CHAPTER 3 – Section 1: Land Use Reviews

3.1.00 Overview

This section discusses the ODOT analysis involved with most local land use proposals. Where the Transportation Planning Rule (TPR) also applies, there is an additional review and response process to follow. See Chapter 3.2 for background and procedures for TPR review.

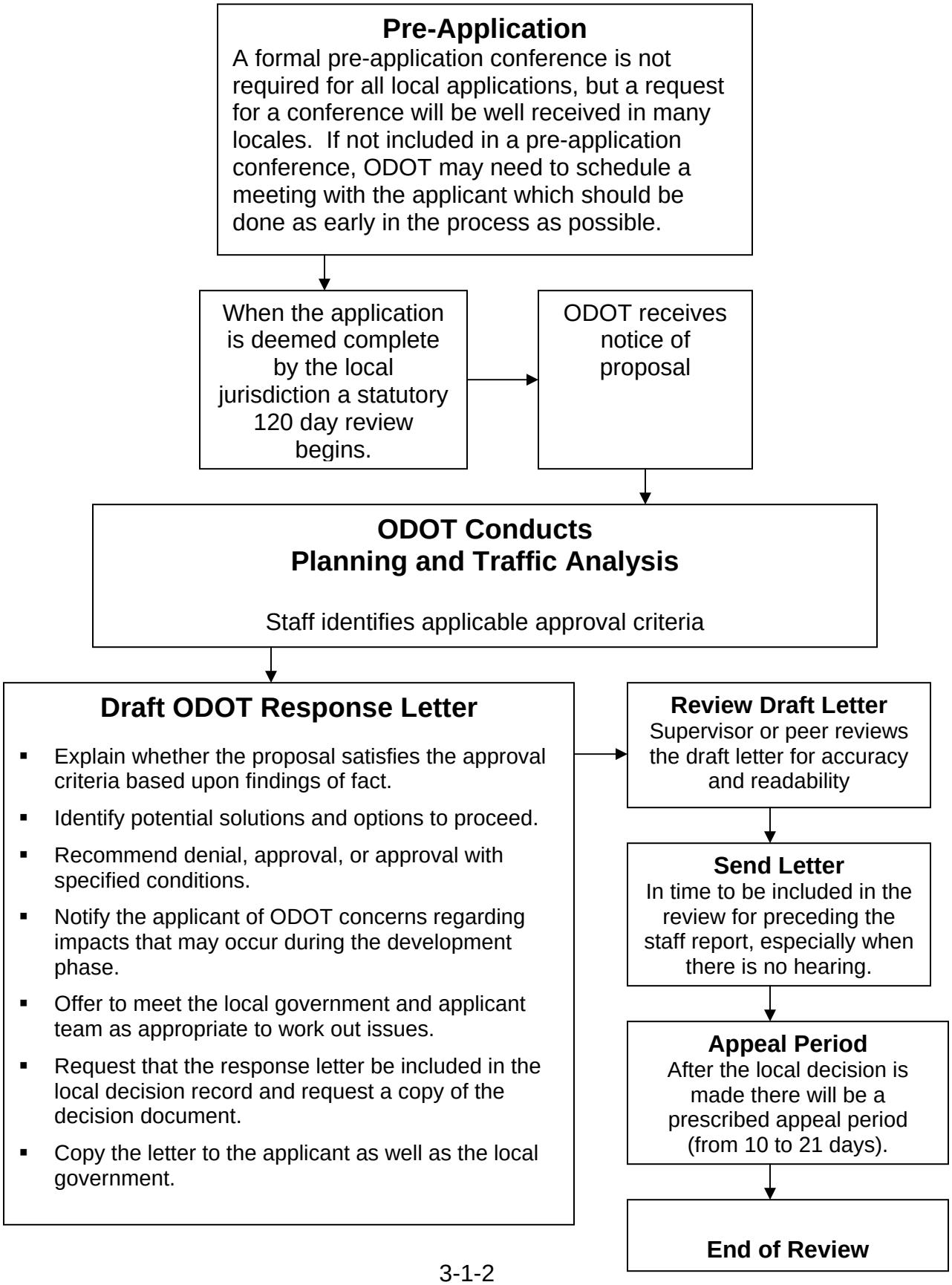
This chapter discusses all types of land use actions other than plan amendments and zone changes. Table 3.1.1 lists typical ministerial and quasi-judicial local land use reviews. Legislative proposals that do not trigger the need for TPR review should also be reviewed consistent with the practices listed in this chapter. For these categories of land use reviews, ODOT works with the local planning staff and developer to implement (vs. amend) the local land use and transportation plans and ordinances. The planning horizon is typically based on the year of project completion rather then the local transportation system plan (TSP) planning horizon. A generalized review process for applications that are not subject to TPR review is illustrated in Figure 3.1.1.

An ODOT approach permit must be obtained to gain access to a state highway. The approach permit process is separate from the local land use review. However, as discussed in Chapter 2, ODOT staff should review the site access during the land use review as a way to identify potential conflicts. ODOT staff should determine whether the proposed approach is consistent with ODOT Division 51, (OAR 734-051) access management standards and any applicable OHP policies. ODOT staff has the responsibility to inform developers of possible conflicts with Division 51 requirements. Consult with the District Permit Specialist or the Region Access Management Engineer (RAME) for more information. Detailed instructions for application of Division 51 can be found in the Access Management Manual, particularly Volume 1, Chapter 4.

3.1.01 ODOT Review Authority

See Chapter 1 for a general overview of ODOT review authority. ODOT authority to regulate the safety of rail facilities and rail crossings applies to all land use actions/development proposals whether or not a state highway facility is within the vicinity of the proposal. The following additional provisions are applicable for land use reviews:

Figure 3.1.1 Development Review Process



On-System Projects

If the development has direct access to a state highway the access management rule, OAR Chapter 734, Division 051 applies. Refer to the rule for specific provisions. Many local codes also have provisions requiring a traffic analysis.

Off-System Projects

The local development code applies. It normally includes an approval criterion that the proposed land use will not constitute an undue burden on existing streets, or that public facilities are adequate to serve the new land use. The local code may provide that a TIS is required based on development size or traffic generation rates. Preparation of a traffic analysis is typically in the applicant's best interest as a way to demonstrate compliance with the local approval criteria.

3.1. 02 Apply Local Review Criteria

The local code sets the approval criteria for land use reviews. Acknowledged plans and ordinances are presumed to be consistent with state standards. When the local jurisdiction reviews an application for transportation effects, ODOT refers to the mobility standards of the OHP, the spacing standards of the OHP and Division 51 to analyze whether the proposed land use is consistent with the acknowledged local development code language. ODOT must rely on the local code because there are no state transportation approval criteria that apply directly to land use actions. There are, however, state policies and standards that should be used in drafting findings regarding the local approval criteria.

3.1.03 Applicable Criteria

The local approval criteria vary depending upon the requested land use action. Despite the prescriptive and limited nature of the land use review, the local approval criteria often require that public facilities must be adequate to serve new development and/or that the transportation system must be maintained to be safe and efficient. This language gives ODOT staff an opportunity to recommend findings on the impacts of the land use action on the function, capacity, and performance standards of affected transportation facilities, particularly state highways.

Table 2 lists typical approval criteria for different types of land use actions. Also, ODOT will work with local jurisdictions to ensure that the developer mitigates proportional impacts to the state highway system. This can include implementing the mitigation identified in the traffic impact statement or TSP-planned improvements. Mitigations are typically stipulated as conditions of approval.

Table 3.1.1 Common Land Use Applications Types

Land Use Request	Common Local Approval Criteria	ODOT Interest
Conditional Use	Public interest and welfare are met.	Adequate transportation system to serve proposal.
Subdivision	Infrastructure, lot and street frontage requirements plus a finding of no adverse impact on the transportation system.	Local street connectivity, internal circulation to reduce demands upon the highway.
Minor Partition	Lot and street frontage requirements.	Side street access or single approach to serve 2-3 parcels through recorded access agreements.
Variance	Hardship circumstances; not "self-created difficulty".	Likely none unless a transportation system safety problem will result, e.g. corner lot with insufficient driveway spacing.
Site Design Review	Design standards and objectives.	Building placement to help facilitate pedestrian and transit use; vehicular and pedestrian access and movement.
Historic Review	Design standards and objectives to protect historic building and site character.	Likely none unless a state transportation facility or Scenic Byway is involved.

