



**Access Management Committee Meeting  
ODOT Human Resources Center, Conference Room A  
2775 ~ 19<sup>th</sup> Street SE, Salem, OR 97302  
October 27, 2010  
8:15 AM – 12:15 PM  
FINAL**

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**Facilitator:** Del Huntington.

**Attendees:** Brent Ahrend, Doug Bish, Bob Bryant, Victor Dodier, Robin Freeman, Matt Garrett, Erik Havig, Don Forrest, Harold Lasley, Michael Rock, Bob Russell, Chris Doty, Jim Hanks, and Mark Whitlow, Craig Honeyman, Patrick Cooney, and Doug Norval attended in person. Senator Whitsett attended by telephone.

**Meeting Notes:** Michelle Van Schaick.

***Introductions and Approval of Minutes***

Self introductions were made. The September 13, 2010 Access Management Committee meeting minutes were approved.

***Follow-up on Action Items from September 13***

- ODOT has provided a map that identifies statewide highway with traffic volumes less than 5,000 ADT and will be part of today's agenda. (*See Attachment IV*)
- Handout with revised AM standards for statewide highways with less than 5,000 ADT is provided for today's agenda. The handout incorporates approved revisions at the September 13<sup>th</sup> AM Committee meeting. (*See Attachment VI*)
- Jamie Jeffrey has reviewed Portland's city block spacing and property frontage dimensions along state highways to determine how proposed approach spacing standards fit into the urban context. Jamie will present the findings at the November 15<sup>th</sup> AM Committee meeting.
- Doug Bish has advanced the legislative concept regarding Double-Double Yellow Painted Medians to the Oregon Traffic Control Devices Committee for its review and recommendation.

***Review of final OAR for "Change of Use" per SB 1024***

Harold Lasley provided an update regarding the temporary Oregon Administrative Rules (OAR) for "Change of Use" as required by SB 1024. The temporary rules will expire in January, 2011 and requires ODOT to adopt the text into permanent OAR prior to the

expiration date. ODOT has conducted the mandatory process to allow interest groups, stakeholders and ODOT staff to provide comments on the proposed final rule language. ODOT is requesting approval on the proposed final text from the AM Committee prior to advancing the OAR to the Oregon Transportation Commission (OTC) for adoption at their December meeting.

Bob Russell asked where the changes came from. Harold Lasley responded that ODOT staff developed comments over the past 6 weeks, and additional comments came from other interest groups. Bob Russell wanted to know which suggestions came from staff and which came from external parties. Harold said he would try to capture that while he went through the revisions.

The Committee reviewed the final proposed OAR that Harold Lasley provided with proposed changes (*See Attachment I*). Harold also provided a separate handout which provided descriptions of each the proposed changes. (*See Attachment II*) The Committee went over the changes line by line.

Lines 271 – 272. It is understood in order to exceed the “change of use” threshold; the proposed expansion will result in both 50 or more peak hour trips and a 20 percent increase.

Lines 273 – 274. It is understood in order to exceed the “change of use” threshold; the proposed expansion will result in both 500 or more daily trips and a 20 percent increase.

It is acknowledged that a large retail development that currently generates 800 peak hour trips could expand their store and generate an additional 159 peak hour trips and remain below the “change of use” threshold as the additional trips would not equal 20 percent or more new trips.

Recommendation to add 20 percent to each of the lines 271 and 273

Line 278 – change demonstrating to “demonstrates”

There was considerable discussion on Lines 278 - 286 and proposed revisions. After much discussion, it was agreed that the text would revert back to the temporary OAR with a few exceptions as follows;

- add 10 times the posted speed in “miles per hour” on Line 282,
- delete - The permittee ~~or the Department~~ may perform on Line 283 & 284
- add “published” Department procedures on Line 286, and
- move language on mitigation to Lines 299 and 300 as proposed by ODOT.

Chris Doty- Expressed concern that new “change of use” threshold may discourage property owners for agreeing on a joint access. There was a general consensus that this should not be a huge concern as the “change of use” is not a new process, but rather, the threshold when a property exceeds the threshold has been revised. Director Garrett

acknowledged Chris's concern and stated that state and local governments will watch it play out.

Line 329 - Inserted the word "Private"

Line 384 - Revised Shall to May. This concept was proposed by ODOT staff. This revision will make traffic studies discretionary rather than mandatory in certain conditions.

Line 467 – 468. There was considerable discussion as to when and where it is appropriate to allow a public street connection in the vicinity of a freeway ramp or expressway ramp terminal. Chris Doty commented that there are instances where a public street connection makes sense at ramp terminals. Several would like text that articulates something different for ramp terminals that leaves the door open for the discussion. A question was raised if there is a Federal Highway Administration (FHWA) requirement. ODOT staff will check the FHWA and report back to the November 15<sup>th</sup> AM Committee meeting.

Line 687- Additional text was developed for a Grant of Access for a public approach local agencies no longer require a public approach permit. Jim Hanks categorized the existing Grant of Access for a public street as a horrible process. The text is necessary for purposes of the OAR, though Del suggested that Jim recommend that ODOT consider revising the grant of access process for a public road or street connection

Jim Hanks recommended that ODOT develop a streamlined process for public grant of access.

Line 726 - Revision is required as approach permits are not required for public approaches.

Line 776 - Revision is required as approach permits are not required for public approaches.

Line 849 - The Department of Justice (DOJ) recommended adding text back into the OAR that had been inadvertently removed during the temporary rulemaking process. The issue relates to an administrative remedy that is available when ODOT denies an approach application at a grant or reservation of access. Mark Whitlow- would like to know if there is any memo from the DOJ's office that can be shared. He wants to understand the remedy process and how it fits with SB 86 and the Hansen vs ODOT decision from Deschutes County.

Harold will work on getting the proposed OAR language to be clear and consistent with final approval from the AM Committee at the next meeting on November 15<sup>th</sup>. Del will be sending proposed text through email prior to the next AM Committee meeting on November 15<sup>th</sup>. However, there is a public hearing scheduled on November 16<sup>th</sup> that allows for final comments from interest groups and stakeholders outside of the AM Committee. In the event that there are significant comments raised at the public hearing,

it was determined that Del will update the committee members aware of the comments via email and if there is a need for discussion, he'll schedule a conference call for final approval from the AM Committee. The Committee agreed and is aware that the OTC deadline to approve the OAR at the December OTC meeting is November 22<sup>nd</sup>.

### **Medians**

Background-Bob Russell put together a straw man proposal as a legislative concept in early August. Victor revised the language based on comments at subsequent "median" sub group meetings. (*See Attachment III*) Bob Russell stated that the Committee needs to discuss the recent proposed amendments but understands that ODOT has determined that no legislative concept or changes are required to the state median policy. There was discussion about addressing medians on freight routes and if the same processes may be used. Bob Bryant - we did not see the need for new or additional language as it relates to freight capacity since many highways are classified as state freight routes and under the requirements of the existing ORS 366.215, and that additional routes could be identified that would fall under the existing statute.

Russell asked how the most recent ODOT position would change the current operating practices. Bryant - it would create more variables that potentially expand the list of routes that fall under the current statute ORS 366.215, but otherwise, it wouldn't change much. Bryant explained how a number of concepts from other concurrent AM subgroup tasks interrelate and an application of a median policy is included in many of the recommendations. Russell doesn't believe that this addresses Senator Whitsett's concerns. Stakeholders and developers don't have a say in this process and the latest ODOT proposal doesn't even get us close to where we want to go. The ODOT position that ORS 366.215 is more than adequate and there is no need for additional language, will not result in any changes in ODOT's practices. Senator Whitsett agreed with Bob Russell's comments. He is also concerned that merely identifying a non-traversable median in a local Transportation System Plan (TSP) does not resolve the concerns as local governments usually agree with ODOT. The Senator stressed the need to support and encourage economic development across the state. Senator Whitsett also commented on a recent project on Highway 62 near Eagle Point. ODOT constructed a non-traversable median on the highway though based on personal conversations, the impacted owners had no idea that the median was going in. After the project was completed, motorists have to go in through Eagle Point and turn around in a residential area as there are no opportunities to make a U-Turn. While ODOT contended that the raised median was to reduce crashes in the area, the property owners were unaware of a high crash experience in the specific area.

There was considerable dissention between the members related to the need for a statute on the use of non-traversable medians. There were varied opinions that ranged from statutes, rules, policies, guidelines, to a "do nothing" approach. Bob Russell does not believe that this meets the mandate of SB 1024 as the bill requires ODOT to advance legislative concepts for new statute. Del reminded the committee members of a comment from Doug Tindall (former ODOT Deputy Director) at the April 29/2010 AM Committee meeting, "non-traversable medians should be a measure as a last resort".

In order to determine areas where there is consensus, Del asked for updates on other issues related to a median policy. Doug Bish reported that he advanced the legislative concept regarding Double-Double Yellow Painted Medians to the Oregon Traffic Control Devices Committee (OTCDC) for its review and recommendation. Doug also recommended that hash marks be painted on the flush median in areas where the state or local government would prohibit turn movements across the median. This proposed legislation would not create a fiscal impact for local governments as it would not result in the need to remove or replace existing paint striping. The OTCDC acknowledged that the proposal would not eliminate some motorists from crossing the flush median, even across the painted hash marks. Del pointed out that the strategy would provide an additional median treatment for ODOT and would be very beneficial in certain situations, especially where there is limited right-of-way, limited width of the median, limited shy distance between the travel lane and median edge, and could be used as a mitigation measure without impacting an adjacent property owner. This concept would also provide the agency with a method to stair-step, or escalate various median treatments before a non-traversable median became a measure of last resort.

Victor reported that ODOT is advancing a legislative concept to allow for U-Turns except where expressly prohibited. This should help to alleviate some of the concerns when non-traversable medians are constructed.

Jim Hanks reported that during his work for Caltrans in California, many raised medians were removed as they posed a safety hazard. A painted double, double yellow solid line and a flush median can be a good solution, as they are inexpensive to install and they can be easily modified. There may be certain locations where head-on crashes occur in the median, but the crash analysis should identify the condition, and the median solution should solve the specific concern. Senator Whitsett agreed and empathized that there must be a balance between safety and economic impacts.

