

Note: Anyone wishing to speak at any Planning Commission meeting is encouraged to do so. If you wish to speak, please rise and, after you have been recognized by the Chair, give your name and complete address for the record. You will then be allowed to speak. Please note that the public testimony may be limited by the Chair and normally is not allowed after the Public Hearing is closed.

**ASHLAND PLANNING COMMISSION  
REGULAR MEETING  
DECEMBER 8, 2009  
AGENDA**

- I. **CALL TO ORDER:** 7:00 PM, Civic Center Council Chambers, 1175 E. Main Street
  
- II. **ANNOUNCEMENTS**
  
- III. **CONSENT AGENDA**
  - A. **Approval of Minutes**
    - 1. November 10, 2009 Planning Commission Minutes
  
- IV. **PUBLIC FORUM**
  
- V. **UNFINISHED BUSINESS**
  - A. **Adoption of Findings for PA #2009-01151, Clover Lane**
  
- VI. **DISCUSSION ITEMS**
  - A. **Croman Mill District Plan**
  
  - B. **Update on Timetable Extension and Timetable Tolling Ordinances**
  
- VII. **ADJOURNMENT**

**CITY OF  
ASHLAND**



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 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).

**CITY OF  
ASHLAND**  
ASHLAND PLANNING COMMISSION  
REGULAR MEETING  
MINUTES  
NOVEMBER 10, 2009

**CALL TO ORDER**

Chair Pam Marsh called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers, 1175 East Main Street.

**Commissioners Present:**

Larry Blake  
Michael Dawkins  
Dave Dotterer  
Pam Marsh  
Debbie Miller  
Melanie Mindlin  
Mike Morris  
John Rinaldi, Jr.

**Staff Present:**

Bill Molnar, Community Development Director  
Maria Harris, Planning Manager  
Brandon Goldman, Senior Planner  
Derek Severson, Associate Planner  
April Lucas, Administrative Assistant

**Absent Members:**

None

**Council Liaison:**

Eric Navickas

**ANNOUNCEMENTS**

Commissioner Marsh announced there is currently a vacant position on the Commission and encouraged anyone who is interested to submit an application.

Community Development Director Bill Molnar stated due to the upcoming holidays, the Commission will only hold one Study Session. He stated staff will contact them via email to determine whether a November or December Study Session is preferred.

**CONSENT AGENDA**

- A. Approval of Minutes  
1. October 13, 2009 Planning Commission Minutes

Commissioners Dotterer/Blake m/s to approve the Consent Agenda. Voice Vote: all AYES. Motion passed 8-0.

**PUBLIC FORUM**

No one came forward to speak.

**TYPE III PUBLIC HEARINGS**

- A. PLANNING ACTION: #2009-01151  
SUBJECT PROPERTY: 545-555-565 Clover Lane  
APPLICANT: Clover Lane LLC/Holiday Inn Express  
DESCRIPTION: A request for a zoning map amendment to extend the "Freeway Sign Zone/Freeway Overlay District" from its current 700-foot radius to include two additional properties along the west side of Clover Lane. COMPREHENSIVE PLAN DESIGNATION: Employment; ZONING: E-1; ASSESSOR'S MAP #: 391E 14AA;  
TAX LOTS: 3200, 6700 & 6800.

Commissioner Marsh read aloud the public hearing procedures for land use hearings.

### **Declaration of Ex Parte Contact**

Commissioners Blake, Miller and Dotterrer participated in the site visit; Commissioners Morris, Dawkins, Mindlin and Marsh drove past the site; Commissioners Dawkins and Rinaldi noted their involvement with the Freeway Interchange Design Committee; Commissioner Dotterrer noted he lives in the nearby neighborhood, but stated he has no bias.

### **Staff Report**

Associate Planner Derek Severson presented the staff report for the planning application. He reviewed the current boundaries of the Freeway Sign Zone/Freeway Overlay District and clarified within this radius there is an allowance for signs to be placed up to 2,028 ft. above the mean sea level. He clarified the proposal before the Commission is to extend the current overlay zone to encompass the remainder of the Miguel's property at 545 Clover Lane, the adjacent parking lot at 555 Clover Lane, and the Holiday Inn Express property at 565 Clover Lane. He stated if approved, this proposal would allow for the installation of two additional freeway signs in this area.

Mr. Severson reviewed the visibility problems associated with the Holiday Inn Express at the end Clover Lane. He noted the Applicant's application points out that Clover Lane used to extend straight down, but back in the 1990's the area was reconfigured and the street realigned, which affects the line of sight when traveling down Clover Lane. Mr. Severson stated in looking at the application, staff was not only concerned with the visibility problem, but also wanted to ensure impacts to the adjacent residential area were considered. He displayed photos of the views taken from the residential area and clarified the distance between the subject area and the neighborhood ranges from over 400 ft. to 215 ft. He added there is also a substantial elevation change buffering the two areas. Mr. Severson clarified the Holiday Inn Express does have existing signage that is focused on the freeway frontage; and with recent Sign Ordinance changes, there are opportunities for them to gain signage on the other frontages as well.

Mr. Severson concluded his presentation and stated staff believes there is a change in circumstance that could justify a change in the overlay, and it does not appear amending the overlay district would create significant impacts to the residential area.