3.1.04 General Review Factors for Land use Applications

1. Does the property have a legal right of access?

   Detailed discussion of ODOT's approach road permitting process is available in Volume 1, Chapter 4 of the Access Management Manual. Coordinate with the ODOT District Office to see if any existing approach road is under permit, either through an actual approach permit specifying the physical location and approach use, or where the approach is grandfathered (predates 1949 or otherwise as defined in Division 51). Where ODOT has purchased, or obtained by law, the access rights on the property highway frontage, the applicant must already have a Reservation of Access at the location of any proposed approach or be able to purchase a Grant of Access to use that approach location. Just because there is an existing curb cut does not mean the approach location is a legal. Where an ODOT contractor put in a curb cut during an improvement project, the approach may have attained legal status, but do not assume so without

consultation with the District and/or the Region Access Management Engineer (RAME).

Whether or not there is an approach that is currently permitted or grandfathered, a new State Highway Approach Permit will be required for a new approach or an existing approach that's use will change due to the new development. Obtaining an approach permit or verifying that none is needed should be a standard condition of approval on any local land use approval. When suggesting condition of approval language, it is helpful to include enough information in the condition to help the applicant know how to meet the condition, e.g. whom to contact, aspects of the proposal that will bear on a permit decision, etc.

2. How many approach roads does the plan indicate and do they meet spacing standards?

   When a piece of property is developed or redeveloped, ODOT has the opportunity to close approach roads through the 'change of use' criteria (734-051-0045). If the approach roads do not meet spacing standards, in many cases the applicant can apply for a deviation to the spacing standards.

   While ODOT cannot legally require a joint approach road, it is helpful to seek joint approach roads along property lines whenever possible through conditions of approval. These can be particularly important in areas dominated by strip commercial development. All parties using the approach road must be identified and sign the approach road permit. In support of any joint approach, it is necessary require easements over the approach for all property owners with rights to use the joint approach or other cross connection. Recognize that a joint approach may have an impact on the nature of the traffic using the highway approach road. For instance, it may not be desirable to channel customer vehicles and large delivery vehicles onto the same approach.

3. Resist requests for acceleration lanes.

   Acceleration lanes allow a driver exiting the property to the right a chance to build up speed before merging left onto the highway. While an acceleration lane for a single property may appear reasonable, it becomes a problem when multiple properties all have acceleration lanes. To a driver on the highway, an uninterrupted string of acceleration lanes appears to be a travel lane. Drivers may begin to use the acceleration lanes as through lanes, leading to sideswipes, rear-end collisions, and weaving problems.

4. Are there any upcoming ODOT projects along the site frontage that will need to have right of way dedicated?

Identifying whether right of way may be needed for a future project (highway widening, addition of left-turn refuge, right-turn lane, frontage roads, half-streets, etc.) is crucial. Property owners need to be informed of future ODOT projects that will affect development as early as possible in the review process, preferably no later that the pre-application phase. This will allow time for modifications to the project design or, in the extreme case, time to withdraw an application to avoid investment losses.

5. State right of way cannot be used to display items for sale.
6. Sidewalks and landscaping need to be negotiated within the state right of way.

   Sidewalks should be property tight, not curb tight. If the sidewalk hugs the property line, the sidewalk becomes a safer and more pleasant place to stroll. The land between the sidewalk and the edge of the shoulder is available for landscaping and in colder climates, snow storage. Local jurisdictions often have overlapping requirements for widths, planting strips, landscaping, etc. ODOT, particularly in Region 1, is currently working through the sometimes conflicting issues of local landscaping requirements, sight distance and clear vision areas, and roadway maintenance practices, in an effort to establish better guidelines for working with local governments on streetscape design. In Eastern and Central Oregon and at high altitudes, snow plowing and snow storage are also significant issues. Landscaping outside of the state right of way is subject to local standards. Within the state right of way the development review planner needs to keep informed about District and Region practices regarding landscaping. Local landscape design standards will often work well within the right if way, but not always. When further guidance has been formalized it will be added to this document.
7. Is there an opportunity to support alternative modes of transportation?

   Transportation System Plans identify opportunities to improve access to alternative modes of transportation. Familiarity with the local TSP may provide support for recommending site improvements that support alternatives and reduce reliance on the automobile. Where public transit is available, improvements to bus stops or a new stop internal to the development site may be appropriate. Facilities to provide safe pedestrian circulation through the site and between nearby developments are usually called for in TSPs. Connections to bikeways and bicycle parking support bike access consistent with the typical local TSP.
8. Has the proposal addressed OHP Land Use and Transportation Policy 1.B issues?

   Would the proposal benefit from planning for compact development with limited access to the state highway? Is there a planned or potential Special Transportation Area, Urban Business Area or Commercial Center? If so, are there additional design options available in character

with the applicable type of segment designation? If so, recommend and facilitate a new designation where needed, and/or recommend conditions of approval consistent with the designation.

9. Is there sufficient throat distance for vehicle storage on the site?

   The amount of stacking distance as vehicles enter the site plays a crucial role in smooth highway operations. If the entering traffic must stop too soon once on a site, queues can back up from the site onto the highway. As a rule of thumb, 75 feet of throat is the minimum distance. That means 75 feet until the first parking stall, the ordering window at a drive through, first turning opportunity to use a travel aisle, etc. For a larger parcel, the roadway entering the site should be free-flow and any aisles intersecting the entrance roadway should be stop controlled. This is particularly important for grocery stores, shopping malls, etc. Traffic studies should include queuing analysis for on-site operations in the influence area of the approach road.

10. Are there any unique aspects about traffic entering or exiting the site?

    Certain land uses have vehicles that can adversely affect highway traffic. Examples would include any site with heavy truck traffic (warehouses, mills, car dealerships, lumberyards, aggregate sites, etc.). It is important to make sure curb radii are of sufficient width that trucks can make the turn easily. A deceleration lane lets trucks get out of the travel lane, and results in minimal disruptions to highway through traffic.

11. How does the approach road for this site relate to others in the vicinity?

    It is important to make sure the driveway on one site will not be introducing conflicts to driveways either upstream or downstream or on the other side of the highway. As a general practice, a driveway on the side of the highway should be aligned directly across from the driveway on the other side of the highway; otherwise overlapping lefts may be introduced. In some special cases it is desirable to offset driveways on opposite sides of the highway to separate left turns. For example, on an east-west road the northern approach should be to the west of the southern approach. This means left turners will not overlap, but it is rare to have driveways isolated enough for this to work.

    Offset approaches on opposite sides of the highway may be appropriate when engineering judgment is used to ensure that the driveways would not create conflicts with other turning movements and queues.

12. Drainage that flows into state right of way requires an ODOT permit.

    ODOT is responsible for the quantity and quality of stormwater discharged from its facilities. This is relevant to Development Review because local development may contribute to both volumes and pollution loads in the ODOT stormwater facility. ODOT's permit does not cover stormwater from outside of the state right of way, so preventing or mitigating flows from

other sources is needed, and identifying opportunities to do so should be a part of development review. ODOT is only required to accept drainage from properties where the drainage naturally flows from the property toward the highway. It is in the developer's interest to mitigate storm water (detention/retention) to avoid substantial changes in the rate of offsite flows.

Stormwater discharge permits are issued through the District offices and sometimes require a hydrologic study. Applicants should contact the district offices directly. A standard condition of approval advising the applicant of the need to contact the District office regarding requirements and permitting for the discharge of stormwater into the highway drainage facility is recommended.

13. Is the site within 500 ft of a railroad or does it add vehicle trips to a rail crossing?

    The Crossing Safety Section is the Rail section that should be contacted to review land use actions/development proposals within 500 ft of a railroad or rail crossing. The Crossing Safety Section is particularly concerned with bringing existing public rail crossings up to current state safety standards.

    ODOT is responsible for regulating the safety of rail facilities and rail crossings. This authority requires a public road authority or railroad to file an application for a Crossing Order with the ODOT Rail Division for permission to construct a new separated or at-grade crossing, make alterations to an existing public crossing, or to close an existing public crossing. To "alter" means any change to the roadway or tracks at a crossing that materially affects use of the crossing by railroad equipment, vehicles, or pedestrians. Alterations include, but are not limited to: adding or removing tracks, changing the width of the roadway; installing or removing protective devices; creating an additional travel lane; changing the direction of traffic flow; installing curbs, sidewalks, or bicycle facilities. If an alteration to a crossing is proposed, a standard condition of approval advising the applicant and local jurisdiction of the requirement to apply for a Crossing Order through the Crossing Safety Section should be included in the ODOT written response.