Brent Ahrend identified that there must be a distinction between non-traversable medians used in a corridor application, and raised medians applied as a mitigation measure to prevent turn movements from an existing or proposed development. Brent also recommended that the policy should include a maximum out-of-direction travel that a motorist would be required to travel when a non-traversable median is installed. Brent does not believe that the existing volume/capacity (v/c) and analysis is an appropriate method to apply and subsequent mitigation measures when considering turn movements to and from a proposed development.

After considerable discussion, it was decided that the median sub-group will convene on Friday afternoon, November 5<sup>th</sup> to resolve the median issue. The sub-group task is to finalize text and a legislative concept that can be advanced to the AM Committee. In the event a proposal cannot be reached on the 5<sup>th</sup>, the subgroup participants will be asked to reconvene.

Robin Freeman reminded the AM Committee members that a legislative report was a requirement of SB 1024. She recommended that the Committee submit the report by the first week of January at the latest, which will need to include the committee recommendation related to medians.

### **Draft policy for Statewide Highways with less than 5,000 ADT**

SB 1024 requires ODOT to develop less stringent access management (AM) rules, spacing standards, mitigation measures, and mobility standards for highways with less than 5,000 Average Daily Traffic (ADT). ODOT advanced a proposed policy to address this requirement for Regional and District highways at the September 13<sup>th</sup> AM Committee meeting. The proposed policy did not include statewide highways.

ODOT distributed a map (*see Attachment IV*) that includes all of the state highways and clearly identifies statewide highways with less than 5,000 ADT. Those segments of highways with less than 5,000 ADT are shown in red. As statewide highways necessitate high traffic volumes and a high mobility requirement for the state, ODOT requested the AM Committee support a concept that lower access management standards be limited to urban areas, or slower speeds. (*See Attachment V*) Del distributed a policy for statewide highways with less than 5,000 ADT that incorporates approved revisions at the September 13<sup>th</sup> AM Committee meeting. (*See Attachment VI*).

Many questions and responses were shared as the committee reviewed the proposed policy, including;

- What happens if you can't meet spacing criteria? This would likely result in a denial.
- What is determined as safe? Should "safe" be limited to a sight distance requirement? Is it a certain number of crashes that includes crash types? Harold committed to providing safety criteria to the AM committee by the end of November.
- How is reasonable access determined? The definition needs to include an economic component.
- A concern was raised that ODOT does not adequately consider property needs and reasonable access during project development, i.e., industrial uses. How does the proposed policy rectify this issue?

Mark Whitlow started that the issue in SB 1024 was to address an urban problem. Highways with 5000 or less ADT was supposed to be a small town problem, such as conditions that arose in Lakeview. Mark recommended establishing the speeds at 45 mph rather than less than 40 mph as proposed by ODOT. Bob Bryant expressed the need for the committee to be unanimous on the recommendation for statewide highways with less than 5,000 ADT. He will review the information and bring a recommendation to the November 15<sup>th</sup> AM Committee meeting.

### **Proposed Policy on Infill and Redevelopment**

Del provided a very brief overview of a straw man proposal he prepared for a policy on Infill and Redevelopment. (*See Attachment VII*) The straw man includes written and

verbal comments that he received from the “Reasonable Access” sub group participants. The DOJ identified that the proposed policy could result in more condemnation cases for ODOT as the policy would assure access for each property, and it is likely that there are situations where ODOT cannot allow an approach.

The proposed policy significantly expands the definition of “move in the direction of” as a means to incrementally improve access in the urban areas. As proposed, the policy would reduce the number of deviation requests which results in a savings for the developer both in hard costs for the analysis and the time that it takes to develop the analysis and review time by the agency. The policy includes a recommendation to revisit the issue in 18-months to two years to determine if the policy supports infill and redevelopment. Mark Whitlow believes that this is ODOT’s opportunity to get in with local land use program. ODOT should provide a map with the specific locations that they support infill and redevelopment. Bob Bryant will work on this.

***Next meeting of the Access Management Committee***

The next Access Management Committee meeting is Monday, November 15, 8:15 to noon, at ODOT’s Human Resources Center, Room A, 2775 19<sup>th</sup> Street SE, Salem. Telephone conferencing will be offered for this meeting. To conference in by phone, dial 1-877-581-9247, and enter participant code: 280787.

Meeting adjourned at 12:15 p.m.

*Attachment I – Stakeholder Permanent Rule 10-13-10*

*Attachment II – Description of Proposed Revision to Final Text in the OAR*

*Attachment III – Non-traversable Barrier Criteria Concept*

*Attachment IV – Statewide Class AADT*

*Attachment V – Criteria for State Highway with less than 5K ADT*

*Attachment VI – SB1024 – 52000ADT Concept with revisions per September 13-2010*

*Attachment VII – Support of Infill and Redevelopment – DRAFT with edits*

Attachment I  
Stakeholder Permanent Rule 10-13-10

1 Text proposed to be deleted from temporary rules in effect June 21, 2010 in ~~strike-out~~  
2 Text proposed to be added to temporary rules in effect June 21, 2010 in **yellow**  
3 Text proposed to be deleted from permanent rules in effect June 20, 2010 but which needs to be  
4 retained in **blue**  
5

6 Access Management Rules  
7 Permanent Amendments

8 734-051-0020

9 Purpose and Applicability of Rules

10 (1) The purpose of division 51 rules is to provide a safe and efficient transportation system  
11 through the preservation of public safety, the improvement and development of transportation  
12 facilities, the protection of highway traffic from the hazards of unrestricted and unregulated entry  
13 from adjacent property, and the elimination of hazards due to highway grade intersections. These  
14 rules establish procedures and criteria used by the Department to govern highway approaches,  
15 access control, spacing standards, medians and restriction of turning movements in compliance  
16 with statewide planning goals and in a manner compatible with acknowledged comprehensive  
17 plans and consistent with Oregon Revised Statutes (ORS), Oregon Administrative Rules (OAR),  
18 and the 1999 Oregon Highway Plan (OHP).

19 (2) The 1999 Oregon Highway Plan dated March 18, 1999 and all amendments approved by the  
20 Oregon Transportation Commission as of the adoption of this rule are hereby adopted by  
21 reference as the policy framework and investment priorities for implementing access  
22 management.

23 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345

24 Stats. Implemented: ORS 374.305 - 374.350 & 374.990  
25

26 734-051-0040

27 Definitions

28 The following definitions apply to division 51 rules:

29 (1) “1999 Oregon Highway Plan” means the 1999 Oregon Highway Plan and all amendments  
30 approved by the Oregon Transportation Commission as adopted by OAR 734-051-0020.

31 (2) “Access Control” means no right of access exists between a property abutting the highway  
32 and the highway. The right of access may have been acquired by the Department or eliminated  
33 by law.

34 (3) “Access Management Strategy” means a project delivery strategy that identifies the location  
35 and type of approaches and other necessary improvements that will occur primarily within the  
36 highway right of way and that is intended to improve current conditions of the section of  
37 highway by moving in the direction of the access management spacing standards.

38 (4) “Access Management Plan” means a plan for managing a designated section of highway or  
39 the influence area of an interchange to maintain and improve highway performance and safety.  
40 It is intended to improve current and future conditions on a section of highway or interchange by  
41 moving in the direction of the access management spacing standards and may address local street  
42 connectivity, local street improvements and local plans and land use regulations. An Access

- 43 Management Plan may be developed independent of or in conjunction with a highway or  
44 interchange project; however, an Access Management Plan is not a highway or interchange  
45 project.
- 46 (5) “Access Mitigation Proposal” means a proposal offered by an applicant that identifies the  
47 location and type of approaches and necessary improvements to the highway and that is intended  
48 to improve current conditions of the section of highway by moving in the direction of the access  
49 management spacing standards by combining or removing approaches resulting in a net  
50 reduction of approaches to that section of highway. An Access Mitigation Proposal must be  
51 approved by the Department, agreed to by all affected property owners, and real property  
52 interests must be recorded.
- 53 (6) “Alternate Access” means the physical existence of other means to access a property than the  
54 proposed approach, such as an existing public right of way, another location on the subject state  
55 highway, an easement across adjoining property, a different highway, a service road, or an alley,  
56 including singularly or as a joint approach, but without a conclusive determination that the  
57 alternate access is “reasonable” as defined in section (51) of this rule.
- 58 (7) “Appealable decision” means a decision by the Department that may be appealed through a  
59 Region Review as set forth in OAR 734-051-0345 or a Contested Case Hearing as set forth in  
60 OAR 734-051-0355. An appealable decision includes a decision to deny an application or to  
61 deny a deviation or approval of an application with mitigation measures.
- 62 (8) “Applicant” means a person, firm or corporation, or other legal entity that applies for an  
63 approach or deviation including an owner or lessee, or an option holder of a property abutting the  
64 highway, or their designated agent.
- 65 (9) “Application” means a completed form Application for State Highway Approach including  
66 any required documentation and attachments necessary for the Department to determine if the  
67 application can be deemed complete.
- 68 (10) “Approach” means a legally constructed, approach road or private road crossing, recognized  
69 by the Department as grandfathered or existing under a valid Permit to Operate.
- 70 (11) “Approach road” means a legally constructed, public or private connection, providing  
71 vehicular access to and/or from a highway and an adjoining property.
- 72 (12) “Classification of highways” means the Department’s state highway classifications defined  
73 in the 1999 Oregon Highway Plan.
- 74 (13) “Commission” means the Oregon Transportation Commission.
- 75 (14) “Construction Permit” means a Permit to Construct a State Highway Approach including all  
76 attachments, required signatures, and conditions and terms.
- 77 (15) “Crash history” means at least the three most recent years of crash data recorded by the  
78 Department’s Crash Analysis and Reporting Unit.
- 79 (16) “Day” means calendar day, unless specifically stated otherwise.
- 80 (17) “Deemed complete” means an application and all required supplemental documentation  
81 necessary for the Department to review and assess the application and determine if a  
82 Construction Permit or a Permit to Operate may be issued.