### **Applicant's Presentation**

**Mark Knox/Applicant's Representative/**Clarified the Applicant could not be present because he is receiving an award for the improvements he has made to this property. Mr. Knox stated the Sign Code is unique to Ashland and changes should not be taken lightly; however the Applicant has raised valid concerns. He stated Clover Lane is very narrow, there are Dead End signs posted, and you can't see the hotel because of the bend in the road. He added there is also heavy vegetation and the overall impact gives this street an uncomfortable feeling for someone who may be unfamiliar with the area. Mr. Knox stated the residents in the residential area will not be able to see the signage because of the fencing, vegetation and grade change. He added there is also a distance of 400-450 ft. between the two areas that mitigates this concern. Mr. Knox submitted suggested language for the Commission to consider which would only allow the map change to occur along this boundary. He stated when the overlay was first created they formed an indiscriminate circle, and this change would focus on the properties most in need and solve their problems. Mr. Knox stated the Holiday Inn Express caters to out-of-towners and he believes the sign overlay was developed with this in mind and was meant to help capture that business.

Mr. Knox provided some clarification of his suggested language. He stated this would expand the overlay zone to include the most western 100 ft. of the three identified tax lots and addresses any precedence argument that may come forward in the future.

### **Public Testimony**

**Robert Peffer/626 Sutton Place/**Stated he has spoken with his neighbors and feels extending the zone overlay will set precedence. Mr. Peffer voiced his opposition to the Applicant's proposal and stated approval would not only allow the Holiday Inn Express to erect a large sign, but also Pacific Western Oregon and possibly a new sign for Miguel's. He stated the requested action seems like overkill for a solely Holiday Inn problem and voiced concern that if approved, this would set a precedent making it difficult to reject similar requests from properties on the east side of Clover Lane. He stated the way to solve this problem is to grant the Holiday Inn a variance and allow them to have a taller sign.

### Applicant's Rebuttal

Mr. Knox clarified you can not ask for a variance to the Sign Ordinance, and this was the only avenue one can take. He added going through the map amendment process is a difficult task and he does not believe this is a precedence setting situation.

### Advice from Legal Counsel & Staff

Mr. Severson explained that in terms of the potential issue of setting a precedent for further expansion of the overlay, it should be noted that the Applicant's had initially proposed an increase in the overlay's radius at the pre-application stage. At that time, staff made it clear than an application of this nature must first demonstrate compliance with the Comprehensive Plan and that staff had fairly significant concerns that an expansion of the overlay would encourage more freeway-oriented businesses that may not meet the job-creation targets of the Comprehensive Plan (at least 10 family wage jobs per acre). Mr. Severson stated the current proposal was significantly modified based on these concerns and is now limited to the subject properties, where freeway-oriented businesses are for the most part already established and therefore there is little concern with job creation. Mr. Severson emphasized that if the proposal is approved, future applications to expand the overlay will still need to address not only aesthetic impacts and the proximity to the residential neighborhoods, but also the Comprehensive Plan issues of job creation; therefore staff does not believe that the setting of a specific precedent should be a concern.

Mr. Severson read aloud the suggested approval statement provided by Mr. Knox:

*"The Planning Commission finds the proposal to amend the Freeway Sign Zone to include the most western 100' 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 the circumstances since the existing plan designation was adopted in 1973 (36 years) 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 Planning Commission also finds that the proposal to only include the most western 100' 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' of distance."*

Mr. Severson clarified the additional area to be included in the overlay zone is very specific and this proposal would not increase the size of the overlay "circle".

*Commissioner Marsh closed the record and the public hearing at 7:50 p.m.*

### Deliberations & Decision

Commissioner Miller spoke in favor of not expanding the overlay radius and questioned if the issues the hotel is having could be solved by better signage on Clover Lane instead.

**Commissioners Dotterrer/Dawkins m/s to approve Planning Action #2009-01151 with the amended language read aloud by staff. DISCUSSION:** Dawkins agreed that Clover Lane has issues and stated he would feel uncomfortable too if he wasn't familiar with it. He added as long as they are looking at directing signs specifically along the freeway, he is comfortable with the Ordinance change. Blake stated he does not support the proliferation of signs along I-5; however in this case he feels this is a reasonable request given the situation. Dawkins commented briefly on development history for this area and noted this was essentially a rural interchange when the off-ramp went in. Dotterrer stated he does not believe this approval will set precedence and stated someone would have a lot of difficulty challenging the wording that is proposed. Rinaldi stated this is not a freeway signage issue, but a local streets signage issue; and questioned if they should recommend the new signs be placed at a lower height. Staff clarified a change in the height limit would need to be approved by the City Council. Additional comment was made that in order for the sign to be effective, it will likely have to rise to the allowed limit. Marsh stated if you have freeway businesses you need freeway signs, and voiced her support for this application. **Roll Call Vote:**

**Commissioners Rinaldi, Blake, Dawkins, Mindlin, Morris, Dotterrer and Marsh, YES. Commissioner Miller, NO. Motion passed 7-1.**

## **OTHER BUSINESS**

### **A. Croman Mill District Plan.**

Planning Manager Maria Harris provided a brief review of the public hearing package and the project timeline. She explained the public hearing package will include: 1) a new AMC chapter titled "18.53 Croman Mill", 2) the Croman Mill District Standards which will be integrated into the Site Design & Use Standards, 3) miscellaneous revisions to the Ashland Land Use Ordinance, 4) amendments to the Comprehensive Plan map and Zoning map, and 5) will adopt the Croman Mill Site Redevelopment Plan as a supporting document. In regards to the project timeline, Ms. Harris explained the Croman Advisory Committee will hold their final meeting on November 18, 2009; on November 30, staff will provide an update to the City Council, and in December the Commission will hold their public hearing on the Croman implementation package. She added the Planning Commission's recommendation from their December meeting will be forwarded to the City Council, who are scheduled to hold a public hearing in January.