3.1.05 Basics of Site Plan Review

Site plan review requires that the ODOT planner review the applicant's drawings and envision how the traffic operations within and to the site will affect the highway. ODOT staff should not only look at the approach road itself, but also evaluate how the layout of the site will influence internal circulation, driver behavior and access for vehicles, pedestrians and bicyclists. The issues discussed below apply whether an access to the highway lies in a section where ODOT has purchased access control or just administers access via permitting

authority. The sections below focus on site plans, and not the larger issues of appropriate mitigation, land use issues or mobility standards. See Figures 3.2.2 and 3.2.3 for site plan examples.

3.1.06 Subdivisions and Land Partitions

Ensure that future access to land partitions and subdivisions along a highway is consistent with ODOT access management standards. Reference the 1999 OHP Access Management Policies and OAR 734-051 Tables 2-8, the access management spacing standards, when commenting on highway access. Coordinate with the Permit Specialist on permitting issues and with the Right-of-Way Section staff on reservations of access issues. During the land partitioning and subdivision process, require that the property owner develop an internal road network or have cross-easements. In this way the various lots can be served by one highway approach in the future, instead of each lot having its own approach road.

Note that ODOT is not legally required to provide highway access to mitigate self-created hardships. So, for example, a developer creating new lots with shared access (or a lot purchaser with legal access to the shared drive) cannot legitimately argue later an abutter's right to new access for the individual property.

Example: Developer proposes to create three new lots with 500 feet of street frontage on a statewide highway. The driveway spacing standard is 1,300 feet for a statewide highway. ODOT's recommendation would be:

- The property owner shall create a public or private street (consistent with local government standards) providing access form a single approach to the highway, OR
- The property owner shall provide a reciprocal access easement to provide a shared driveway serving all three parcels prior to recording the final partition.
- The property owner shall provide proof of a valid ODOT Road Approach Permit prior to recording the final partition.

3.1.07 Coordination Options for Sites on State Highways

Ideally, the developer is aware of both the state access standards and local land use criteria, but may proceed with one review in advance of the other. It is an ODOT staff responsibility to inform developers of their options.

Figure 3.1.2 Site Plan Example – Poorly Designed Access

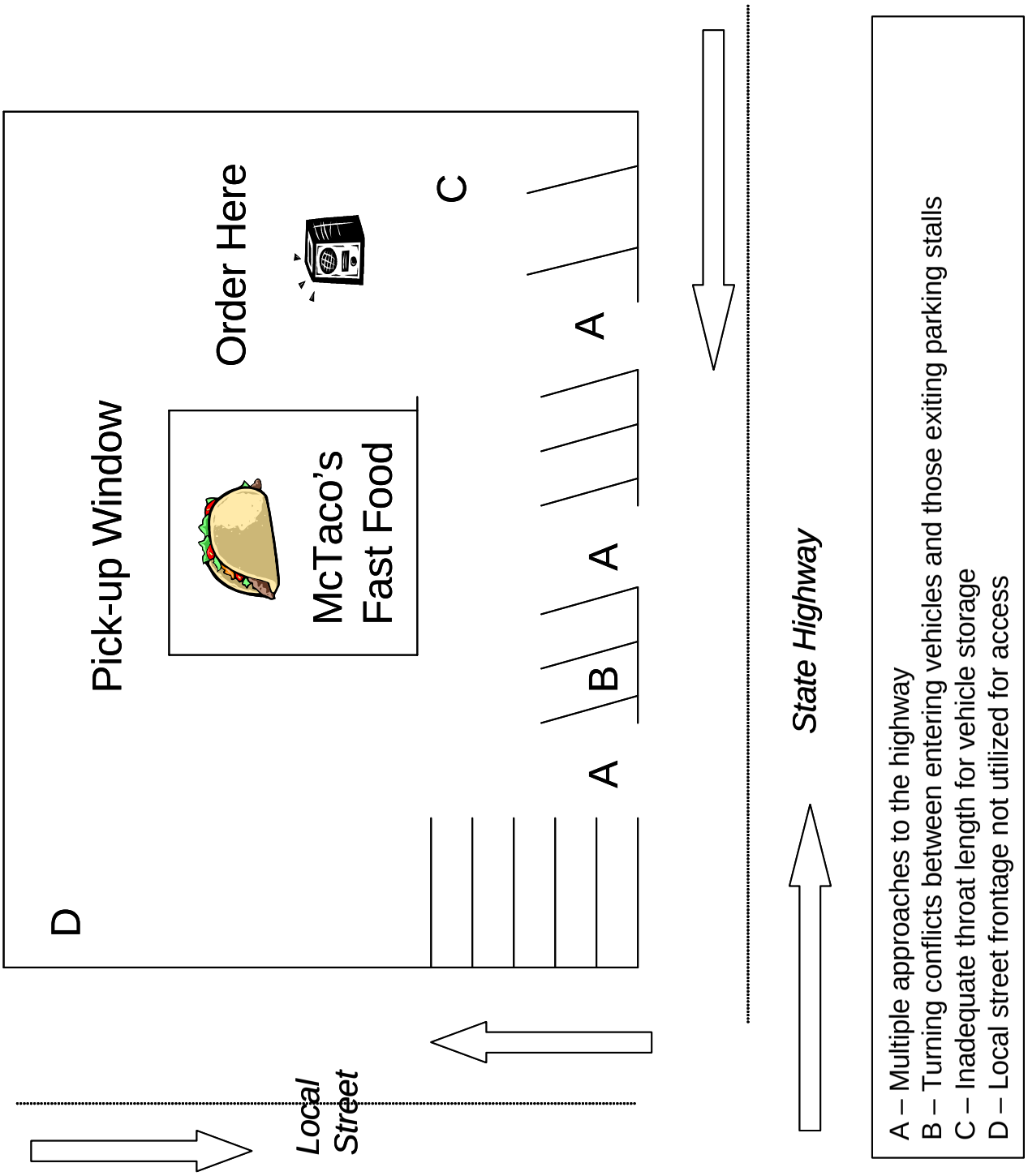
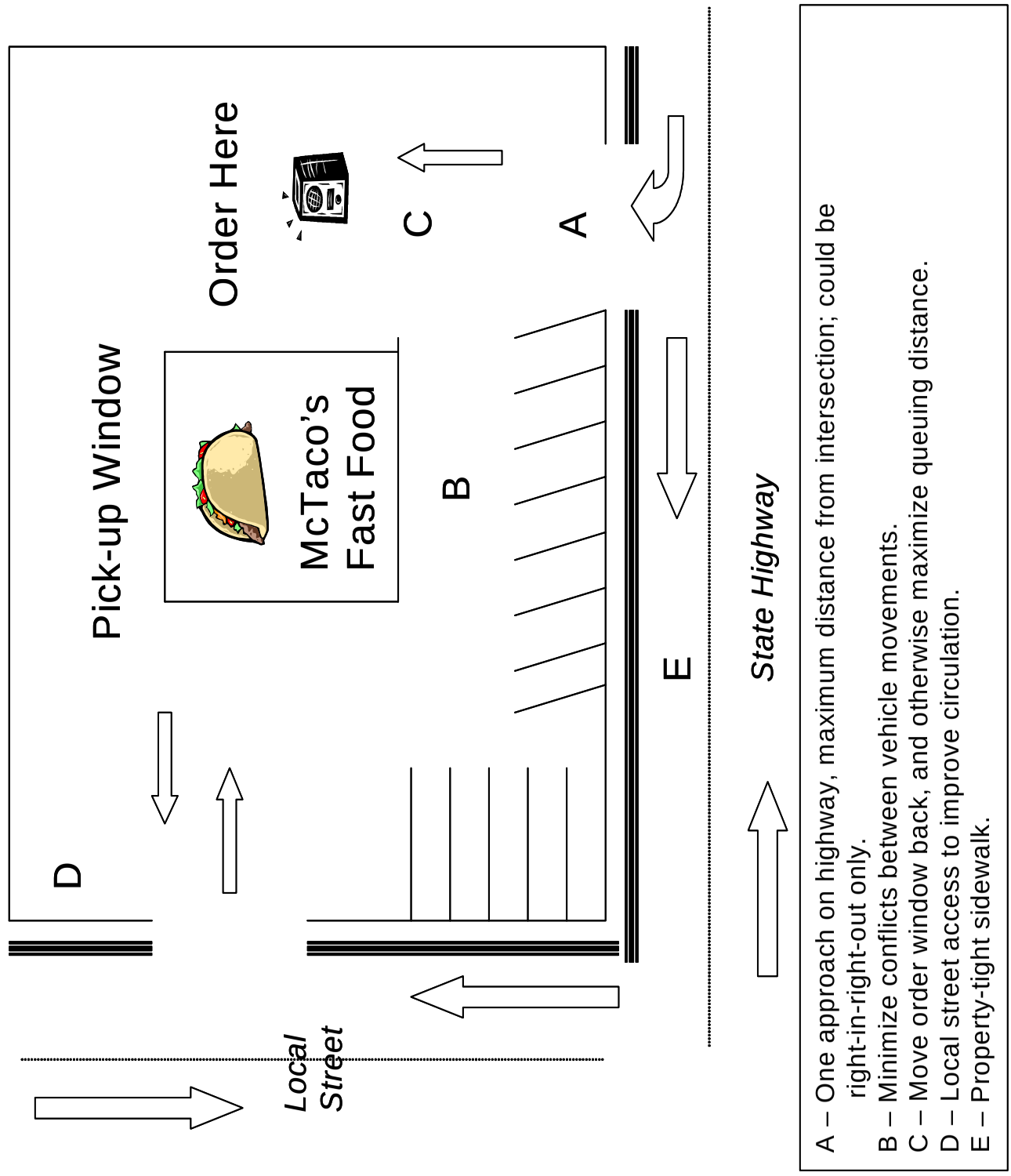