- 83 (18) “Department” or “ODOT” means the Oregon Department of Transportation.
- 84 (19) “Deviation” means a departure from the access management spacing standards.
- 85 (20) “Division 51” means Oregon Administrative Rules (OAR) 734-051-0010 through 734-051-  
86 0560 and Tables 1, 2, 3, 4, 5, 6 and 7 adopted and made a part of division 51 rules and Figures 1,  
87 2, 3 and 4 adopted and made a part of division 51 rules.
- 88 (21) “Double-Frontage Property” means a property with a right of access to more than one state  
89 highway.
- 90 (22) “Executive Deputy Director” means the Executive Deputy Director for Highway Division of  
91 the Oregon Department of Transportation.
- 92 (23) “Expressway” means a segment of highway defined in the 1999 Oregon Highway Plan and  
93 classified by the Oregon Transportation Commission.
- 94 (24) “Fair Market Value” means the amount in cash, or on terms reasonably equivalent to cash,  
95 for which in all probability the property would be sold by a knowledgeable owner willing but not  
96 obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy.
- 97 (25) “Freeway or Expressway ramp” means all types, arrangements, and sizes of turning  
98 roadways for right or left turning vehicles that connect two or more legs at an interchange and  
99 the components of a ramp area terminal at each leg and a connection road, usually with some  
100 curvature and on a grade.
- 101 (26) “Grandfathered approach” means a legally constructed approach existing prior to 1949. A  
102 property owner has the burden to prove an approach is grandfathered based upon existence prior  
103 to 1949. For purposes of this Division, grandfathered approaches also include approaches  
104 presumed in compliance as set forth in OAR 734-051-0285(7) and approaches intended to  
105 remain open that were improved in conjunction with a Department project prior to April 1, 2000,  
106 as set forth in OAR 734-051-0285(9).
- 107 (27) “Grant of Access” means the conveyance or evidence of the conveyance from the  
108 Department of a specific right of access at a location where an abutting property currently does  
109 not have that specific right of access.
- 110 (28) “Highway mobility standards” mean the established standards for maintaining mobility as  
111 defined in the 1999 Oregon Highway Plan.
- 112 (29) “Highway segment designations” mean the four categories of designations, Special  
113 Transportation Area, Commercial Centers, Urban Business Areas, and Urban, defined in the  
114 1999 Oregon Highway Plan.
- 115 (30) “Indenture of Access” means a deeded conveyance that changes the location, width, or use  
116 restrictions of an existing reservation of access.
- 117 (31) “Infill” means development of vacant or remnant land passed over by previous development  
118 and that is consistent with zoning. Infill occurs in urban areas. It may also occur in rural areas on  
119 commercial or industrial zoned land where the land has been developed into an urban block  
120 pattern including a local street network, and the posted highway speed is at or below 45 miles per  
121 hour.

- 122 (32) “Influence area of an interchange” means the area 1320 feet from an interchange ramp  
123 terminal measured on the crossroad away from the mainline.
- 124 (33) “Interchange” means a system of interconnecting roadways in conjunction with one or more  
125 grade separations that provides for the movement of traffic between two or more roadways or  
126 highways on different levels.
- 127 (34) “Interchange Area Management Plan” means a plan for managing a grade-separated  
128 interchange area to ensure safe and efficient operation between connecting roadways and to  
129 protect the functional integrity, operations, and safety of the interchange. An Interchange Area  
130 Management Plan may be developed independent of or in conjunction with an interchange  
131 project and may address local street connectivity, local street improvements and local plans and  
132 land use regulations. An Interchange Area Management Plan is not an interchange project.
- 133 (35) “Intersection” means an area where two or more highways or an approach and a highway  
134 join or cross at grade.
- 135 (36) “Land Use Action” means an action by a local government or special district concerning the  
136 adoption, amendment or application of the statewide planning goals, a comprehensive plan  
137 provision, or a land use regulation including zoning or subdivision codes.
- 138 (37) “Median” means the portion of the roadway separating opposing traffic streams.
- 139 (38) “Mitigation Measures” mean conditions, improvements, modifications, and restrictions set  
140 forth in OAR 734-051-0145 and required by the Department or initiated by an applicant for  
141 approval of a deviation or an application.
- 142 (39) “Move in the direction of” means that changes in the approach(es) to a property abutting the  
143 highway would bring a site closer to conformance with existing highway standards including  
144 where existing approaches to the highway or expressway are combined or eliminated resulting in  
145 a net reduction in the number of approaches to the highway or expressway, improvements in  
146 spacing of private approaches or public approaches, or improvements to intersection sight  
147 distance.
- 148 (40) “Peak hour” means the highest one-hour volume observed on an urban roadway during a  
149 typical or average week or the 30th highest hourly traffic volume on a rural roadway typically  
150 observed during a year.
- 151 (41) “Permit to Construct” means a Permit to Construct a State Highway Approach including all  
152 attachments, required signatures, conditions and terms, and performance bonds or insurance.
- 153 (42) “Permit to Operate” means a Permit to Operate, Maintain and Use a State Highway  
154 Approach including all required signatures and attachments, and conditions and terms. A Permit  
155 to Operate is not required for a public approach however the Department may issue a Permit to  
156 Operate for a public approach upon agreement with the governing city or county.
- 157 (43) “Permitee” means a person, firm or corporation, or other entity holding a valid Permit to  
158 Operate including the owner or lessee of the property abutting the highway or their designated  
159 agent.
- 160 (44) “Permitted approach” means a legally constructed private or public approach existing under  
161 a valid Permit to Operate.

162 (45) “Planned” means not currently existing but anticipated for the future when referring to items  
163 such as a roadway or utility connection shown in a corridor plan, or comprehensive plan, or  
164 transportation system plan.

165 (45) “Planned” means not constructed but adopted into a comprehensive plan or transportation  
166 system plan in accordance with administrative procedures of OAR 660-012 and ORS Chapter  
167 197.

168 (46) “Private approach” means an approach serving one or more properties and is not a public  
169 approach as defined in section (50) of this rule.

170 (47) “Private road crossing” means a legally constructed, privately owned road designed for use  
171 by trucks which are prohibited by law from using state highways, county roads, or other public  
172 highways.

173 (48) “Professional Engineer” means a person registered and holding a valid certificate to practice  
174 engineering in the State of Oregon, as provided in ORS 672.002 through 672.325, with expertise  
175 in traffic engineering, as provided in OAR 820-040-0030.

176 (49) “Project Delivery” means the allocation of resources to plan and construct new highways or  
177 modify and improve existing highways.

178 (50) “Public approach” means an existing or planned city street or county road connection that  
179 provides vehicular access to the general public from a highway. An existing city street or county  
180 road connection must be under the authority of the city or county to be considered a public  
181 approach. A planned city street or county road must be consistent with 734-051-0040(45) and  
182 must be or come under the authority of the city or county to be considered a public approach.

183 (51) “Reasonable Access” means the ability to access a property in a manner that meets the  
184 criteria under ORS 374.310(3).

185 (52) “Redevelopment” means the act or process of changing existing development including  
186 replacement, remodeling, or reuse of existing structures to accommodate new development that  
187 is consistent with current zoning. Redevelopment occurs in urban areas. It may also occur in  
188 rural areas on commercial or industrial zoned land where the land has been developed into an  
189 urban block pattern including a local street network, and the posted highway speed is at or below  
190 45 miles per hour.

191 (53) “Region Access Management Engineer” means a professional engineer employed by the  
192 Department who by training and experience has comprehensive knowledge of the Department’s  
193 access management rules, policies, and procedures, or as specified in an Intergovernmental  
194 Agreement delegating permitting authority as set forth in OAR 734-051-0035(3).

195 (54) “Region Manager” means the person in charge of one of the Department’s Transportation  
196 Regions or designated representative.

197 (55) “Reservation of Access” means a limitation of a common law right of access to a specific  
198 location where the Department has acquired access control subject to restrictions that are  
199 designated in a deed. A reservation of access may include a use restriction limiting the right of  
200 access to a specified use or restriction against a specified use. A use restriction included in a  
201 reservation of access does not restrict turning movements nor does the absence of a use  
202 restriction allow unrestricted turning movements. A reservation of access affords the right to

203 apply for an approach but does not guarantee approval of an Application for State Highway  
204 Approach or the location of an approach.

205 (56) “Restricted Use Approach” means an approach that is intended to provide vehicular access  
206 for a specific use and for a limited volume of traffic. Such uses are determined by the  
207 Department and may include emergency services, government, and utility uses. A mitigation  
208 required as a part of approach permit approval or a condition on a construction permit does not  
209 by itself create a “restricted use approach.”

210 (57) “Right of access” means the right of ingress and egress to the roadway and includes a  
211 common law right of access, reservation of access, or grant of access.

212 (58) “Right of way” means real property or an interest in real property owned by the Department  
213 as defined in the 1999 Oregon Highway Plan.

214 (59) “Rural” means the area outside the urban growth boundary, the area outside a Special  
215 Transportation Area in an unincorporated community, or the area outside an Urban  
216 Unincorporated Community defined in OAR 660-022-0010(9).

217 (60) “Safety factors” include the factors identified in OAR 734-051-0080(8[9]).

218 (61) “Signature” means the signature of the specific individual or an authorized officer of the  
219 corporation or partnership and must include the name of the corporation or partnership licensed  
220 as set forth in ORS 60.111, and which maintains a registered agent and registered office in this  
221 state.

222 (62) “Spacing Standards” mean Access Management Spacing Standards as set forth in OAR 734-  
223 051-0115 and specified in Tables 1, 2 and 3 adopted and made a part of division 51 rules and  
224 Access Management Spacing Standards for Approaches in an Interchange Area as set forth in  
225 OAR 734-051-0125 and specified in Tables 4, 5, 6 and 7 and Figures 1, 2, 3 and 4, adopted and  
226 made a part of division 51 rules.

227 (63) “Temporary approach” means an approach that is constructed, maintained, and operated for  
228 a specified period of time not exceeding two years, and removed at the end of that period of time.

229 (64) “Traffic Impact Study” means a report prepared by a professional engineer that analyzes  
230 existing and future roadway conditions resulting from the applicant’s development.

231 (65) “Trip” means a one-way vehicular movement that consists of a motor vehicle entering or  
232 exiting a property. A vehicle entering a property and later exiting that property has made two  
233 trips.

234 (66) “Urban” means the area within the urban growth boundary, within a Special Transportation  
235 Area of an unincorporated community, or within an Urban Unincorporated Community defined  
236 in OAR 660-022-0010(9).

237 (67) “Vehicle trips per day” means the total of all one-direction vehicle movements with either  
238 the origin or destination inside the study site that includes existing, primary, pass by, and  
239 diverted linked trips and is calculated in accordance with the procedures contained in the current  
240 edition of the Institute of Transportation Engineers (ITE) publications Trip Generation and Trip  
241 Generation Handbook. Adjustments to the standard rates in the ITE publications for mode split  
242 may be allowed if calculated in accordance with Transportation Planning Rule and the ITE  
243 procedures. Adjustments to the standard rates for multi-use internal site trips may be allowed if

244 calculated in accordance with ITE procedures and if the internal trips do not add vehicle  
245 movements to the approaches to the highway.

