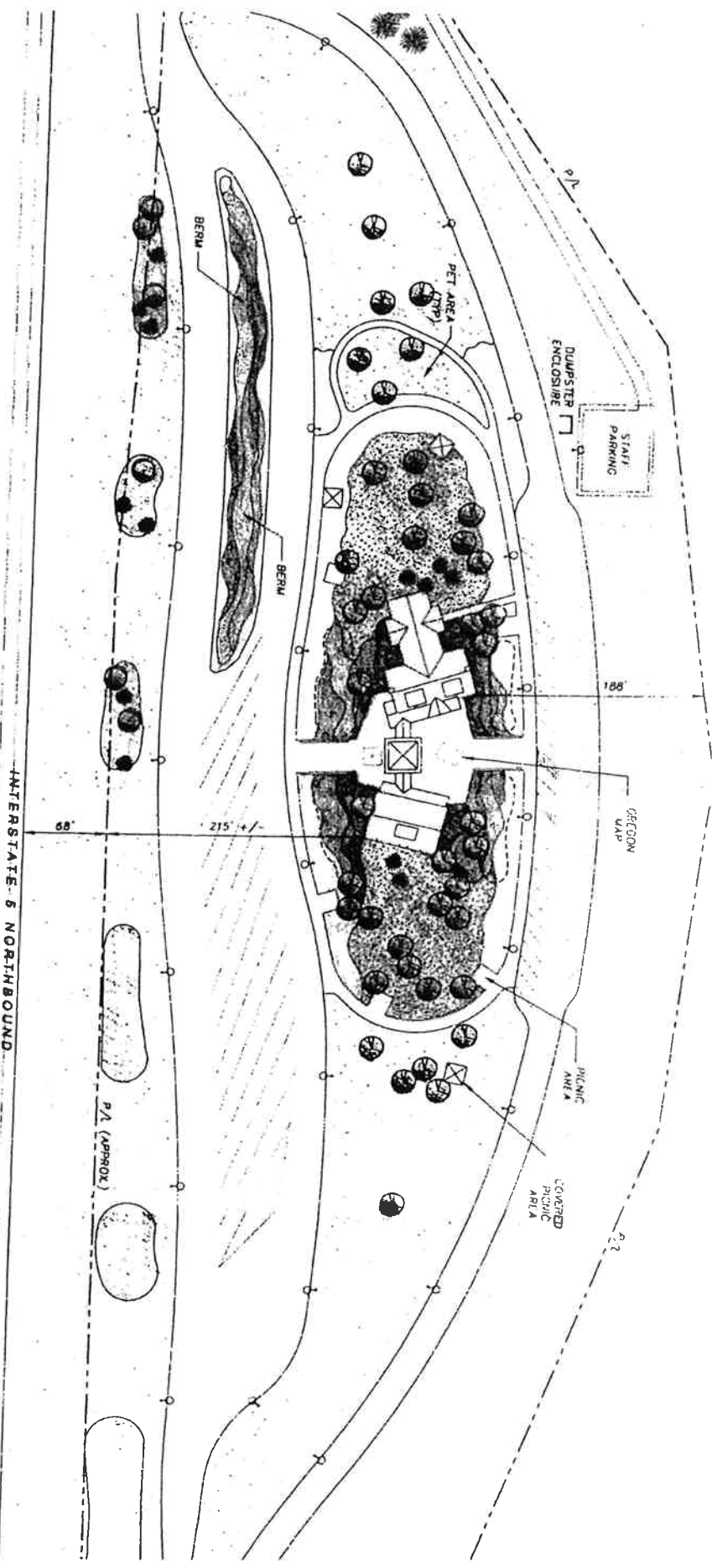
0 0.25 0.5 0.75 1 Miles



 OREGON DEPARTMENT OF TRANSPORTATION	
I-5 SISKIYOU SAFETY REST AREA AND WELCOME CENTER PACIFIC HIGHWAY JACKSON COUNTY SEPTEMBER 10, 2007	
SITE PLAN	SHEET NO. 4