Figure 3.1.3 Site Plan Example – Improved Access



Coordination Methods Vary

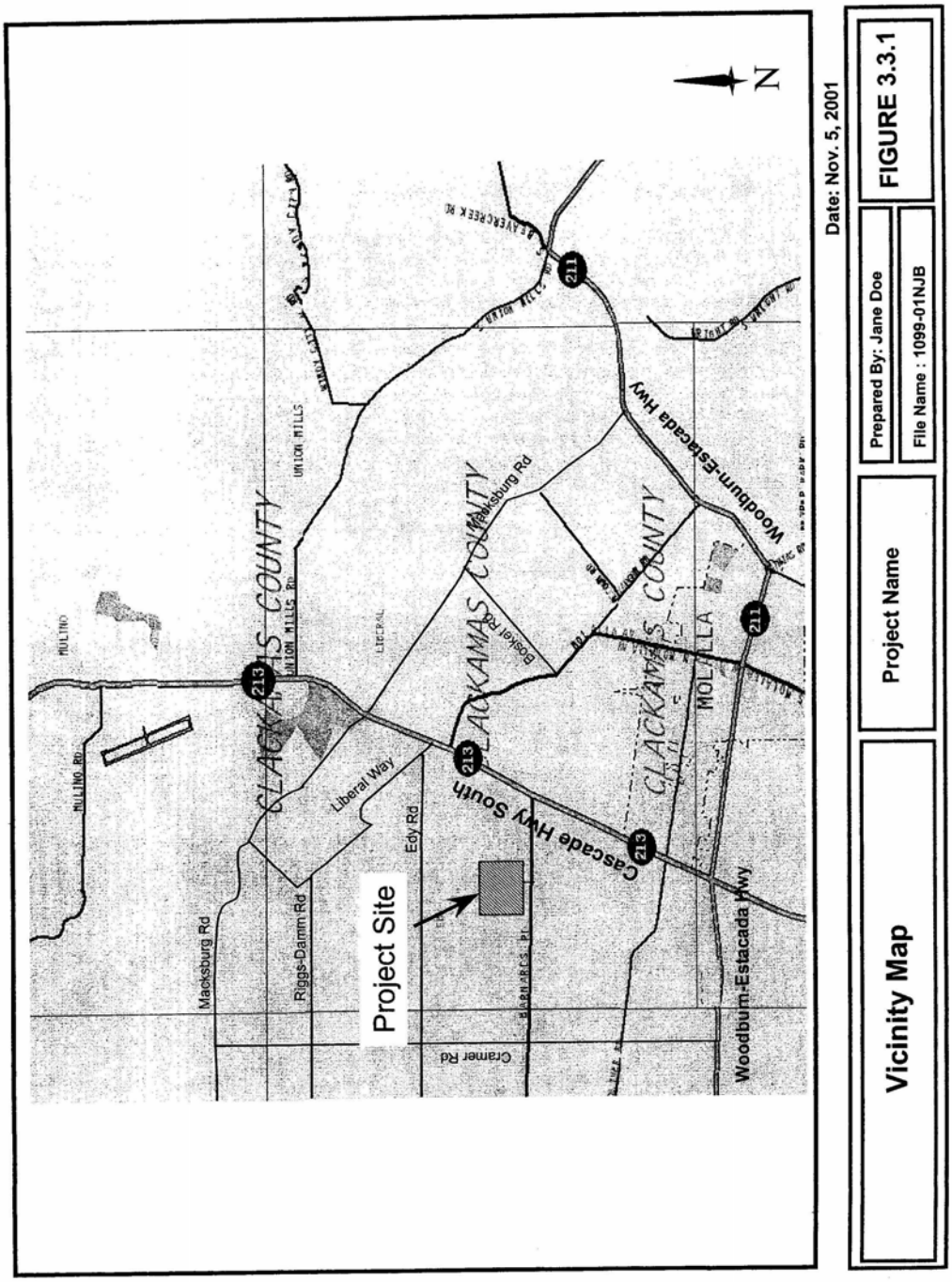
1. Some local governments require access issues to be resolved and reflected in the proposed site plan submitted for their review. This is the ideal situation.
2. Some local governments defer access issues on development review projects through conditions of approval that require the applicant to provide proof of an ODOT Road Approach Permit prior to issuance of building permits.
3. Some local governments do not consider access issues when processing development review projects. Many building permits are issued for projects on a state highway without any coordination with ODOT. This is not in the best interest of the developer because approved plans may have to be redrawn, and in some cases the local approval may have to be amended to address changes required to get an approach permit. This situation creates an opportunity to approach the local government to try to persuade them that coordination with ODOT is a pro-development approach because it will save time and expenses for developers in the long run. Where the local government chooses not to address state access issues it may be necessary to contact the applicant directly to be sure access requirements are understood.

3.1.08 Benefits of Coordination

1. If the applicant chooses to complete the state approach permit process before the local land use review, ODOT can issue a conditional approval of the Application for State Highway Approach from ODOT. Conditional approval means that the approach permit does not go into effect until the applicant demonstrates that the local government has issued a final decision in favor of the development proposal. This method gives the developer the advantage of the state conducting research as to the legal disposition of the property access rights.
2. ODOT approach permits typically include a letter from an ODOT Permit Specialist explaining the use, limitations, and conditions of the permit. Applicants are often required, as a condition of the approach permit, to convert their Conditional Road Approach Permit into final Road Approach Permit prior to issuance of building permits or within a specified time. Knowing the conditions of the approach permit prior to final site design may inform better design. The intensity of uses for which the project is designed has a direct relationship to the design of an approach, and, conversely, the permit for the approach will establish a limit on the intensity of uses allowed.
3. The 2004 amendments to Division 51 added a provision for beginning construction of an approach with conditional approval while the local

review process is under way. A Construction Permit may be issued while the local land use action is pending. A deposit may be required, to be determined in the manner used for a Temporary Approach, to ensure that the approach will be removed if the land use is not approved. (OAR 734-051-0070 (10)(b)). The decision to allow construction to begin early is made within the approach permit review process. No permit to operate and maintain the approach will be issued until all permit conditions are met, including verification of the local land use approval.