246 (68) “Vehicular Access” means access by motorized vehicles to a property from a street,  
247 roadway, highway, easement, service road, or alley including singular or joint access.

248 (69) “Work Day” means Monday through Friday and excludes holidays.

249 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312, 374.313 & 374.345

250 Stats. Implemented: ORS 374.305 - 374.350 & 374.990

251

252 734-051-0045

253 Change of Use of an Approach

254 (1) This rule applies to private approaches existing under a valid Permit to Operate and private  
255 grandfathered approaches.

256 (2) As used in this rule -0045 “peak hour” of the site means the hour during which the highest  
257 volume of traffic enters and exits the property during a typical week.

258 (3) A change of use of an approach occurs, and an application must be submitted, when an action  
259 or event identified in subsection (a) of this section, results in an effect identified in subsection (b)  
260 of this section.

261 (a) The Department may review an approach at the time of an action such as:

262 (A) Zoning or plan amendment designation changes;

263 (B) Construction of new buildings;

264 (C) Floor space of existing buildings increase;

265 (D) Division or consolidation of property boundaries;

266 (E) Changes in the character of traffic using the approach;

267 (F) Internal site circulation design or inter-parcel circulation changes; or

268 (G) Reestablishment of a property’s use after discontinuance for four years or more.

269 (b) An application must be submitted when an action in subsection (a) of this section may result  
270 in any of the following:

271 (A) (i) The number of peak hour trips increases by 50 trips or more from that of the property’s  
272 prior use; or

273 (ii) The number of trips on a typical day increases by 500 trips or more from that of the  
274 property’s prior use; and

275 (iii) The increase in subparagraph (A)(i) or (A)(ii) represents a 20 percent or greater increase in  
276 the number of trips on a typical day ~~and~~ **or** the number of peak hour trips from that of the  
277 property’s prior use.

278 (B) ODOT demonstrates **that with respect to the existing use of the approach, traffic volumes**  
279 **or vehicle turning movements are causing or increasing a safety or operational problem on the**  
280 **highway.**

281 (C) The approach does not meet a **stopping** sight distance requirement[s] (measured in feet) of 10  
282 times the posted speed of the roadway or 10 times the 85<sup>th</sup> percentile speed of the roadway where  
283 the 85<sup>th</sup> percentile speed is higher or lower than the posted speed. The permittee **or the**  
284 **Department** may perform a study to determine if the 85<sup>th</sup> percentile speed is **higher or** lower than  
285 the posted speed. The sight distance measurement and the study to determine the 85<sup>th</sup> percentile  
286 speed shall be performed **according to Department procedures** by or under the supervision of an  
287 engineer registered in the state of Oregon.

288 (D) The approach is not consistent with the safety factors set forth in OAR 734-051-0080(9).

289 (D) The daily use of an approach increases by 10 or more with a gross vehicle weight rating of  
290 26,000 pounds or greater.

291 (c) An effect in subsection (b) of this section may be determined by:

292 (A) Field counts;

293 (B) Site observation;

294 (C) Traffic Impact Study;

295 (D) Field measurement;

296 (E) Crash history;

297 (F) Institute of Transportation Engineer Trip Generation Manual; or

298 (G) Information and studies provided by the local jurisdiction.

299 **(d) Mitigation of the change of use of an approach shall be limited to addressing the identified**  
300 **safety or operational problems.**

301 (4) The following actions do not constitute a change of use:

302 (a) Modifications in advertising, landscaping, general maintenance, or aesthetics not affecting  
303 internal or external traffic flow or safety; or

304 (b) Buildout or redevelopment of an approved site plan or multi-phased development within the  
305 parameters of a Traffic Impact Study that is less than five years old or where within parameters  
306 of the future year analysis of the Traffic Impact Study, whichever is greater, and that is certified  
307 by a Professional Engineer.

308 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 and 374.345; Ch. 972 and Ch. 974, Oregon Laws 1999

309 Stat. Implemented: ORS 374.305 to 374.345 and 374.990; Ch. 974, Oregon Laws 1999, Chapter 371, Oregon Laws  
310 2003

311

312 734-051-0070

313 Application Procedure and Timelines

314 (1) The Department shall document decisions made under Division 51 rules with written findings  
315 and shall provide written notice to applicants:

316 (a) Written findings shall be provided to the applicant upon request;

317 (b) Materials submitted by the applicant become the property of the Department;

- 318 (c) The Region Manager may waive requirements for information and documentation required  
319 from an applicant depending on the nature of the application and on the sufficiency of other  
320 information available to the Department for its evaluation of an application;
- 321 (d) Where necessary to comply with the permitting criteria under Division 51 rules, approval of  
322 an application may be conditioned upon significant changes to a proposed site plan including  
323 relocation of buildings, parking, circulation, reduction of intensity of use, or variances from local  
324 jurisdictions; and
- 325 (e) Approval of an application may require mitigation measures set forth in OAR 734-051-0145.
- 326 (2) The Department, applicant, or local government may request a pre-application meeting to  
327 discuss the approach application process.
- 328 (3) An application is required:
- 329 (a) For a new **private** approach to a state highway;
- 330 (b) When a change of use occurs as set forth in OAR 734-051-0045;
- 331 (c) For a temporary approach to a state highway; or
- 332 (d) For a restricted use approach to a state highway.
- 333 (4) An application accompanied by a site plan must be submitted for each approach requested.  
334 All of the following apply to an application:
- 335 (a) The Department shall not accept an application for an approach to a freeway, a freeway ramp,  
336 or an expressway ramp, or where an approach would be aligned opposite a freeway or  
337 expressway ramp terminal.
- 338 (b) The Department shall require written evidence of concurrence by the owner where an  
339 applicant is not the property owner.
- 340 (c) The Department may refuse to accept an application that is incomplete or contains  
341 insufficient information to allow the Department to determine if supplemental documentation is  
342 required or otherwise determine that the application may be deemed complete.
- 343 (5) The Department shall determine if an application is deemed complete:
- 344 (a) Within 30 days of accepting an application when section (6) of this rule does not require  
345 supplemental documentation; or
- 346 (b) When the supplemental documentation is received and the Department determines that the  
347 supplemental documentation is sufficient to evaluate the application, if section (6) of this rule  
348 requires supplemental documentation.
- 349 (6) The Department may require supplemental documentation before an application is deemed  
350 complete, and the Region Manager:
- 351 (a) May conduct an on-site review to determine the need for supplemental documentation before  
352 an application is deemed complete. The on-site review area includes both sides of the highway in  
353 the vicinity of the proposed approach including:
- 354 (A) The site frontage;
- 355 (B) All approaches; and

356 (C) The nearest public intersections within a distance less than the applicable spacing standard  
357 distance.

358 (b) May meet with the applicant to discuss the supplemental documentation including definition  
359 and degree of specification;

360 (c) Shall notify an applicant, within 30 days of accepting an application, of the supplemental  
361 documentation necessary for an application to be deemed complete;

362 (d) Shall notify an applicant, within 30 days of accepting an application, that an application may  
363 not be deemed complete where no right of access exists; and

364 (A) An applicant may apply for an Application for a Grant of Access or Application for an  
365 Indenture of Access;

366 (B) An application for a Grant of Access or Application for an Indenture of Access must be  
367 submitted concurrently with an Application for State Highway Approach;

368 (C) OAR 734-051-0295 through 734-051-0335 govern modification of access rights:

369 (i) To state highways and other public roads from property where the Department has access  
370 control; and

371 (ii) To state highways from property owned or controlled by cities or counties where the  
372 Department has access control where a public road connection is requested.

373 (D) Submittal of an Application for a Grant of Access or Application for an Indenture of Access  
374 stays the 120-day timeline in section (8) of this rule;

375 (E) The timeline for processing an Application for a Grant of Access and completing the  
376 appraisals and property transactions may be up to 365 days depending on the complexity of the  
377 request; and

378 (F) The timeline for processing an Application for an Indenture of Access may be up to 60 days  
379 depending on the complexity of the request.

380 (e) May require a Traffic Impact Study for:

381 (A) Proposed developments generating vehicle trips that equal or exceed 600 daily trips or 100  
382 hourly trips; or

383 (B) Proposed zone changes or comprehensive plan changes;

384 (f) ~~Shall~~ **May** require a Traffic Impact Study for proposed developments or land use actions  
385 where the on-site review indicates that operational or safety problems exist or are anticipated;  
386 and

387 (g) Shall notify the applicant that required supplemental documentation, including an application  
388 for a grant of access or indenture of access, must be submitted within 60 days of the date of  
389 notice of supplemental documentation or the application expires.

390 (7) All of the following apply when a Traffic Impact Study is required:

391 (a) A Professional Engineer employed by the Department shall determine the scope of the study  
392 and shall review and comment on the study.

393 (b) Future year analyses apply to both public and private approaches and include year of each  
394 phase opening and future year beyond build out, based on vehicle trips per day and type of land  
395 use action, but not greater than the year of planning horizon for transportation system plans or 15  
396 years, whichever is greater.

397 (c) A Professional Engineer must prepare the study in accordance with methods and input  
398 parameters approved by the Department.

399 (d) The scope and detail of the study must be sufficient to allow the Department to evaluate the  
400 impact of the proposal and the need for roadway capacity, operational, and safety improvements  
401 resulting from the approach.

402 (e) The study must identify the data and the application of data in the analysis.

403 (f) The study may be sufficient to satisfy the requirements of this rule without being adequate to  
404 satisfy local government requirements or the Transportation Planning Rule.

405 (8) When necessary to comply with the permitting criteria of division 51 Rules the Department  
406 shall evaluate an application that is deemed complete and shall approve or deny that application  
407 within 120 days including a final order as set forth in OAR 734-051-0355:

408 (a) The final 60 days of the 120 days are reserved for the Contested Case Hearing process set  
409 forth in OAR 734-051-0355;

410 (b) The Department shall use division 51 and ORS Chapter 374 and may use other applicable  
411 statutes, administrative rules, or manuals to evaluate and act on an application;

412 (c) If an application is approved, the Department shall issue a Construction Permit or a Permit to  
413 Operate as set forth in sections (10) through (13) of this rule; and

414 (d) Denial of an application is an appealable decision.