Ms. Harris requested the Commission focus tonight's discussion on the Croman Mill District Standards, which are comprised of the following sections: 1) Street Standards, 2) Development Standards, and 3) Sustainable Development Standards. Ms. Harris clarified the draft Standards document handed out at the beginning of the meeting has not been changed since their last discussion on September 29<sup>th</sup>; and clarified the highlighted sections mark the new language that is not a carry-over from the existing Site Design & Use Standards. Ms. Harris noted the "Dimensional Standards Matrix" that will be inserted at the end of AMC 18.63, and clarified this chart addresses lot size, yard requirements, landscaping coverage, height, solar access, floor area ratio, residential density, and employment density.

#### ***Street Standards***

Ms. Harris briefly reviewed the central boulevard, local commercial streets, accessways, and multi-use paths. She clarified the accessways are somewhat flexible and are intended primarily for pedestrian and bike access. Ms. Harris reviewed where the multi-use paths would be located and clarified the path adjacent to the railroad will be wider in anticipation of higher volumes of bicycle and pedestrian traffic.

#### ***Design Standards***

Ms. Harris explained about half of the language in this section was pulled over from the current Site Design & Use Standards document. She stated the existing standards cover orientation and scale, parking and on-site circulation, streetscape, building materials, architectural standards for large-scale building, landscaping, and lighting. She stated the new language was taken from the Crandall Arambula plan and address: active edge streets, street wall height, residential buffer zones, transit facility, freight rail spur easement, commuter rail platform easement, open space, and compact development.

#### ***Sustainable Development***

Ms. Harris stated this section is essentially all new material that was suggested in the Crandall Arambula plan, and addresses green streets, stormwater management, and green surface parking. Additional sustainable standards that are included in this section speak to: conserving natural areas, creating diverse neighborhoods, minimizing construction impacts, practicing low-impact site development, and sustainable development bonuses.

Staff put forward the following questions to the Commission: 1) Are the land uses in the land use matrix consistent with the goals and objectives of the redevelopment plan? 2) Do the design standards seem consistent with the employment center envisioned in the redevelopment plan? 3) Do the sustainable design standards go too far, not far enough, or seem just about right?

Commissioner Mindlin asked if they are done discussing the land use distribution. She noted she had made a motion at a previous meeting that did not pass, however no other motion was approved. Commission Marsh clarified the Commission has not made any final decisions, and the times they reached consensus it was merely agreement to include those items in the implementation package that goes to the public hearing. She stated the input they gain from the public may necessitate further changes, and at the conclusion of the public hearing the Commission will issue their final recommendation to the City Council.

Staff clarified Crandall Arambula has been asked to provide input on a possible revision of the proposed street alignment. Mr. Molnar clarified staff has been working on this internally, and have forwarded this onto the consultant team who prepared the

original Croman Mill Redevelopment Plan to review the changes and provide feedback on what the tradeoffs might be. He stated staff is working with them to get this back as quickly as possible.

Commissioner Marsh asked if staff would be holding a neighborhood meeting prior to the public hearing. Mr. Molnar stated there are several neighbors who have been following the plan and staff will offer their attendance if the neighborhood wants to put something together. Ms. Harris noted staff is gearing up to notice the public hearing and the notice area will be quite large at 200 ft. from the boundaries of the entire Croman study area. Mr. Molnar added staff has also collected a fairly extensive email mailing list and notices could be sent to these individuals as well.

Commissioner Dotterer requested clarification on the active edge concept. Ms. Harris explained the idea is to have these along the central boulevard and around the central park. She stated these areas should have a strong pedestrian orientation since it is the Croman District's "front door", and buildings in this area will be closer to the sidewalk in order to create a boulevard space.

Staff provided some clarification on the building height possibilities. Senior Planner Brandon Goldman explained the height bonus is based on the LEED Certification Program, and will allow additional stories for each level of LEED Certification achieved. However even with a LEED height bonus, each zone has a maximum height limit that all structures must adhere to. (Height Maximums: Neighborhood Commercial – 4 stories, Mixed Use – 4 stories, Compatible Industrial – 6 stories, Office Employment – 7 stories). In terms of height, Commissioner Marsh asked what the FAA has said about this plan. Mr. Molnar clarified as the buildings get taller, there will likely be restrictions added. He added staff has requested a FAA representative come to Ashland and review the Croman plan before it goes through the public hearing process.

Commissioner Mindlin asked why the height limit for the Neighborhood Commercial zone was so low, and stated she had imagined something a little more dense. Staff clarified 2.5 stories is what is allowed now, so they kept this figure as the base; and while the Crandall Arambula plan suggested 4-6 stories, staff has proposed a 4 story limit out of respect for the abutting area and to provide an appropriate transition to the district. Mr. Goldman noted the residential buffer area encompasses much of the Neighborhood Commercial area and under the LEED standards, the height bonus is not applicable to areas within the residential buffer. He added if the Commission wants taller buildings in this area, the buffer will need to be reduced in size.

Comment was made questioning if staff had considered other incentives for LEED development within the residential buffer area. Additional statement was made asking if the residential buffer area would be able to accommodate 60-units per acre if buildings are only 2.5 stories tall. Staff cited the Lithia Lot proposal as an example, and it was noted the 60-unit per acre figure will compel builders to provide smaller units, which is the intent. It was also clarified that 60-units per acre is currently the allowed density in the downtown area as well.