4. Both the local land use decision process and the approach permitting process include an appeal process. The approach permitting appeal process only grants standing to request an appeal to the property owner/applicant, but both processes can be lengthy. Coordinating the state and local processes can shorten the time it takes to get to a final decision by providing sufficient information early in the process to make it possible to submit a single plan to meet the conditions of both permitting programs.
5. It is important to coordinate the local land use review process with the ODOT Crossing Safety Section. A “Crossing Order” is a separate legal process that an applicant/local jurisdiction must go through and can be lengthy.



Vicinity Map

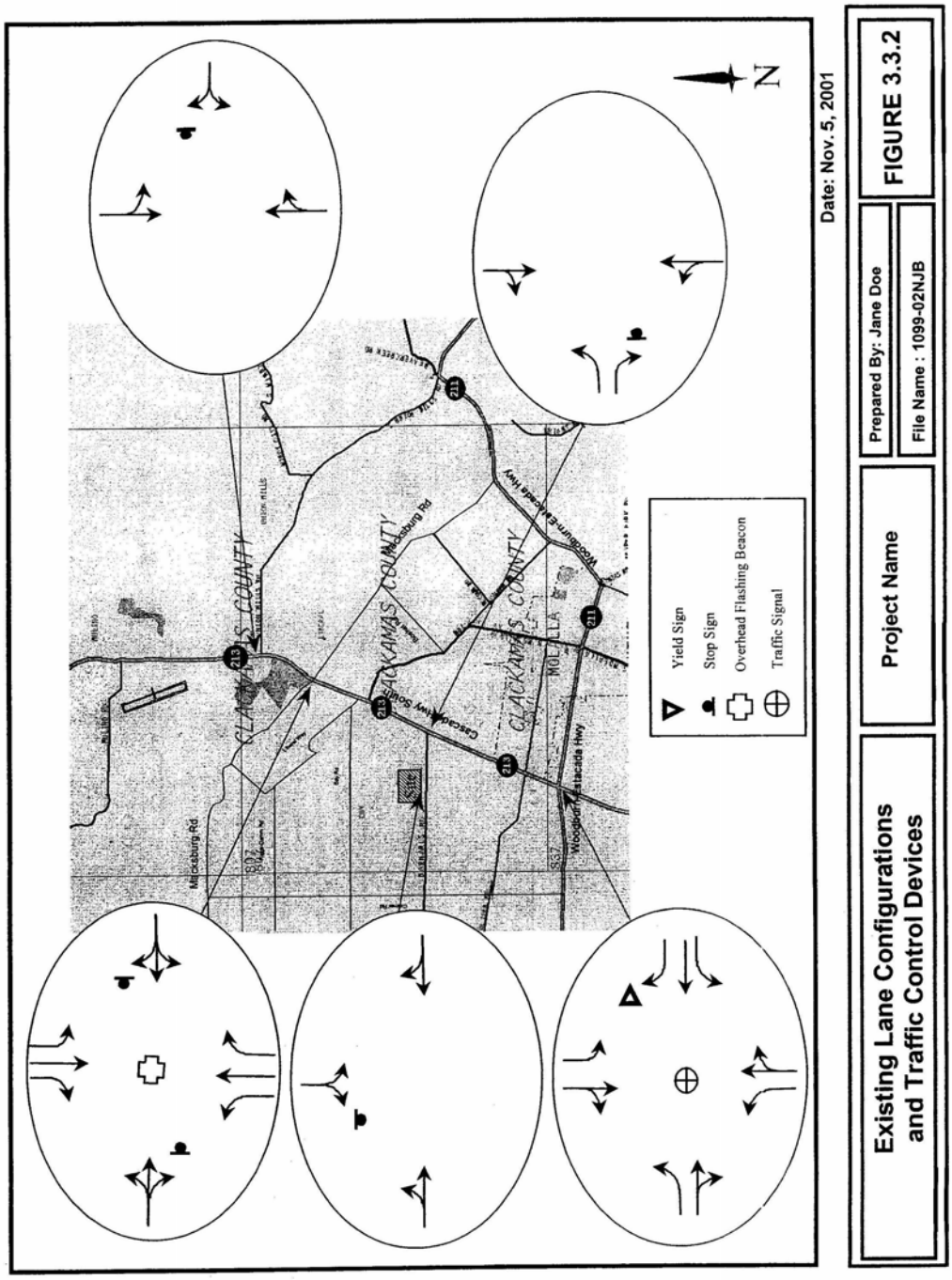
Project Name

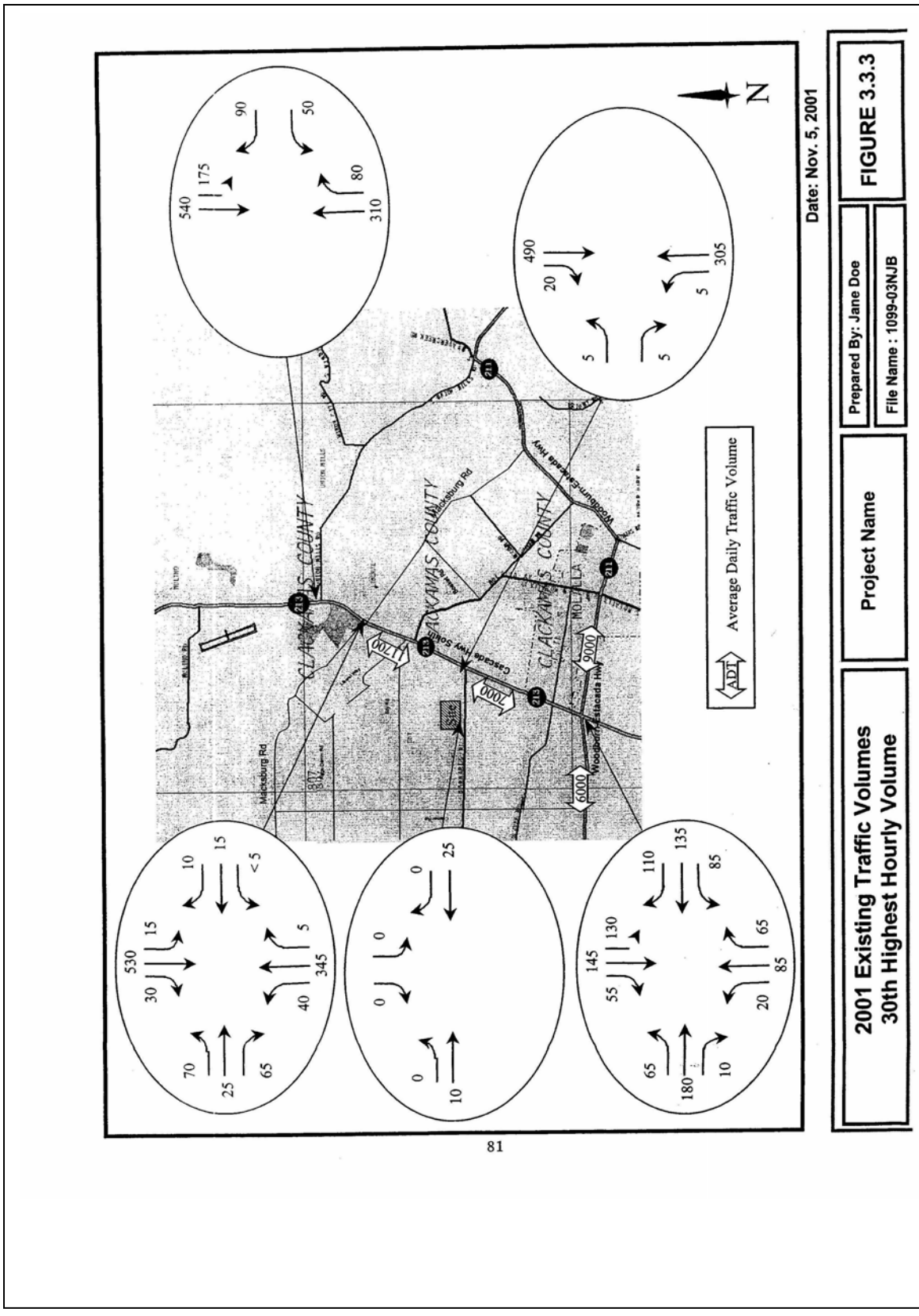
Prepared By: Jane Doe

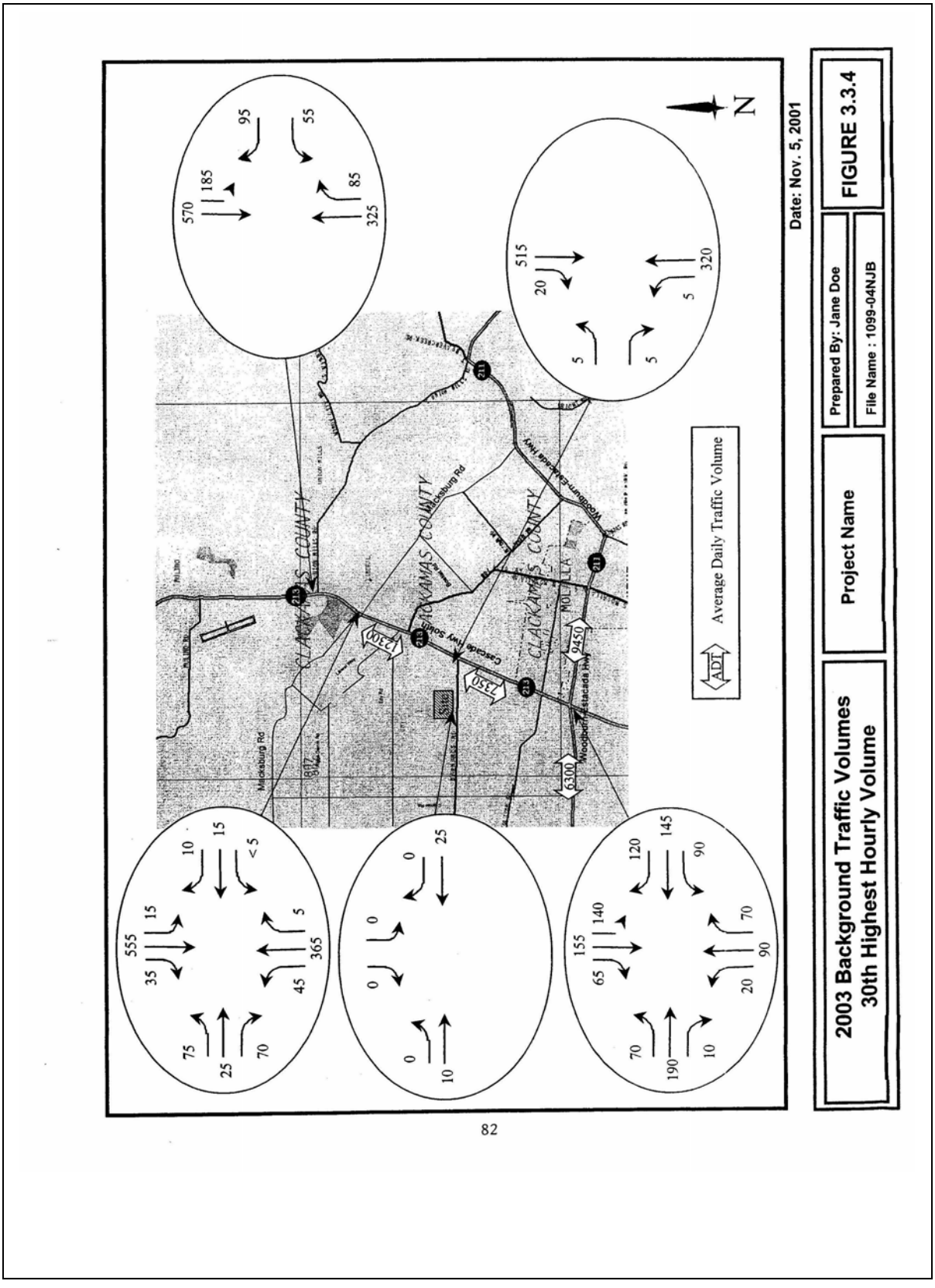
File Name : 1099-01NJB

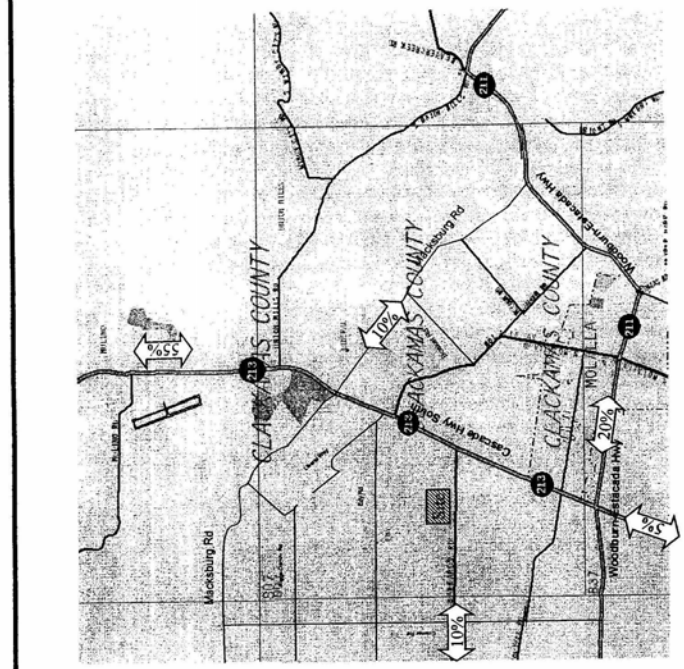
Date: Nov. 5, 2001

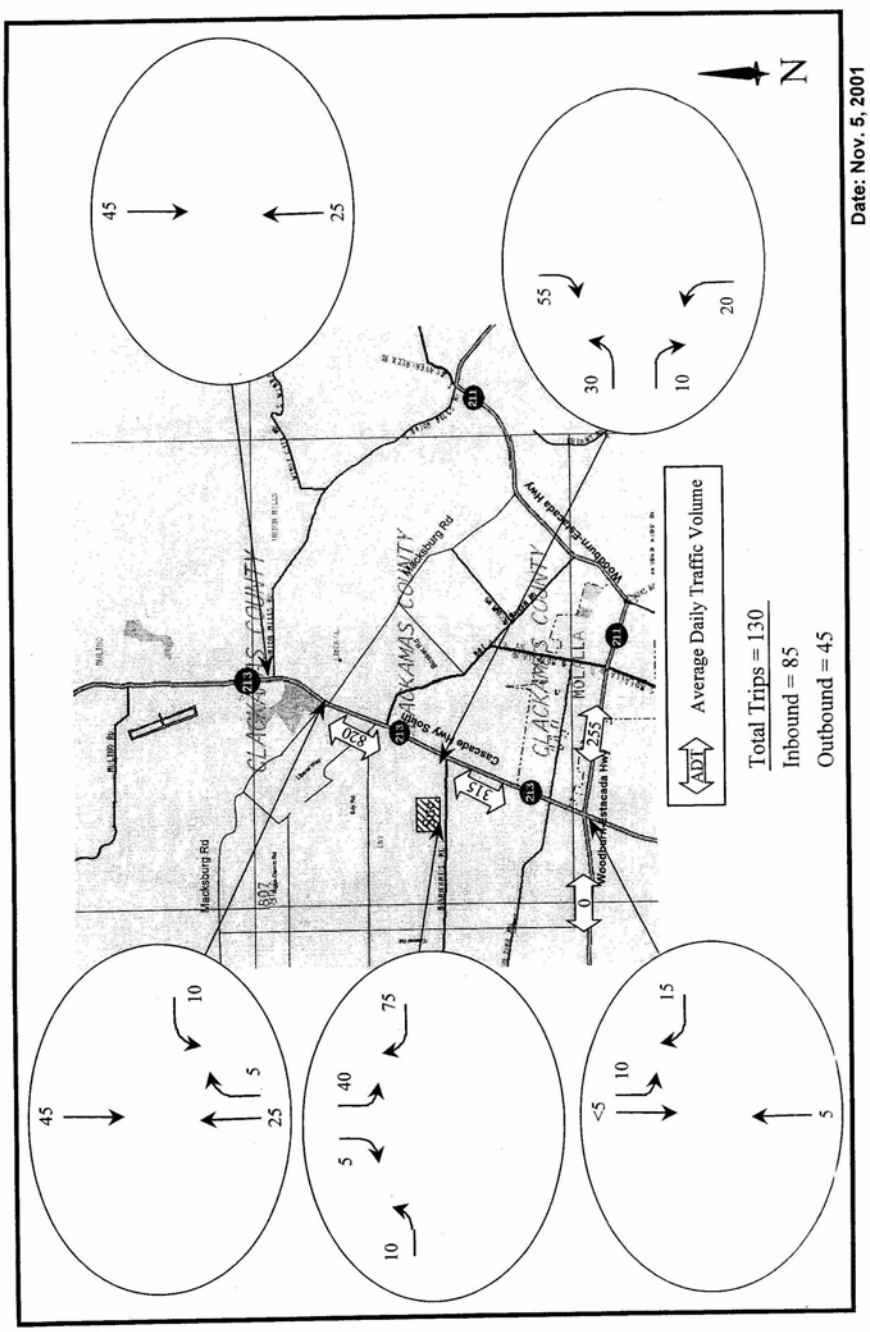
FIGURE 3.3.1


N
Yield Sign
Stop Sign
Overhead Flashing Beacon
Traffic Signal
Mackburg Rd
Woodburn-Estacada Hwy
Cascade Hwy South
CLACKAMAS COUNTY
MOLALLA
Date: Nov. 5, 2001
Existing Lane Configurations and Traffic Control Devices
Project Name
Prepared By: Jane Doe
File Name : 1099-02NJB
FIGURE 3.3.2