415 (9) If approval of an approach requires a deviation from access management spacing standards or  
416 access management spacing standards for approaches in an interchange area, a Traffic Impact  
417 Study may be required and the Department may approve or deny the deviation as set forth in  
418 OAR 734-051-0135:

419 (a) Approval of a deviation may be conditioned upon changes to a proposed site plan including  
420 relocation of buildings, changes to parking or circulation, reduction of the intensity of use, or  
421 variances from local jurisdiction regulations; and

422 (b) Denial of a deviation from spacing standards is an appealable decision.

423 (10) If a land use action is pending, including an appeal of a final land use decision or a limited  
424 land use decision, for a property for which an application has been submitted, the application  
425 may be accepted and processed:

426 (a) Approval will be conditioned on the Department receiving notice of approval of the land use  
427 action shown on the application.

428 (b) A Construction Permit may be issued while the local land use action is pending. A deposit  
429 may be required, to be determined in the manner used for a Temporary Approach in OAR 734-  
430 051-0095(2), to ensure that the approach will be removed if the land use is not approved.

431 (c) A Permit to Operate shall not be issued until the applicant provides the Department with  
432 written proof of final land use decision.

433 (11) To obtain a Construction Permit an applicant must submit construction drawings and plans  
434 within 60 days of notice of approval of an application when use of the Department's standard  
435 drawings is not appropriate. The Region Manager determines the acceptability of submitted  
436 construction plans. If plans are not submitted within the 60 days and no request for extension is  
437 received within that time, the approval will be void.

438 (12) The Department shall issue a Construction Permit as set forth in OAR 734-051-0175 upon  
439 approval of an application and approval of construction drawings and plans where required; and

440 (a) An approach approved by a Construction Permit must be constructed as required by OAR  
441 734-051-0175 through 734-051-0245; and

442 (b) An applicant must have insurance, bonds, and deposits in place before construction begins  
443 and must provide 30 days written notice of cancellation or intent not to renew insurance  
444 coverage as set forth in OAR 734-051-0215.

445 (13) The Department shall issue a Permit to Operate as set forth in OAR 734-051-0245, except  
446 that a Permit to Operate is not required for a public approach under ORS 374.310.

447 (14) An applicant may request a Region Review of an appealable decision within 21 days of  
448 notice of that decision as set forth in OAR 734-051-0345:

449 (a) An applicant may request a collaborative discussion within the Region Review process; and

450 (b) The Region Review process stays the 120-day timeline for approval or denial of an  
451 application.

452 (c) An applicant may request a Contested Case Hearing following a Region Review and the  
453 hearing will be on the original decision.

454 (15) An applicant may request a Contested Case Hearing of an appealable decision within 21  
455 days of notice of that decision, or within 21 days of notice of a Region Review decision, as set  
456 forth in OAR 734-051-0355.

457 (16) Division 51 timelines may be extended if the applicant and the Department agree in writing  
458 before the applicable deadline, as specified in these rules. Any agreement to extend a timeline  
459 shall include a new deadline date and shall state the reason for the extension. Applications for  
460 which an extension of time has been issued will expire on the deadline date specified in the  
461 extension letter if no new extension has been agreed to and the activities for which the deadline  
462 was extended have not been completed.

463 (17) An application will expire after 120 days of inactivity on the part of the applicant if the  
464 Department sends a reminder letter to notify the applicant that 90 days have passed with no  
465 activity, and advising that the application will expire in 30 days if the application continues to be  
466 inactive. Submittal of any information after the date of expiration will require a new application.

467 (18) A new public approach shall not be located on a freeway, a freeway ramp, an expressway  
468 ramp, or where an approach would be aligned opposite a freeway or expressway ramp.

469 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345  
470 Stats. Implemented: ORS 374.305 - 374.350 & 374.990

471

472 734-051-0080

473 Criteria for Approving an Application for an Approach

474 (1) The following apply to all applications:

475 (a) Existence of a recorded easement does not by itself establish a right of access and does not  
476 guarantee the approval of an application or the location of an approach.

477 (b) If an application is for a double-frontage property the approach must be located on the lower  
478 classification highway except where the Region Access Management Engineer determines that  
479 an approach to the higher classification highway would better meet the approval criteria in  
480 sections (2) through (10) of this rule.

481 (c) Where a development includes multiple parcels, the development is evaluated in its entirety,  
482 regardless of the number of individual parcels or ownership contained within the development,  
483 and applications will not be accepted for individual parcels or ownership.

484 (2) For a private approach with no alternate access to the property the Region Manager shall  
485 approve an application if the applicant demonstrates that section (9) of this rule is met.

486 (3) For a private approach in a rural area and on a statewide, regional, or district highway or an  
487 expressway or within the influence area of an expressway interchange or freeway interchange,  
488 with alternate access to the property, the Region Manager shall approve an application if the  
489 applicant demonstrates that:

490 (a) Either:

491 (A) The alternate access cannot be made reasonable as set forth in section (7) of this rule; or

492 (B) The proposal is for infill or redevelopment and approval of the proposal will result in a net  
493 reduction of approaches on the highway or the net result improves safety for any remaining  
494 approaches; and

495 (b) Section (9) of this rule is met.

496 (4) For a private approach in an urban area and on a statewide, regional, or district highway or  
497 within the influence area of an expressway interchange or freeway interchange, with alternate  
498 access to the property, the Region Manager shall approve an application, even where the  
499 Department has evidence that the alternate access is reasonable, if the applicant provides  
500 substantial evidence that demonstrates that:

501 (a) The alternate access is not reasonable as set forth in section (7) of this rule; and

502 (b) Section (9) of this rule is met.

503 (5) For a private approach in an urban area and on a statewide, regional, or district highway or  
504 within the influence area of an expressway interchange or freeway interchange, with alternate  
505 access to the property, the Region Manager shall approve an application if the applicant  
506 demonstrates that:

507 (a) The alternate access is reasonable as set forth in section (7) of this rule; and

508 (b) Section (9) and section (10) of this rule are met.

509 (6) For a private approach in an urban area and on an expressway, with alternate access to the  
510 property, the Region Manager shall approve an application if the applicant demonstrates that:

- 511 (a) The alternate access cannot be made reasonable as set forth in section (7) of this rule, and  
512 section (9) and section (10) of this rule of this rule are met; or
- 513 (b) The approach provides an immediate and long-term benefit to the state highway system, as  
514 set forth in OAR 734-051-0085, regardless of any required safety or operations mitigation  
515 measures, and section (9) of this rule is met.
- 516 (7) Which approval criteria will be applied to an application (sections (2) through (6) of this  
517 rule) depends in part upon whether alternate access to the site is or can be made reasonable,  
518 which is determined based upon the following:
- 519 (a) The Department determines that alternate access to the property is sufficient to allow the  
520 authorized uses for the property identified in the acknowledged local comprehensive plan.
- 521 (b) The Department determines that the type, number, size and location of approaches are  
522 adequate to serve the volume and type of traffic reasonably anticipated to enter and exit the  
523 property, based on the planned uses for the property.
- 524 (c) The Department may require mitigation measures are set forth in OAR 734-051-0145:
- 525 (A) Including where the applicant or the local jurisdiction commits proportional shares for the  
526 cost of removal or mitigation of geographic, safety, or physical restrictions on the property or  
527 local street network; and
- 528 (B) Neither a lack of commitment by a local government to share the cost of mitigation nor the  
529 cost of mitigation alone is determinative in evaluating whether the access is or could be made  
530 reasonable.
- 531 (d) Consideration of factors including:
- 532 (A) Legal restrictions;
- 533 (B) Geographic restrictions;
- 534 (C) Historical or cultural resources;
- 535 (D) Safety factors; and
- 536 (E) Physical considerations such as planned streets, roadway width, and weight and size  
537 restrictions.
- 538 (e) Where a significant difference exists between an existing and planned local road network, a  
539 phased method addressing access may be considered:
- 540 (A) Where a planned public street or road network cannot be provided at the time of  
541 development, an application may be approved with conditions requiring connection when such  
542 connection becomes available;
- 543 (B) The approach permit may be revoked and the approach removed, or the approach permit may  
544 be modified and mitigation required when the planned street or road network becomes available;  
545 and
- 546 (C) An agreement with the local government regarding the planned street or road network may  
547 be an intergovernmental agreement.
- 548 (8) For purposes of Division 51, safety factors include:

- 549 (a) Roadway character;
- 550 (b) Traffic character;
- 551 (c) Geometric character;
- 552 (d) Environmental character; and
- 553 (e) Operational character.

554 (9) As required by sections (2) through (6) of this rule an applicant must demonstrate, consistent  
555 with Division 51 rules, that:

- 556 (a) The approach is consistent with safety factors in section (8) of this rule;
- 557 (b) Spacing standards are met or a deviation is approved as set forth in OAR 734-051-0135; and
- 558 (c) The effect of the approach meets traffic operations standards, signals, or signal systems  
559 standards in OAR 734-020-0400 through 734-020-0500 and OAR 734-051-0115 and 734-051-  
560 0125.

561 (10) As required by sections (5) through (6) of this rule the Department may require an applicant  
562 to demonstrate that:

- 563 (a) Highway mobility standards are met on state highways;
- 564 (b) The approach is consistent with an Access Mitigation Proposal, Access Management  
565 Strategy, or Access Management Plan for the segment of highway abutting the property, if  
566 applicable;
- 567 (c) The site plan shows that the site circulation does not require vehicles, once on site, to reenter  
568 the highway to access parking or other portions of the development; and
- 569 (d) More than one approach to the highway is necessary to accommodate traffic reasonably  
570 anticipated to the site if multiple approaches are requested.

571 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 and 374.345; Ch. 972 and Ch. 974, Oregon Laws 1999  
572 Stat. Implemented: ORS 374.305 to 374.345 and 374.990; Ch. 974, Oregon Laws 1999, Chapter 371, Oregon Laws  
573 2003

574

575 734-051-0135  
576 Deviations from Access Management Spacing Standards

577 (1) A deviation will be considered when an approach does not meet spacing standards and the  
578 approach is consistent with safety factors in OAR 734-051-0080(8). The information necessary  
579 to support a deviation must be submitted with an application or with the supplemental  
580 documentation as set forth in OAR 734-051-0070(5) and (6).