1:1200, BL - 005

Copyright © 2007 by Oregon Department of Transportation. All rights reserved. No part of this document may be reproduced without the written permission of the Oregon Department of Transportation. This document is the property of the Oregon Department of Transportation and is loaned to you. It is to be used only for the project and site for which it was prepared. It is not to be distributed, copied, or otherwise used for any other project or site. The Oregon Department of Transportation is not responsible for any errors or omissions in this document. The user assumes all liability for any such errors or omissions. Date: 09/10/07

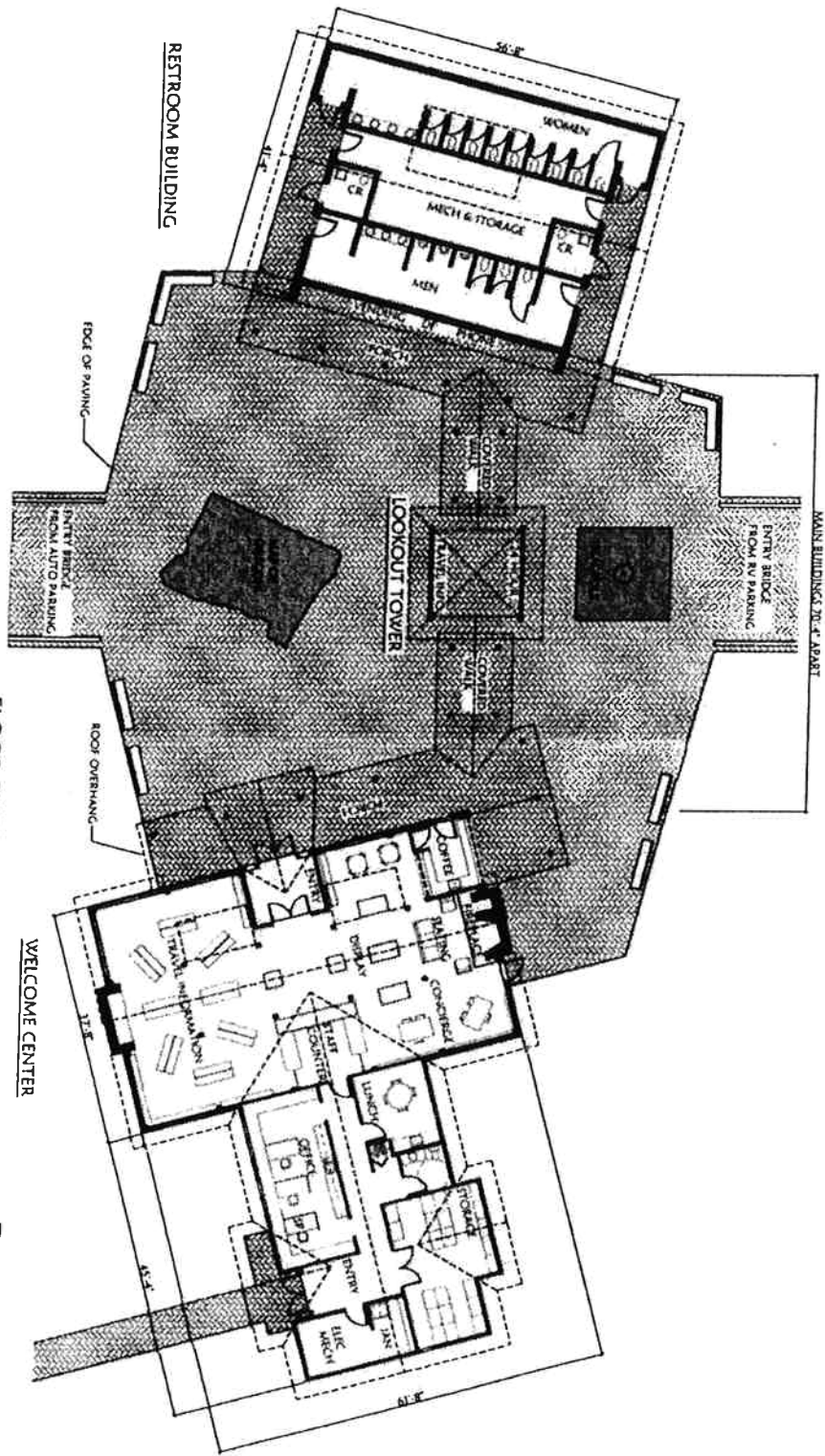


- DECIDUOUS TREES**
- ACER RUBRUM RED SUNSET
 - ARBUTUS MENZIESII
 - GARRYA ELIPTICA
 - PLANTANUS OCCIDENTALIS
 - QUERCUS GARRYANA
- EVERGREEN TREES**
- PINUS SERRATA
 - PINUS PARVIFLORA
 - PHILLODENDRON VIRENTE
- SHRUBS**
- LAISSA AQUICOLUM
 - ROSA CALIFORNICA
 - RUBUS SPECIOSUS
 - STYPHNOGASTRUM ALBUS
- RED SUNSET RED MAPLE**
- MAHONIA
 - SICKTASSEL TREE
 - SYCAMORE
 - WHITE OAK
- OTHER TREES**
- FRAXINO
 - POWDEROSA PINE
 - TRICOLOR FIR
- OREGON GRAPE**
- BALDWIN ROSE
 - MUTKA ROSE
 - SALMONBERRY
 - SNOWBERRY

- SHRUBS**
- ROSA CALIFORNICA
 - RUBUS SPECIOSUS
 - STYPHNOGASTRUM ALBUS
- RED SUNSET RED MAPLE**
- MAHONIA
 - SICKTASSEL TREE
 - SYCAMORE
 - WHITE OAK
- OTHER TREES**
- FRAXINO
 - POWDEROSA PINE
 - TRICOLOR FIR
- OREGON GRAPE**
- BALDWIN ROSE
 - MUTKA ROSE