Staff clarified the employment density numbers are guidelines and came straight from the Crandall Arambula plan. Mr. Molnar noted staff has been researching other communities to see if they provide anything besides guidelines for enforcement purposes, but since projects are often phased out over a period of time, employment density numbers likely won't be met during the initial phases. He stated this needs to be taken into consideration and the guideline approach may be best. Commissioner Dotterer commented that it would be difficult to ask applicants to give a firm number, since business activity and employee numbers fluctuate.

Commissioner Mindlin voiced concern that the employee targets will prohibit local businesses from moving to the Croman site. Ms. Harris noted staff did review local industrial employee numbers and cited Blackstone Audio and Dreamsacks as two local businesses who would meet the proposed targets. Commissioner Morris commented that the only way to pay for all the infrastructure is to have a higher number of employees per acre. Councilor Navickas commented that the minimum square foot lot size seems to be pushing toward a model that precludes small, locally grown industrial businesses. Ms. Harris clarified the intent was to accommodate existing local businesses that are growing and are in need of a larger space, as well as accommodating new businesses coming to town.

Commissioner Marsh suggested they turn their discussion to the Sustainability Standards. Commissioner Dawkins commented that these should be called "Environmental Development Standards" instead, and stated he does not see anything in this

section that is sustainable and they seem to be more environmentally oriented. Comment was made that the term sustainable development is the standard term that is being used within the industry.

Mr. Goldman provided a brief summary of the Croman Advisory Committee's discussion of the rainwater catchment issue. He noted at that meeting Commissioner KenCairn voiced concern with requiring 25% of the irrigation to come from rainwater, since there is no rainwater during certain months of the year. She had also recommended instead of making rainwater catchment a recommendation, to have a requirement for a certain percentage to be retained on the site for either graywater or irrigation use. Several comments were made voicing support for KenCairn's recommendation and to make rainwater catchment a requirement. Suggestion was made for staff to consider separating the recommendations from the requirements in Section VII-C-7 and put them into two separate paragraphs.

**Commissioners Mindlin/Rinaldi m/s to continue the meeting to 10:00 p.m. Voice Vote: all AYES. Motion passed 8-0.**

Commissioner Mindlin asked about the parking standards and questioned why all of the zones don't have the opportunity to reduce their parking through the implementation of alternative parking management strategies. Mr. Molnar stated this was a good question and staff will look into it.

Comment was made questioning if they could roll back the height limit in order to persuade people to build LEED certified structures and get the height bonus. Ms. Harris indicated there may be some legal issues with rolling back what someone could build currently; additionally, she noted the importance of balancing the goals of the plan in terms of employment generation and environmentally sensitive development. Commissioner Marsh suggested they continue to brainstorm to come up with other incentives for building LEED structures in addition to the height bonus. FARs, height and lot coverage, and parking requirements were all mentioned as possible options for staff to consider.

#### **ADJOURNMENT**

Meeting adjourned at 9:45 p.m.

*Respectfully submitted,  
April Lucas, Administrative Assistant*

**BEFORE THE PLANNING COMMISSION**  
**December 8<sup>th</sup>, 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 10<sup>th</sup>, 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.

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Planning Commission Approval

December 8<sup>th</sup>, 2009

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Date

# Council Communication

## Timetable Extension and Timetable Tolling - Ordinance Initiation

Meeting Date:	October 20, 2009	Primary Staff Contact:	Bill Molnar
Department:	Community Development	E-Mail:	<a href="mailto:molnarb@ashland.or.us">molnarb@ashland.or.us</a>
Secondary Dept.:	Administration	Secondary Contact:	Adam Hanks
Approval:	Martha Bennett	Estimated Time:	30 minutes

### Question:

Does the Council have further direction to the Planning Commission with respect to planning application timetable extensions and planning application timetable tolling?

### Staff Recommendation:

Staff believes that it would be fair to amend the Land Use Ordinance so that the approval timetable would be suspended or tolled for appeals outside the local approval process, as is the case with appeals to LUBA or the circuit court. In such cases, the planning application has been found by the local approval authority, on more than one instance, to have met all applicable approval standards described in the Land Use Ordinance. It would seem unfair in the mind of an applicant that after having complied with the City's land use process, to have the application deemed invalid because the approval expired during an extended appeal process.

Staff also originally recommended that the city grant a one-time extension for projects in response to the economic downturn and restrictive commercial lending. Does the Council have further direction on this item, such as a suggested length of extension? Should a decision on whether or not to grant an additional time extension take into account ordinance changes that became effective after the initial planning application approval?

### Background:

At the August 4<sup>th</sup> meeting, the Council discussed the idea of amending Ashland's Land Use Ordinance with respect to extending the timetables for previous approved planning applications due to the economic recession, and tolling the timetable for decisions appealed to LUBA and/or appellate court. Rather than evaluate the merits of a draft ordinance, the Council requested that staff put the two issues before the Planning Commission. Research by staff has identified the cities of Portland, Newberg and most recently Eugene as having passed ordinances extending the timetable of previously approved planning applications. This council communication is intended to provide a brief update on the Commission's discussion as well as any direction they provided staff.

The two issues can be summarized as follows:

#### Land Use Approval Timetable Extension

The global economic downturn starting in 2006 has resulted in a significant slow down in the submission of development applications and general building activity. Constrained financing for projects has resulted in applicants having to forego initial timelines for project completion, putting approved proposals in an indefinite holding pattern. In an effort to be responsive to new challenges



related to obtaining project financing, the city could consider enacting legislation that automatically extends the approval period.