581 (2) For a private approach with no reasonable alternate access to the property, as identified in  
582 OAR 734-051-0080(2), spacing standards are met if property frontage allows or a deviation is  
583 approved as set forth in this section. The Region Manager shall approve a deviation for a  
584 property with no reasonable alternate access if the approach is located:

- 585 (a) To maximize the spacing between adjacent approaches; or
- 586 (b) At a different location if the maximized approach location:

- 587 (A) Causes safety or operational problems; or
- 588 (B) Would be in conflict with a significant natural or historic feature including trees and unique  
589 vegetation, a bridge, waterway, park, archaeological area, or cemetery.
- 590 (3) The Region Access Management Engineer shall approve a deviation if:
- 591 (a) Adherence to spacing standards creates safety or traffic operation problems;
- 592 (b) The applicant provides a joint approach that serves two or more properties and results in a net  
593 reduction of approaches to the highway;
- 594 (c) The applicant demonstrates that existing development patterns or land holdings make joint  
595 use approaches impossible;
- 596 (d) Adherence to spacing standards will cause the approach to conflict with a significant natural  
597 or historic feature including trees and unique vegetation, a bridge, waterway, park,  
598 archaeological area, or cemetery;
- 599 (e) The highway segment functions as a service road;
- 600 (f) On a couplet with directional traffic separated by a city block or more, the request is for an  
601 approach at mid-block with no other existing approaches in the block or the proposal  
602 consolidates existing approaches at mid-block; or
- 603 (g) Based on the Region Access Management Engineer's determination that:
- 604 (A) Safety factors and spacing significantly improve as a result of the approach; and
- 605 (B) Approval does not compromise the intent of these rules as set forth in OAR 734-051-0020.
- 606 (4) When a deviation is considered, as set forth in section (1) of this rule, and the application  
607 results from infill or redevelopment:
- 608 (a) The Region Access Management Engineer may waive the requirements for a Traffic Impact  
609 Study and may propose an alternative solution where:
- 610 (A) The requirements of either section (2) or section (3) of this rule are met; or
- 611 (B) Safety factors and spacing improve and approaches are removed or combined resulting in a  
612 net reduction of approaches to the highway; and
- 613 (b) Applicant may accept the proposed alternative solution or may choose to proceed through the  
614 standard application review process.
- 615 (5) The Region Access Management Engineer shall require any deviation for an approach  
616 located in an interchange access management area, as defined in the Oregon Highway Plan, to be  
617 evaluated over a 20-year horizon from the date of application and may approve a deviation for an  
618 approach located in an interchange access management area if:
- 619 (a) A condition of approval, included in the Permit to Operate, is removal of the approach when  
620 reasonable alternate access becomes available;
- 621 (b) The approach is consistent with an access management plan for an interchange that includes  
622 plans to combine or remove approaches resulting in a net reduction of approaches to the  
623 highway;

624 (c) The applicant provides a joint approach that serves two or more properties and results in a net  
625 reduction of approaches to the highway; or

626 (d) The applicant demonstrates that existing development patterns or land holdings make  
627 utilization of a joint approach impracticable.

628 (6) The Region Access Management Engineer shall not approve a deviation for an approach if  
629 any of the following apply:

630 (a) Spacing standards can be met even though adherence to spacing standards results in higher  
631 site development costs.

632 (b) The deviation results from a self-created hardship including:

633 (A) Conditions created by the proposed site plan, building footprint or location, on-site parking,  
634 or circulation; or

635 (B) Conditions created by lease agreements or other voluntary legal obligations.

636 (c) The deviation creates a significant safety or traffic operation problem.

637 (7) The Region Access Management Engineer shall not approve a deviation for an approach in  
638 an interchange access management area where reasonable alternate access is available and the  
639 approach would increase the number of approaches to the highway.

640 (8) Where section (2), (3), (4) or (5) of this rule cannot be met, the Region Manager, not a  
641 designee, may approve a deviation where:

642 (a) The approach is consistent with safety factors; and

643 (b) The Region Manager identifies and documents conditions or circumstances unique to the site  
644 or the area that support the development.

645 (9) The Region Manager may require an intergovernmental agreement or completion of an  
646 access management plan or an interchange area management plan prior to approval of a  
647 deviation to construct a public approach.

648 (10) Approval of a deviation may be conditioned upon mitigation measures set forth in OAR  
649 734-051-0145.

650 (12) Denial of a deviation is an appealable decision.

651 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 and 374.345; Ch. 972 and Ch. 974, Oregon Laws 1999

652 Stat. Implemented: ORS 374.305 to 374.345 and 374.990; Ch. 974, Oregon Laws 1999, Chapter 371, Oregon Laws  
653 2003

654 734-051-0245

655 Issuance of a Permit to Operate, Maintain and Use an Approach

656 (1) The Department shall issue a Permit to Operate for a private approach upon approval of an  
657 application, where no Construction Permit is required, or upon notification by the applicant that  
658 construction is complete and when the approach conforms to the terms and conditions of the  
659 Construction Permit.

660 (2) Use of a private approach is legal only after a Permit to Operate is issued.

661 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 and 374.345; Ch. 972 and Ch. 974, Oregon Laws 1999  
662 Stat. Implemented: ORS 374.305 to 374.345 and 374.990; Ch. 974, Oregon Laws 1999, Chapter 371, Oregon Laws  
663 2003

664

665 734-051-0255

666 Maintenance of Approaches

667 (1) An applicant, permittee, or owner of a grandfathered approach must obtain approval and  
668 necessary permits prior to performing maintenance on an approach that interferes with or  
669 interrupts traffic on or along a highway.

670 (2) Where traffic signals are required, signal maintenance is performed by the Department or as  
671 assigned by a Cooperative Cost Agreement.

672 (3) For a public approach, the Department may require an intergovernmental agreement with the  
673 city or county to define responsibilities and obligations for maintenance of the approach.

674 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 and 374.345; Ch. 972 and Ch. 974, Oregon Laws 1999

675 Stat. Implemented: ORS 374.305 to 374.345 and 374.990; Ch. 974, Oregon Laws 1999, Chapter 371, Oregon Laws  
676 2003

677

678 734-051-0295

679 Grants of Access

680 (1) A grant of access establishes a right of access; and

681 (a) For a grant of access approved prior to April 1, 2000, the grant of access does not guarantee  
682 approval of an Application for State Highway Approach or issuance of a Construction Permit or  
683 Permit to Operate; and

684 (b) Subsequent to April 1, 2000, the Department may approve an Application for a Grant of  
685 Access only where an Application for State Highway Approach or a Construction Permit or  
686 Permit to Operate may be approved.

687 (c) Subsequent to January 21, 2011, where no right of access exists for a public approach, an  
688 application for a Grant of Access or for an Indenture of Access must be submitted.

689 (2) The applicant for a grant of access must be the owner of the property abutting the highway  
690 right of way or the owner's designated agent.

691 (3) The Department shall not approve an Application for a Grant of Access for a private  
692 approach:

693 (a) On a freeway, freeway mainlines, or freeway ramp;

694 (b) On an expressway or expressway ramp;

695 (c) Opposite a freeway or expressway ramp terminal; or

696 (d) In an Interchange Management Area.

697 (4) The Department may approve an Application for a Grant of Access to private property  
698 abutting a state and local facility where all of the following conditions are met:

- 699 (a) An applicant submits an Application for State Highway Approach as set forth in OAR 734-  
700 051-0070 and concurrently submits an Application for a Grant of Access, as set forth in OAR  
701 734-051-0305.
- 702 (b) An applicant meets the requirements for issuance of a Construction Permit, as set forth in  
703 OAR 734-051-0175.
- 704 (c) The applicant agrees in writing to meet any mitigation measures, terms, and conditions placed  
705 on the Construction Permit and the Permit to Operate.
- 706 (d) The grant of access is consistent with the 1999 Oregon Highway Plan.
- 707 (e) One of the following occurs:
- 708 (A) The Department determines that access control is no longer needed at the location specified  
709 in the Application for a Grant of Access as set forth in section (7) of this rule; or
- 710 (B) The applicant establishes that the grant of access will benefit the state highway system as set  
711 forth in OAR 734-051-0085(1) and (2).
- 712 (f) Alternate access to the property is not and cannot be made reasonable as set forth in OAR  
713 734-051-0080(7).
- 714 (g) The property owner must agree to deed restrictions to ensure that future development  
715 intensity and trip generation can be safely accommodated by the state transportation system.
- 716 (h) The application is approved by the Region Manager and reviewed by the State Traffic  
717 Engineer, and approved by the Technical Services Manager.
- 718 (5) The Department shall not approve an Application for a Grant of Access for a public  
719 approach:
- 720 (a) On a freeway, freeway mainlines, or freeway ramp;
- 721 (b) On an expressway ramp;
- 722 (c) Opposite a freeway or expressway ramp terminal; or
- 723 (d) In an Interchange Management Area.
- 724 (6) The Department may approve an Application for a Grant of Access for a public approach to a  
725 state highway where all of the following conditions are met:
- 726 (a) An applicant submits an ~~Application for State Highway Approach, as set forth in OAR 734-~~  
727 ~~051-0070 and concurrently submits an~~ Application for a Grant of Access, as set forth in OAR  
728 734-051-0305.
- 729 (b) The applicant meets the requirements for issuance of a Construction Permit, as set forth in  
730 OAR 734-051-0175.
- 731 (c) The applicant agrees in writing to meet any mitigation measures, terms, and conditions placed  
732 on the Construction Permit and the Permit to Operate.
- 733 (d) The grant of access is consistent with the 1999 Oregon Highway Plan, an adopted corridor  
734 plan, and local transportation system plan, or in the absence of an adopted corridor plan or  
735 transportation system plan, a grant of access may be considered where the applicant has explored

736 all possible alternatives to the connection, including parallel streets, and the purchase of  
737 additional right of way.

738 (e) One of the following occurs:

739 (A) The Department determines that access control is no longer needed at the location specified  
740 in the Application for a Grant of Access as set forth in section (7) of this rule; or

741 (B) The applicant establishes that the grant of access will benefit the state highway system as set  
742 forth in OAR 734-051-0085; and

743 (i) The Department may determine that a benefit to the state highway system exists where the  
744 proposed connection is a public facility with a functional classification of collector or higher and  
745 is identified in an adopted transportation system plan, consistent with OAR 660-012-0000  
746 through 660-012-0070; and

747 (ii) The Department shall require supporting documentation of sufficient detail to determine that  
748 a benefit to the state highway system exists, as set forth in OAR 734-051-0085(1) and (2), to be  
749 included in the transportation system plan; and

750 (iii) The Department shall determine if the supporting documentation is sufficient to meet the  
751 requirements in subparagraph (ii) of this paragraph.