 - SALMONBERRY
 - SNOWBERRY

- SHRUBS**
- ROSA CALIFORNICA
 - RUBUS SPECIOSUS
 - STYPHNOGASTRUM ALBUS
- RED SUNSET RED MAPLE**
- MAHONIA
 - SICKTASSEL TREE
 - SYCAMORE
 - WHITE OAK
- OTHER TREES**
- FRAXINO
 - POWDEROSA PINE
 - TRICOLOR FIR
- OREGON GRAPE**
- BALDWIN ROSE
 - MUTKA ROSE
 - SALMONBERRY
 - SNOWBERRY





FLOOR PLAN



▼
 GAZLEY
 PLOWMAN
 ARCHITECTS

***PLANNING COMMISSION MEETING
SCHEDULE
Feb. & March***

February 2008

Planning Commission Study Session and Meeting Schedule – Tentative

February 26th – Planning Commission Study Session

1. Housing Incentives and Regulatory Barriers
2. Public Arts Master Plan – Committee Presentation
3. Other Informational Items
 - a. Measure 49 – Transfer of Development Rights
 - b. I-5 Visitors Information Center - Update

March 12th - Regular Quasi-Judicial Meeting

1. Monthly Quasi-Judicial Planning Applications
2. PC Rules – Adoption of Amendments
3. Arterial Street Setback Requirements – Proposed Ordinance & Council Recommendation

March 19th (Tentative) – Croman Mill Redevelopment Plan

1. Key Participant Meetings - Daytime
2. Public Workshop #2 – Bellview Grange (7:00 p.m. to 9:00p.m.)

March 20th (Tentative) – Croman Mill Redevelopment Plan

1. Public Workshop #3 – Bellview Grange (7:00 p.m. to 9:00p.m.)

March 25th – Spring Break Week – Should We Pick an Alternate Meeting Date?

April 22nd – Planning Commission Study Session

1. Public Workshop/Hearing – Water Resources Ordinance (Wetlands & Riparian Areas)