### **Land Use Approval Timetable Tolling/Suspension**

The Ashland Municipal Code does not expressly toll or suspend approval timetables should a project be subject to an appeal to LUBA or the Circuit Court. Often Planning Division staff receives inquiries from applicants or their legal counsel regarding whether or not the approval period for the project is automatically suspended, while under appeal at the State or Circuit Court. Appeals may take several months or more, and without a tolling provision, an approval may expire even if the applicant prevails in Court or at the Land Use Board of Appeals (LUBA).

### **Planning Commission Discussion – September 15, 2009**

Staff placed this item on the Commission's agenda at their regular meeting on September 15, 2009, not to solicit input on the draft ordinance language presented to the Council, but merely to have a general discussion related to the possible merits or drawbacks from such a proposal. The Commission supported the concept of tolling or suspending the planning application timetable during the appeal process to LUBA or circuit court. The Commission was split on the proposal to grant an additional extension to the application timetables of previously approved actions due to circumstances related to the economic downturn in the national economy. Proponents felt the economic conditions necessitated extensions, while those opposed to an additional extension were concerned about potential ordinance changes in the interim that could result in changes to the proposal.

### **Related City Policies:**

Comprehensive Plan Goal 7.07.03, Policy VII-4 – *The City shall take such actions as are necessary to ensure that economic development can occur in a timely and efficient manner.*

### **Council Options:**

The Council could direct staff to continue working with the Planning Commission on developing amendments to the Land Use Ordinance – Chapter 18 – with respect to timetable extensions and timetable tolling or suspension.

The Council could direct staff to continue working with the Planning Commission on developing amendments to the Land Use Ordinance – Chapter 18 – with respect to timetable extensions *or* timetable tolling or suspension.

The Council could direct staff to take no further action with respect to amending the land use ordinance.

### **Potential Motions:**

1. I move to direct staff to continue working with the Planning Commission on developing amendments to the Land Use Ordinance – Chapter 18 – with respect to timetable extensions and timetable tolling or suspension.



2. I move to direct staff to continue working with the Planning Commission on developing amendments to the Land Use Ordinance – Chapter 18 – only with respect to clarifying under what circumstances should planning application timetables be suspended or tolled..
3. I move to direct staff to continue working with the Planning Commission on developing amendments to the Land Use Ordinance – Chapter 18 – only with respect to timetable extensions necessary to respond to a change in conditions brought about by the economic recession.
4. I move that staff takes no further action in proposing amendments to the Land Use Ordinance with respect to timetable extensions and timetable tolling or suspension.

**Attachments:**

- Planning Commission Meeting Minutes – September 15, 2009
- City Council Meeting Minutes – August 4, 2009



- **Pedestrian Clearance Areas**

Staff followed the existing ordinance and mapped only the downtown area. The few businesses in violation of the right of way were on the map but not specially noted as being in violation.

- **Right of Way Encroachments**
- **Standard Guideline Examples**
- **Sidewalk Cafes Sample Requirements**
- **Sidewalk Cafes**
- **Bike Rack Sample Requirements**
- **Bicycle Racks – On-Street Bike Parking is added**
- **Publication Racks Sample Requirements**
- **Publication Racks**

**Duane Wolf/Phoenix/Southern Oregon Media Group**/Explained he was the Single Copy Manager and listed the publications he oversees for single copy distribution and noted two other distribution agencies involved that had worked with staff regarding standards for publication racks.

Staff added fees for the newspaper racks would be modest.

- **Downtown Sidewalk Usage Map (DSUM)**
- **Procedures for Abatement/Removal**
- **Standard Permit Form**
- **Annual Encroachment Permit**

Mr. Faught clarified Ordinance 2990 states a minimum of 50 square feet for sidewalk café areas. Additionally, fees will be separate from the ordinance in a resolution specifically for fees allowing staff to go to the Council for adjustments or to adapt new standards as needed.

**Councilor Chapman/Voisin m/s to approve Resolution #2009-29. Roll Call Vote: Councilor Voisin, Lemhouse, Chapman, Silbiger, Jackson and Navickas, YES. Motion passed.**

**2. Does the Council wish to have staff continue working with the Planning Commission on amending the Land Use Ordinance with respect to planning application timetable extensions and planning application timetable tolling?**

Community Development Director Bill Molnar gave the staff report and explained the Planning Commission consensus was to have an amendment that suspended the timetable until a decision was made at The Oregon Land Use Board Appeals (LUBA) or circuit court. The Commission was split on the recession extension because there were extenuating circumstances to look at in granting extensions. Other concerns were directed at possible changes in the land use or ordinance during the extension that might affect the approvals. Mr. Molnar shared examples of what other cities were doing in regards to the extension, explained the extension process and noted there were currently approximately 35 projects in various stages of approval since January 2006.

Staff had not yet encountered projects with extensions that had major code changes that would affect the design. If changes had occurred, the extension would be granted if the applicant complied with them.

Council discussed allowing a second 18-month recession extension, reservations on allowing the extensions, public policy and requiring a Type 1 Procedure for tolling or allowing limited extensions.

Staff clarified extensions needed to be filed within the initial 12-month period to get a building permit and the first inspection to validate it. Extensions usually take 2-3 weeks to process. Currently there are 12-24 potential recession extensions for land use actions and no cases in appeal for tolling.

Council further discussed a one-time 18-month extension that would require an evaluation and reason the applicant



was unable to get funding. Opposition to having any type of extension was also expressed.