752 (f) The Department and the local jurisdiction requesting a grant of access for a public approach:

753 (A) Shall enter into an intergovernmental agreement that details the responsibility for  
754 construction, maintenance, operation and cost of the public approach; and

755 (B) May enter into an intergovernmental agreement that addresses transportation plan and land  
756 use amendments or modifications to ensure that planned development intensities and trip  
757 generation can be safely supported on the state transportation system.

758 (g) The application is approved by the Region Manager and reviewed by the State Traffic  
759 Engineer, and approved by the Technical Services Manager.

760 (7) For the purposes of sections (4) and (6) of this rule, the Department shall consider the  
761 following factors in determining whether access control is still needed at the location specified in  
762 an application for a grant of access:

763 (a) Classification of the highways and highway segment designations;

764 (b) Spacing Standards;

765 (c) Highway mobility standards;

766 (d) State and local transportation system plans;

767 (e) Comprehensive plan and land uses in the area; and

768 (f) Safety factors.

769 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345

770 Stats. Implemented: ORS 374.305 - 374.350 & 374.990

771

772 734-051-0315

773 Indentures of Access

774 (1) The Department may approve an Application for Indenture of Access to a property abutting a  
775 state or local facility where all of the following conditions are met:

776 (a) An applicant **for a private approach submits** an Application for State Highway Approach as  
777 set forth in OAR 734-051-0070 and concurrently submits an Application for Indenture of Access  
778 as set forth in OAR 734-051-0325. **An applicant for a public approach must only submit an**  
779 **Application for Indenture of Access as set forth in OAR 734-051-0325;**

780 (b) The applicant meets the requirements for issuance of a Construction Permit, as set forth in  
781 OAR 734-051-0175;

782 (c) The applicant agrees in writing to meet any mitigation measures, conditions, and terms placed  
783 on the Construction Permit and the Permit to Operate;

784 (d) The Region Manager approves the Application for Indenture of Access; and

785 (e) The property owner agrees to the closure of one or more existing reservations of access.

786 (2) All of the property owners that have a right of access at and are currently being served by the  
787 existing reservation of access must be applicants for any Application for Indenture of Access.

788 (3) A request for removal of farm crossing or farm access restrictions requires a grant of access  
789 as set forth in OAR 734-051-0295 and 734-051-0305.

790 (4) Approval of an Indenture of Access for a public approach may require mitigation measures to  
791 ensure that the state transportation system can safely accommodate the traffic at the indentured  
792 location. Mitigation measures may include but are not limited to amendments to the  
793 comprehensive plan or transportation system plan; or modification to the public street system.

794 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 and 374.345; Ch. 972 and Ch. 974, Oregon Laws 1999  
795 Stat. Implemented: ORS 374.305 to 374.345 and 374.990; Ch. 974, Oregon Laws 1999, Chapter 371, Oregon Laws  
796 2003

797

798 734-051-0345

799 Region Review Process and Collaborative Discussion Option

800 (1) The Region Review process is an optional process that falls outside the 120-day timeline in  
801 OAR 734-051-0070(8) and applies to appealable decisions.

802 (2) To request a Region Review, an applicant must submit a written request to the Region  
803 Manager within 21 days of the mailing date of notice of an appealable decision and identify  
804 documentation to be presented at the Region Review.

805 (3) A Region Review Committee includes members with expertise in:

806 (a) Access Management policies;

807 (b) Roadway design standards;

808 (c) Right-of-way;

809 (d) Traffic engineering; and

810 (e) At least one Professional Engineer with experience in the issues being reviewed.

811 (4) The Department may invite a representative from the affected local jurisdiction with land use  
812 or transportation knowledge to provide input to the Region Review Committee.

813 (5) The applicant or permittee may present additional information in writing or in person to the  
814 Region Review Committee.

815 (6) The Region Review Committee shall meet, consider information presented, and provide  
816 written findings to the Region Manager.

817 (7) The Region Manager shall review the Committee's findings and approve, modify, or reverse  
818 the original decision; and

819 (a) Shall notify the applicant in writing within 21 days of the committee meeting;

820 (b) Shall include information on the applicant's right to request a contested case hearing on the  
821 original decision; and

822 (c) May include mitigation measures, conditions and terms to be incorporated into the  
823 Construction Permit or Permit to Operate or intergovernmental agreement for a public approach.

824 (8) An applicant may request a collaborative discussion within the Region Review process:

825 (a) Both the applicant and the Department must agree to the collaborative discussion.

826 (b) The collaborative discussion:

827 (A) Will be conducted under the Alternative Dispute Resolution model in ORS 183.502; and

828 (B) Will include a time limit of 45 days, or longer if the Department and the applicant agree, in  
829 the Agreement to Collaborate.

830 (c) The Region Manager is the final agreement authority and may make a binding decision for  
831 the Department.

832 (d) Any agreement made by the Region Manager:

833 (A) Shall be documented in writing;

834 (B) May require conditions or limitations to be incorporated into the Construction Permit or  
835 Permit to Operate; and

836 (C) Shall include information on the applicant's right to request a contested case hearing on the  
837 original decision.

838 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 and 374.345; Ch. 972 and Ch. 974, Oregon Laws 1999

839 Stat. Implemented: ORS 374.305 to 374.345 and 374.990; Ch. 974, Oregon Laws 1999, Chapter 371, Oregon Laws  
840 2003

841

842 734-051-0500

843 Authority and Purpose of OAR 734-051-0500 through 734-051-0560

844 (1) Pursuant to ORS 374.313, a person holding an interest in real property, which is or would be  
845 served by an approach may appeal the closure or denial of the approach under OAR 734-051-  
846 0355 by filing a claim for relief when:

847 (a) The Department closes an approach for which a permit was issued under ORS 374.310 or that  
848 was allowed by law prior to enactment of statutory permit requirements for approach roads, *or*  
849 *denies an application for an approach at the location of a grant or reservation of access*; and

850 (b) Such closure or denial is not the result of conditions contained in a contract, condemnation  
851 judgment, recorded deed or permit.

852 (2) The Department may offer remedies upon such closure or denial.

853 (3) OARS 734-051-0500 through 734-051-0560:

854 (a) Establish administrative remedies to address issues related to real property, value, utility and  
855 use; and

856 (b) Provide a simplified procedure for resolving the claim.

857 Stat. Auth.: ORS 184.616, 184.619, 374.313 & 374.345

858 Stats. Implemented: ORS 374.310, 374.313 & 374.345

859

860 734-051-0530

861 Procedure for Resolving Claims

862 (1) Parties may agree to participate in mediation consistent with the applicable provisions of  
863 ORS 36.180 to 36.210 at any time during the process of determining the appropriate remedies,  
864 but prior to the final order in any contested case under OAR 734-051-0355.

865 (2) During mediation the parties may discuss any appropriate remedies in reaching agreement.  
866 Such mediation may also occur during the collaborative discussion phase of the review  
867 procedure for the denial or closure. (See OAR 734-051-0345).

868 (3) The property owner and the Department also may enter into an agreement to collaborate if  
869 the Department determines that the difference between the remedies offered and remedies  
870 claimed by the property owner is less than \$30,000.

871 (a) The agreement to collaborate may provide for a mutually chosen mediator as defined in ORS  
872 36.185 to 36.210 to review the information made available to each party as of that time and other  
873 information mutually agreed to by the parties.

874 (b) The value of the remedies offered and claimed will include a dollar value assigned by the  
875 Department to any non-monetary remedies. Such review will result in a recommendation of  
876 remedies, subject to the condition that such remedies are neither less than the lower nor more  
877 than the greater of the offer and claim, in terms of assigned monetary value.

878 (c) The remedies recommended by the third party will be presented to the Director or the  
879 Director's designee. The Director or designee shall take this recommendation into consideration  
880 in making subsequent offers of remedies.

881 Stat. Auth.: ORS 184.616, 184.619, 374.313 & 374.345

882 Stats. Implemented: ORS 374.310, 374.313 & 374.345

Attachment II  
Description of Proposed Revision to Final Text in the OAR

## Description of Proposed Revision to Final Text in the OAR

Line 276: Revision clarifies ambiguity in statutory language. Revision makes clear intent as shown below.

(A)(i) The number of peak hour trips increases by 50 trips or more from that of the property's prior use; or  
(ii) The number of trips on a typical day increases by 500 trips or more from that of the property's prior use; and  
(B) The increase in subparagraph (A)(i) or (ii) of this paragraph represents a 20 percent or greater increase in the number of trips on a typical day and the number of peak hour trips from that of the property's prior use.

*ODOT interprets SB 1024 to mean that either of these conditions meet the threshold for change of use:*

*Condition 1:*

- Increase in peak hour trips  $\geq 50$  more than prior use peak hour trips  
*AND*
- Increase in peak hour trips  $\geq 20\%$  of prior use peak hour trips

OR

*Condition 2:*

- Increase in # of trips on a typical day  $\geq 500$  more than prior use on a typical day.  
*AND*
- Increase in # of trips on a typical day  $\geq 20\%$  more than prior use on a typical day.

Lines 278-280: The revisions clarify that ODOT must demonstrate that safety and operational problems related to traffic volumes and turning movements are occurring at the approach at the time it is reviewed for change of use. This revision is in response to subgroup comments that "safety and operational problems" needed more definition.

Line 281: Clarifies that "stopping" sight distance is the criteria applicable to this rule. This revision is in response to numerous comments received from subgroup and ODOT staff indicating confusing about what sight distance was intended.

Lines 283-286: Revisions clarify that ODOT, in addition to the applicant, may also perform the 85<sup>th</sup> percentile speed study and that the study and measurements must be performed according to ODOT procedures.

Line 299-300: Revision moves existing text to a place that fits better with intent that mitigation for change of use will be limited to solving safety and operational problems.

Line 329: Revision clarifies that application is only required for private approach.

Line 384: Revision makes requirement for traffic studies discretionary rather than mandatory. The change was suggested during subgroup discussions as a way to reduce the requirement and related costs for traffic impact analyses.