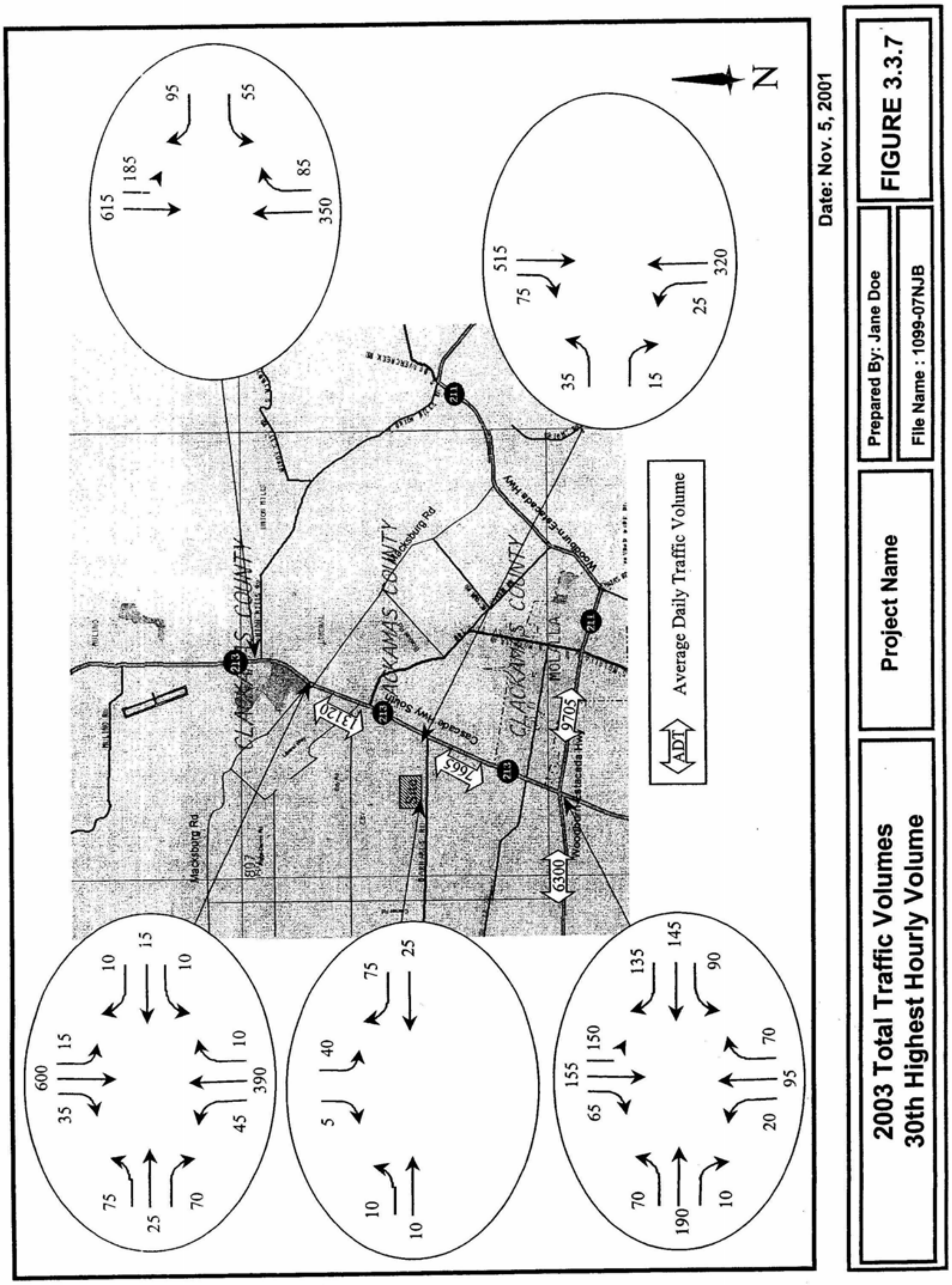

2001 Existing Traffic Volumes
30th Highest Hourly Volume
Project Name
Prepared By: Jane Doe
File Name : 1099-03NJB
FIGURE 3.3.3
Date: Nov. 5, 2001
N
ADT
Average Daily Traffic Volume
CLACKAMAS COUNTY
Clackamas Co.
Molalla
Woodburn-Estacada Hwy
Macksburg Rd
Cascade Hwy South
Woodburn-Estacada Hwy
7000
1700
9000
6000
540
175
90
50
80
310
490
20
5
5
305
530
30
15
15
10
<5
5
345
40
70
25
65
145
55
130
110
135
85
65
85
20
180
10
0
0
0
0
25
10