**Councilor Silbiger/Jackson m/s to direct staff to develop an amendment to the Land Use Ordinance for a one additional 18-month extension on land use planning actions to respond to the change in conditions associated with the economic recession including an end date. DISCUSSION:** Councilor Silbiger noted this was one of the worst economic downturns since The Great Depression. Governments at all levels have responded in various ways and it was appropriate for the City to respond. Councilor Navickas commented the City needed applications more congruent with the current economic situation. It would be better for the community to let these projects lapse. Councilor Lemhouse thought it was unconscionable the City would not allow these extensions. The Federal Government was assisting industries and it was the City's duty to give these people more time to get funding together. Councilor Voisin commented the developers who took the risk of borrowing money and were unable to get funding due to the recession should suffer the consequences like everyone else. Banks were not giving long extensions to people losing their homes. Councilor Chapman would support the motion but wanted language restricting eligibility, proof of hardship and the assurance the structure would be built. Councilor Jackson agreed with the motion adding Council was using a process already in the code and making a special application in response to the recession. **Roll Call Vote: Councilor Silbiger, Lemhouse, Jackson and Chapman, YES; Councilor Navickas and Voisin, NO. Motion passed 4-2.**

**Councilor Jackson/Lemhouse m/s to direct staff to begin clock on planning applications once all appeals have been concluded. DISCUSSION:** Councilor Jackson did not think the clock should start during the appeals process. Councilor Navickas explained timetables could get pushed far ahead from their initial approval with site-specific or ordinance changes that occurred in the interim. There should be some form of review before allowing the extension. Councilor Jackson clarified she intended the same administrative process to apply. Councilor Chapman thought the timetable would establish boundaries. Councilor Voisin did not see the immediate need for tolling extension. If a project ran out of time or there were issues with LUBA, they needed to reapply. Councilor Silbiger commented it was a matter of fairness; people could lose their projects through no fault of their own. He agreed there should be some constraints. Councilor Lemhouse supported the motion, noted it needed framework and added as a government the City strives to protect fairness and equity in the community and that included developers. Councilor Voisin questioned the warrant of having the policy at this time. Councilor Silbiger responded this would establish a policy in the event a circumstance occurred. Councilor Navickas added this was in the interest of protecting everyone, and cautioned on extending the timetable too far. **Roll Call Vote: Councilor Silbiger, Lemhouse, Jackson and Chapman, YES; Councilor Navickas and Voisin, NO. Motion passed 4-2.**

### **NEW AND MISCELLANEOUS BUSINESS**

**1. Does the Council have any questions regarding the information update on the Siskiyou Fire of September 21, 2009 that occurred south of Ashland?**

Fire Chief John Karns presented the staff report and explained initially the highest-ranking individual first on the scene of a fire had authority. The fire was broken down into two areas, structure protection then Wildland. The expected overall costs will exceed \$1million. He thanked the GIS staff for providing critical maps and the mobile command post provided by the Police Department.

Chief Karns gave a presentation that included the following Lessons Learned:

- **Importance of a command/tactical communications plan established early in the event**
- **Importance of an early establishment of Incident Command and Command Staff**
- **Importance of a Unified Command**
- **Limitations of Ashland's Wildfire Hotline 552-2490**
- **Need for a clear emergency policy for the City's website**
- **Value of streaming 1700 AM on the website**
- **Need for a locally controlled "mass notification" system**
- **PIO integration**
- **Need for better control of residents and general "Lookie-Lou's"**
- **Had a number of unauthorized home entries**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING AMC 18.108.070 AND AMC 18.112 ,  
CONCERNING TIMTETABLE TOLLING AND TIMTABLE EXTENSIONS**

Annotated to show deletions and <u>additions</u> to the code sections being modified. Deletions are <b><del>lined through</del></b> and additions are <b><u>bold underlined</u></b> .
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**WHEREAS**, Article 9. Section 1, of the Ashland City Charter provides:

Violation of Charter, Ordinance and Laws The Council, at any regular or adjourned meeting, shall have the power within the limits of the City of Ashland to enact laws, ordinances and pass resolutions not in conflict or inconsistent with the laws of the United States, the State of Oregon, or the provisions of this Charter; and to provide for punishment of any person or persons found guilty by a competent tribunal of the violation of any such laws, ordinances, or any of the provisions of this Charter, by fine or imprisonment of such offender, until such fine and costs are paid; and

**WHEREAS**, Article 2. Section 1 of the Ashland City Charter provides:

Powers of the City The City shall have all powers which the constitutions, statutes, and common law of the United States and of this State expressly or impliedly grant or allow municipalities, as fully as though this Charter specifically enumerated each of those powers, as well as all powers not inconsistent with the foregoing; and, in addition thereto, shall possess all powers hereinafter specifically granted. All the authority thereof shall have perpetual succession.

**WHEREAS**, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop, 20 Or. App. 293, 531 P 2d 730, 734 (1975); and

**WHEREAS**, the economic downturn occurring since early 2006 has caused a severe slow down in all aspects of land development and building activity; and

**WHEREAS**, while financing for new development and building activity is constrained, it is important to the continuing economic health of the community to extend the validity of existing development approvals so that such developments may more readily attain a shovel-ready status contributing to economic recovery: and

**WHEREAS**, the Ashland Municipal Code does not expressly toll or suspend development timetables in the event the project is subject to a LUBA or Circuit Court proceeding; and

**WHEREAS**, the City of Ashland, acting by and through the City Council, desires to

provide for timetable tolling during pending appeals as well as a uniform eighteen (18) month timetable extension for all development approvals due to the recent economic downturn; and

**THE PEOPLE OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:**

SECTION 1: **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2: **Amendment.** AMC 18.108.070 [Effective Date of Decision and Appeals] is hereby amended to add a new subsection D:

**18.108.070 Effective Date of Decision and Appeals**

- A. Ministerial actions are effective on the date of the decision of the Staff Advisor and are not subject to appeal.
- B. Actions subject to appeal:
  - 1. **Expedited Land Divisions.** Unless appealed within 14 days of mailing a notice of decision, the Staff Advisor decision becomes final on the 15<sup>th</sup> day. Appeals shall be considered as set forth in ALUO 18.108.030(C) and ORS 197.375.
  - 2. **Type I Planning Actions.**
    - a. **Effective Date of Decision.** The final decision of the City for planning actions resulting from the Type I Planning Procedure shall be the Staff Advisor decision, effective on the 13<sup>th</sup> day after notice of the decision is mailed unless reconsideration of the action is approved by the Staff Advisor or appealed to the Commission as provided in section 18.108.070(B)(2)(c).
    - b. **Reconsideration.** The Staff Advisor may reconsider Type I planning actions as set forth below.
      - i. Any party entitled to notice of the planning action, or any City Agency may request reconsideration of the action after the decision has been made by providing evidence to the Staff Advisor that a factual error occurred through no fault of the party asking for reconsideration, which in the opinion of the staff advisor, might affect the decision. Reconsideration requests are limited to factual errors and not the failure of an issue to be raised by letter or evidence during the opportunity to provide public input on the application sufficient to afford the Staff Advisor an opportunity to respond to the issue prior to making a decision.
      - ii. Reconsideration requests shall be received within five (5) days of mailing. The Staff Advisor shall decide within three (3) days whether to reconsider the matter.
      - iii. If the Planning Staff Advisor is satisfied that an error occurred crucial to the decision, the Staff Advisor shall withdraw the decision for purposes of reconsideration. The Staff Advisor shall decide within ten

(10) days to affirm, modify, or reverse the original decision. The Staff Advisor shall send notice of the reconsideration decision to affirm, modify, or reverse to any party entitled to notice of the planning action.

- iv. If the Staff Advisor is not satisfied that an error occurred crucial to the decision, the Staff Advisor shall deny the reconsideration request. Notice of denial shall be sent to those parties that requested reconsideration.

c. **Appeal.**

- i. Within twelve (12) days of the date of the mailing of the Staff Advisor's final decision, including any approved reconsideration request, the decision may be appealed to the Planning Commission by any party entitled to receive notice of the planning action. The appeal shall be submitted to the Planning Commission Secretary on a form approved by the City Administrator, be accompanied by a fee established pursuant to City Council action, and be received by the city no later than 4:30 p.m. on the 12<sup>th</sup> day after the notice of decision is mailed.

- ii. If an appellant prevails at the hearing or upon subsequent appeal, the fee for the initial hearing shall be refunded. The fee required in this section shall not apply to appeals made by neighborhood or community organizations recognized by the city and whose boundaries include the site.

- iii. The appeal shall be considered at the next regular Planning Commission or Hearings Board meeting. The appeal shall be a de novo hearing and shall be considered the initial evidentiary hearing required under ALUO 18.108.050 and ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. The Planning Commission or Hearings Board decision on appeal shall be effective 13 days after the findings adopted by the Commission or Board are signed by the Chair of the Commission or Board and mailed to the parties.

- iv. The appeal requirements of this section must be fully met or the appeal will be considered by the city as a jurisdictional defect and will not be heard or considered.

- d. **Final Decision of City.** The decision of the Commission shall be the final decision of the City on appeals heard by the Commission on Type I Planning actions, effective the day the findings adopted by the Commission are signed by the Chair and mailed to the parties.

3. **Type II Planning Actions.**

- a. **Effective Date of Decision.** The decision of the Commission is the final decision of the City resulting from the Type II Planning Procedure, effective 13 days after the findings adopted by the Commission are signed by the Chair of the Commission and mailed to the parties, unless

reconsideration of the action is authorized as provided in Section (b) below or appealed to the Council as provided in section 18.108.110.A.

b. **Reconsideration.**

- i. The Staff Advisor on his/her own motion, or any party entitled to notice of the planning action may request reconsideration of the action after the Planning Commission final decision has been made by providing evidence to the Staff Advisor addressing one or more of the following: (1) new evidence material to the decision exists which was unavailable, through no fault of the requesting party, when the record of the proceeding was open; (2) a factual error occurred through no fault of the requesting party which is relevant to an approval criterion and material to the decision; (3) a procedural error occurred, through no fault of the requesting party, that prejudiced the requesting party's substantial rights and remanding the matter will correct the error. Reconsideration requests are limited to errors identified above and not the failure of an issue to be raised by letter or evidence during the opportunity to provide public input on the application sufficient to afford the Staff Advisor an opportunity to respond to the issue prior to making a decision.
- ii. Reconsideration requests shall be received within seven (7) days of mailing. The Staff Advisor shall promptly decide whether to reconsider the matter.
- iii. If the Staff Advisor is satisfied that an error occurred as identified above and is crucial to the decision, the Staff Advisor shall schedule reconsideration with notice to participants of the matter before the Planning Commission. Reconsideration shall be scheduled before the Planning Commission at the next regularly scheduled meeting. Reconsideration shall be limited to the portion of the decision affected by the alleged errors identified in paragraph 3.b.i above.
- iv. The Planning Commission shall decide to affirm, modify, or reverse the original decision. The Planning Commission Secretary shall send notice of the reconsideration decision to any party entitled to notice of the planning action.

c. **Final Decision of City.** Unless the decision is remanded to the Planning Commission, the decision of the City Council shall be the final decision of the City on appeals heard by the Council, on Type II Planning actions, effective the day the findings adopted by the Council are signed by the Mayor and mailed to the parties.

4. **Type III Planning Actions.** For planning actions described in section 18.108.060.A.1 thru 4, the decision of the Council shall be the final decision of the City, effective the day the findings adopted by the Council are signed by the Mayor and mailed to the parties.

5. **Council Call Up.** The City Council may call up any planning action for a decision upon motion and majority vote, provided such vote takes place in the required appeal\_period. Unless the planning action is appealed and a public hearing is required, the City Council review of the Planning Action is

limited to the record and public testimony is not allowed. The City Council may affirm, modify or reverse the decision of the Planning Commission, or may remand the decision to the Planning Commission for additional consideration if sufficient time is permitted for making a final decision of the city. The City Council shall make findings and conclusions and cause copies of a final order to be sent to all parties of the planning action.

- C. No building or zoning permit shall be issued for any action under this Title until the decision is final, as defined in this section.
- D. **Notwithstanding any other provision of this Chapter, in the event a LUBA appeal or a Circuit Court proceeding is filed concerning a final land use decision of the City, the timetable of development is deemed tolled or suspended from the date of the final decision of the City decision maker until final resolution of all appeals or final action on remand, whichever is later. After resolution of all such appeals or remands, timetables shall be adjusted in writing by the Staff Advisor to reflect this automatic tolling, regardless of the approval authority.**

SECTION 3: **Amendment.** Section 18.112.030 [Revocation- permit expiration] is hereby amended to read as follows:

**18.112.030 Revocation--permit expiration.** Any zoning permit, or planning action granted in accordance with the terms of this Title shall be deemed revoked if not used within one year from date of approval, unless another time period is specified in another section of this Title. Said permit shall not be deemed used until the permittee has actually obtained a building permit, and commenced construction thereunder, or has actually commenced the permitted use of the premises. ~~The Staff Advisor may grant an extension of the approval under the following conditions:~~

- ~~1. One time extension no longer than eighteen (18) months is allowed.~~
- ~~2. The Staff Advisor shall find that a change of conditions for which the applicant was not responsible prevented the applicant from completed the development within the original time limitation.~~
- ~~3. Land Use Ordinance requirements applicable to the development have not changed since the original approval. An extension may be granted, however, if requirements have changed and the applicant agrees to comply with any such changes.~~

SECTION 4: **Amendment.** A new Section 18.112.035 [Timetable Extension] is hereby added to read as follows:

**18.112.035 Timetable Extension**

- A. The Staff Advisor shall grant a timetable extension of any zoning permit or planning action approval under demonstrated compliance with the following conditions:**

**1. One time extension no longer than eighteen (18) months is allowed.**

**2. The Staff Advisor shall find that a change of conditions for which the applicant was not responsible prevented the applicant from completing the development within the original time limitation.**

**3. Land Use Ordinance requirements applicable to the development have not changed since the original approval. An extension may be granted, however, if requirements have changed and the applicant agrees to comply with any such changes.**

B. **Notwithstanding any other provision of this Chapter, the Staff Advisor shall grant a timetable extension to any zoning permit or planning action approval which became a final City decision between July 1, 2006 and September 5, 2009 and which approval was subjected to delay associated with a LUBA appeal or a Circuit Court proceeding. Upon application, an extension shall be granted consistent with the tolling period in AMC 18.108.070, for the exact number of days the project was under appeal, calculated from the date of the final decision of the City decision maker until final resolution of the appeal or final action on remand, whichever is later.**

C. **Notwithstanding any other provision of this Chapter, any zoning permit or planning action approval, or any other land use action approval whatsoever, which was approved by a City of Ashland land use decision-maker between January 1, 2006 and July 1, 2009 (including but not limited to development approvals for Type 1, Type 2 and Type 3 Planning Actions) is hereby granted a one time eighteen (18)-month extension of time in addition to any other time extensions previously granted or which may be granted. Regardless of the approval authority, the Staff Advisor shall adjust all timetables, in writing, in accordance with this legislative timetable extension approved by the City governing body.**

SECTION 5. **Amendment.** Section 18.112.090 is hereby amended to read as follows:

**18.112.090 Penalties** Any person, firm or corporation, whether as principal, agent employee, or otherwise, violating or causing the violation of any of the provisions of this Title has committed **a Class A violation offense, an infraction,** and upon conviction thereof is punish-able as prescribed in Section 1.08.020 of the Ashland Municipal Code, **subject to the limitations of the Ashland City Charter.** Such person, firm, or corporation is guilty of a separate violation for each and every day during any portion of which any violation of this Title is committed or continued by such person, firm or corporation.

SECTION 6. **Amendment.** Section 18.112.100 is hereby amended to read as follows:

**18.112.100 Complaints.** Complaints concerning violations to this Title can be initiated only as provided in AMC Chapter 1.08. ~~by: (1) written complaint filed by an affected citizen; (2) any City departmental official responsible for the enforcement of this code; or (3) the City Administrator or City Attorney.~~

SECTION 7. **Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 8. **Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced shall remain valid and in full force and effect for purposes of all cases filed or commenced during the time said ordinances(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 9. **Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 1, 7-9) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors..

The foregoing ordinance was first read by title only in accordance with Article X, Section 2(C) of the City Charter on the \_\_\_\_ day of \_\_\_\_\_, 2009 and duly PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Barbara M. Christensen, City Recorder

SIGNED and APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
John Stromberg, Mayor

Reviewed as to form:

\_\_\_\_\_  
Richard Appicello, City Attorney