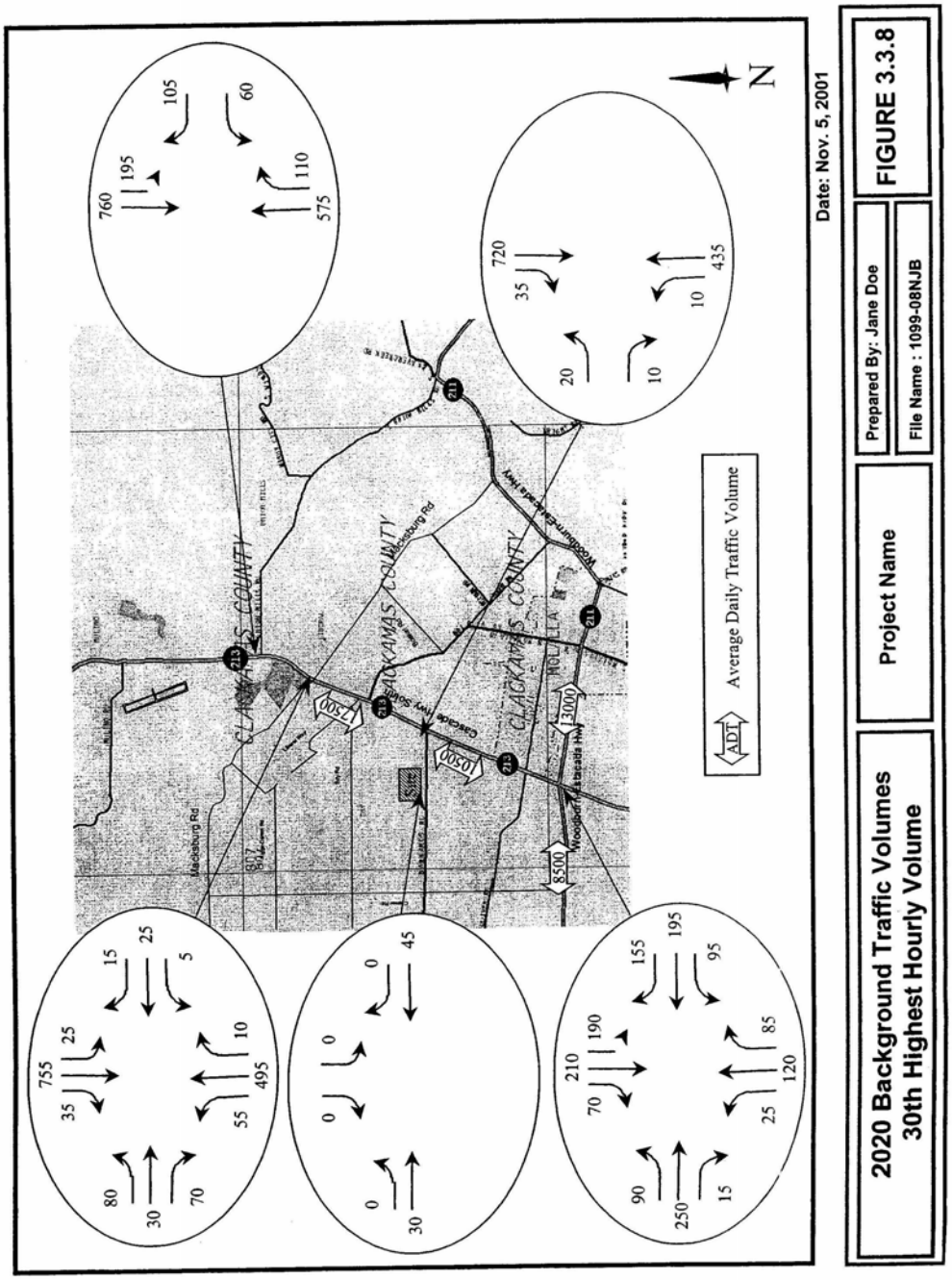

2003 Background Traffic Volumes
30th Highest Hourly Volume
Project Name
Prepared By: Jane Doe
File Name : 1099-04NJB
FIGURE 3.3.4
Date: Nov. 5, 2001
Average Daily Traffic Volume
ADT
N
CLACKAMAS COUNTY
Cascade Hwy South
Molalla
Woodburn-Estacada Hwy
Site
570
185
95
55
85
325
515
20
5
320
555
35
15
10
15
< 5
75
25
70
45
5
365
0
25
10
155
65
140
120
145
90
70
190
10
20
90


N
Date: Nov. 5, 2001
Percent of Site Generated Traffic
Estimated Trip Distribution
Project Name
Prepared By: Jane Doe
File Name : 1099-05NJB
FIGURE 3.3.5
CLACKAMAS COUNTY
CLACKAMAS COUNTY
CLACKAMAS COUNTY
Macksburg Rd
Woodburn-Estacada Hwy
55%
10%
20%
5%
10%


45
25
55
30
20
10
45
10
5
25
5
40
75
10
<5
10
15
5
N
Macksburg Rd
Cascade Hwy South
Woodburn-Estacada Hwy
GLACKAMAS COUNTY
MOLALLA
830
315
255
0
ADT
Average Daily Traffic Volume
Total Trips = 130
Inbound = 85
Outbound = 45
Date: Nov. 5, 2001
Site Generated Traffic Volumes
30th Highest Hourly Volume
Project Name
Prepared By: Jane Doe
File Name : 1099-06NJB
FIGURE 3.3.6

84


2003 Total Traffic Volumes
30th Highest Hourly Volume
Project Name
Prepared By: Jane Doe
File Name : 1099-07NJB
FIGURE 3.3.7
Date: Nov. 5, 2001
N
ADT
Average Daily Traffic Volume
13120
7665
9705
6300
CLACKAMAS COUNTY
Cascade Hwy South
Woodburn-Estacada Hwy
Molalla
Macksburg Rd


2020 Background Traffic Volumes
30th Highest Hourly Volume
Project Name
Prepared By: Jane Doe
File Name : 1099-08NJB
FIGURE 3.3.8
Date: Nov. 5, 2001
Average Daily Traffic Volume
ADT
N
CLACKAMAS COUNTY
CLACKAMAS COUNTY
Clackamas Hwy South
Woodburn-Estacada Hwy
Macksburg Rd
17500
10500
13000
8500
760
195
105
60
575
110
720
35
20
10
435
755
25
35
80
30
70
15
25
5
55
10
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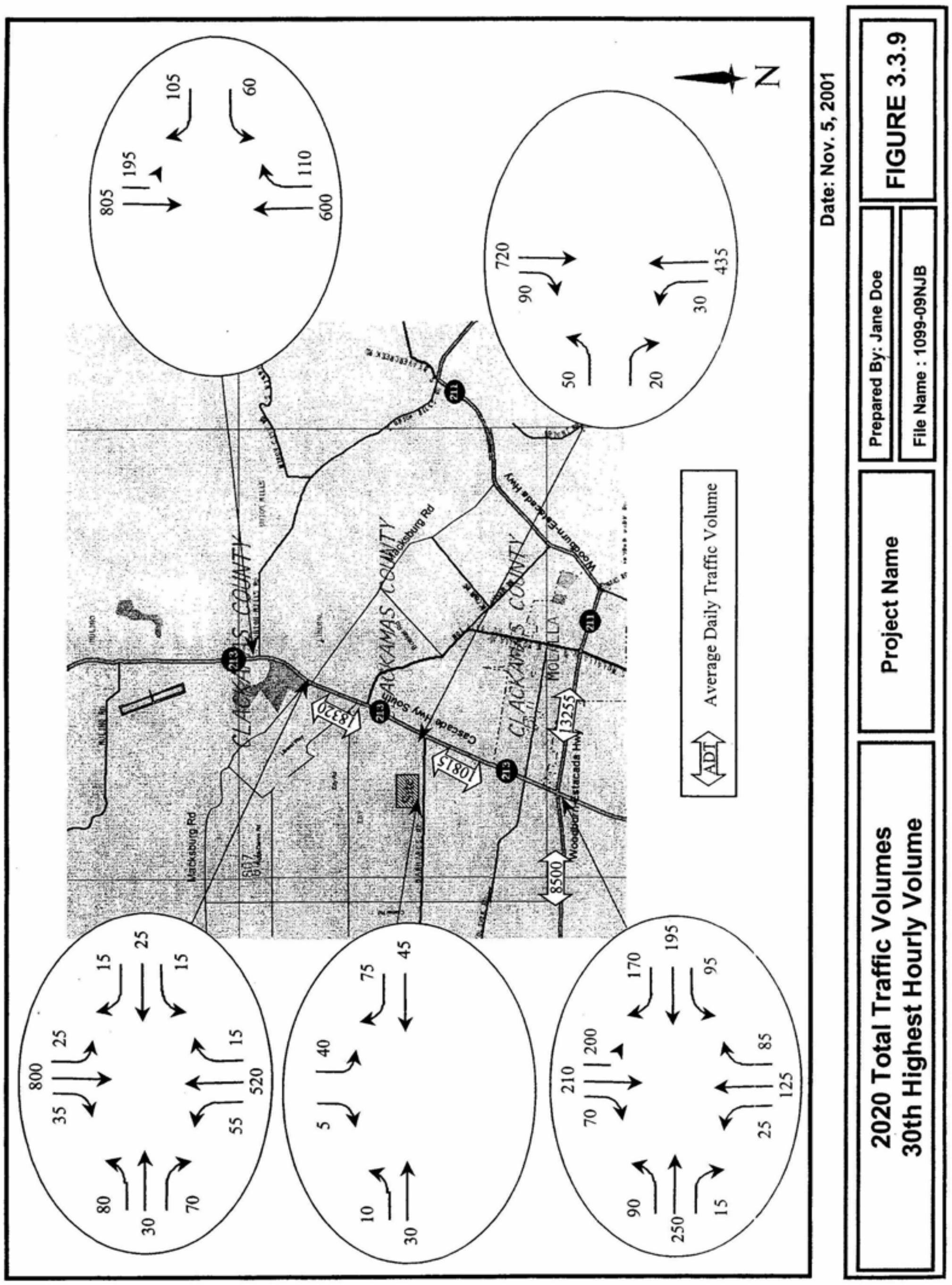
210
190
70
90
250
15
155
195
95
85
25
120


2020 Total Traffic Volumes
30th Highest Hourly Volume
Project Name
Prepared By: Jane Doe
File Name : 1099-09NJB
FIGURE 3.3.9
Date: Nov. 5, 2001
N
ADT
Average Daily Traffic Volume
8320
10815
13255
8500
CLACKAMAS COUNTY
MOLALLA
Cascade Hwy South
Woodburn-Estacada Hwy
Macksburg Rd
SITE

87