Lines 467-478: Revision clarifies that public approaches shall not be located in certain areas. The current rule prohibits ODOT from accepting an application for an approach in these areas. Under SB 1024, public approaches are no longer required to make application for an approach so this revision is needed to clarify that the rule continues to apply to public approaches.

Lines 687-688: Revision clarifies that public approaches need to apply for grant of access where no right of access exists for a public approach. This requirement is part of the current rule, but the current rule applies to an application for an approach. Under SB 1024, so this revision is needed to clarify that the rule continues to apply to public approaches.

Lines 726-727: This revision is needed because under SB 1024 public approaches are not required to make application for an approach permit.

Lines 776-779: This revision is needed because under SB 1024, public approaches are not required to make application for an approach permit.

Lines 848-849: This revision is to reinstate a provision that was removed in the temporary rules. The provision was removed based ODOT's understanding that it did not conform to the Oregon Court of Appeals decision in State v. Hansen, 162 Or. App. 38 (1999). After further consultation with the Department of Justice (DOJ), it was concluded that the Court's ruling in the Hansen case does not require the removal. DOJ advised ODOT to reinstate this provision because it would allow the Department to continue to use an administrative remedy in combination with an acquisition of access rights

Attachment III  
Nontraversable Barrier Criteria Concept

Legislative Concept to Establish Criteria  
for  
Installation of Non-traversable Barriers on State Highways

ODOT staff

1 This concept would allow ODOT to install a permanent, non-traversable median barrier on a  
2 segment of state highway when the following conditions are met:

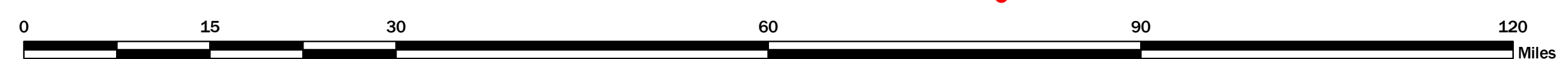
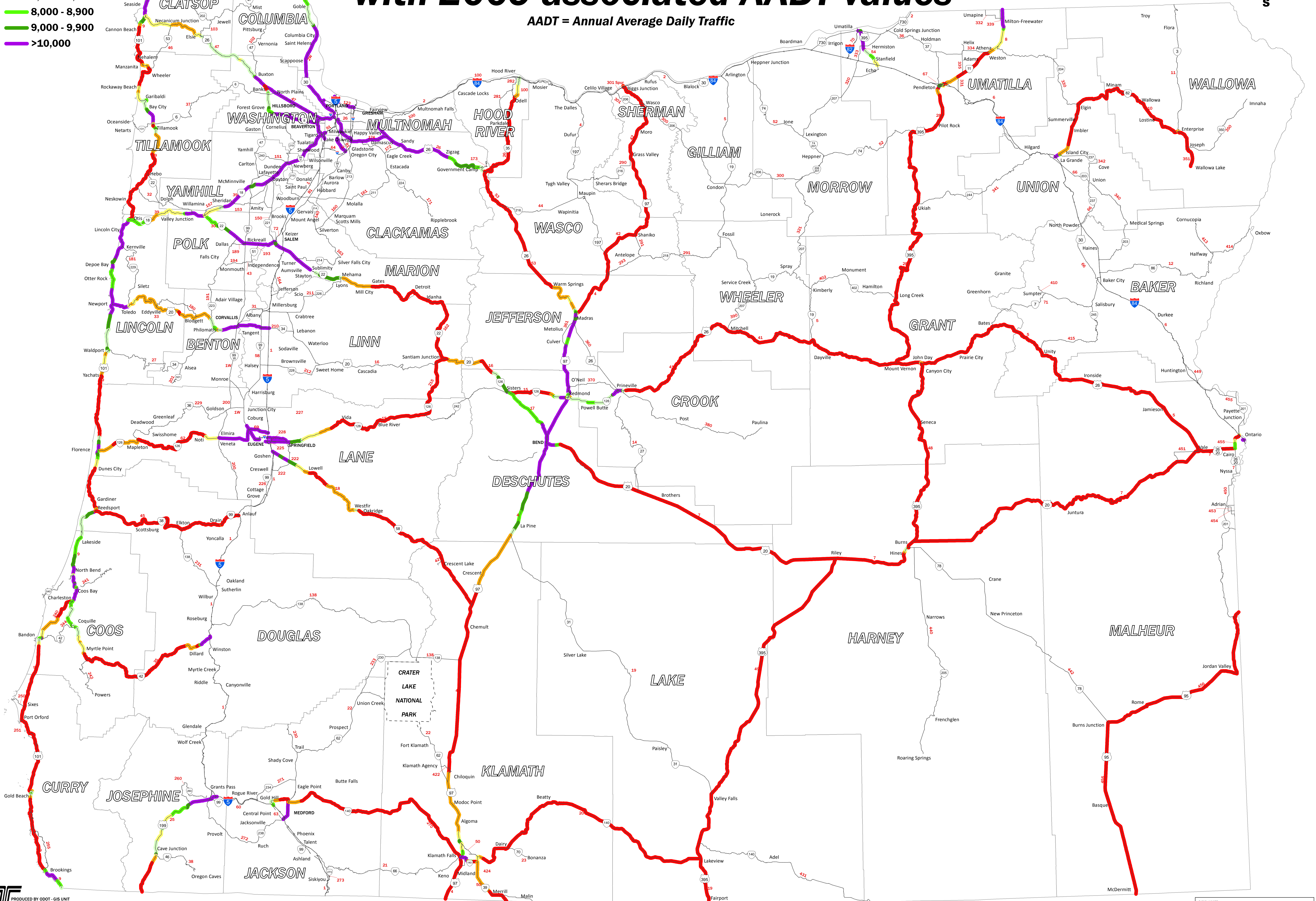
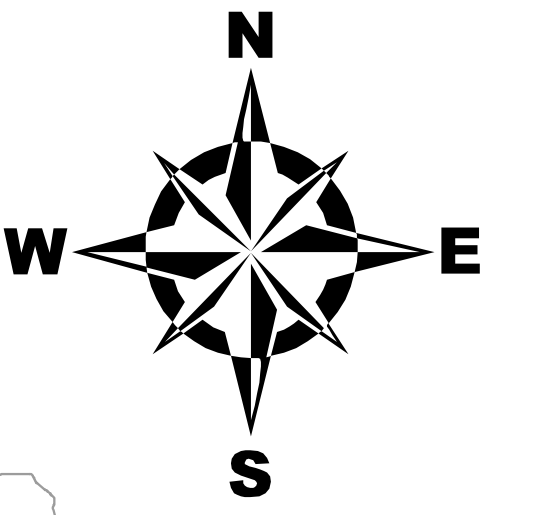
- 3 • The highway is a divided, access controlled highway; or,
- 4 • ~~The highway is located within an urban growth boundary and the application and location of~~  
5 ~~a non-traversable median is identified in the local adopted Transportation System Plan~~
- 6 • ~~Has otherwise made part of a land use/site plan condition of approval by the local~~  
7 ~~government; or~~
- 8 • ~~There is agreement between the ODOT and local jurisdiction that a non-traversable median is~~  
9 ~~required as a minimum to ensure a reasonable level of safety for motorists, and/or to mitigate~~  
10 ~~impacts to safe traffic operations; or,~~
- 11 • The highway is located outside of an urban growth boundary or in an unincorporated area  
12 provided that:
  - 13 ○ The annual average daily traffic volume is greater than 5,000; and,
  - 14 ○ ~~The highway has more than one lane in each direction of travel; and,~~
  - 15 ○ The department has installed traversable medians at the location; and,
  - 16 ○ The department has determined that traversable medians have not reduced the number  
17 and frequency of traffic crashes; and,
  - 18 ○ The department has determined that installation of non-traversable barrier will not  
19 reduce the vehicle-carrying capacity of the roadway; and,
  - 20 ○ The department has provided notice to stakeholders, residents, and businesses along  
21 the affected highway segment. (The timeframe and form of notice may be more  
22 appropriate to set in administrative rule.) ;~~OR~~
  - 23 ○ ~~There is agreement between the ODOT and local jurisdiction that a non-traversable~~  
24 ~~median is required to ensure a reasonable level of safety for motorists, and/or to~~  
25 ~~mitigate operational impacts.~~

Attachment IV  
Statewide Class AADT

# O.D.O.T. Statewide Highway Classified Roads with 2009 associated AADT values

AADT = Annual Average Daily Traffic

- AADT**
- <5,000
  - 5,000 - 5,900
  - 6,000 - 6,900
  - 7,000 - 7,900
  - 8,000 - 8,900
  - 9,000 - 9,900
  - >10,000



Attachment V  
Criteria for State Highway with less than 5K ADT



Proposal: The proposed strategy for identifying which Statewide Classification routes to apply less stringent standards is based on the following criteria.

- a.) VOLUME: Volumes less than 5000 AADT.
- b.) POSTED SPEED: Posted Speeds less than 40MPH
- c.) EXPRESSWAY DESIGNATION: Routes that are NOT designated as an Expressway.
- d.) SEGMENT LENGTH: Based on analysis of contiguous segment length.

A recommendation will come back to the Access Management Stakeholder Committee on how these criteria on which Statewide Classification routes should fall under the less stringent standard, and which would remain under the existing access management standards.

Attachment VI  
SB1024 – 5000ADT Concept with revisions per September 13-2010

**Revised Standards and Approval Criteria**  
**Traffic Volumes Under 5000 Annual Average Daily Traffic**  
**(AADT)\***

**Regional and District Highways**

(\*AADT based on latest publication of Traffic Volume Tables)

**Approval Criteria**

The Region Manager shall approve a private approach to the highway under the following conditions:

- Projected left-turn volumes from the approach to the highway are below \*75 vehicles per hour (vph) in the peak hour, **and**
- The property has a right of access, **and**
- The property has no other direct approach to the highway, **and**
- The applicant agrees to provide mitigation needed to address safety problems

***There was a general consensus that there is a need to ensure adequate sight distance as a criterion.***

If more than one approach is requested for a property, approval of additional approaches will be based on meeting one of the following criteria and the applicant's agreement to provide mitigation needed to address safety problems:

- The spacing standard is achievable for both (all) driveways to the property as well as adjacent properties, **or**
- The applicant demonstrates that the approved highway access and ~~any alternate~~ **all available** access to the property does not provide reasonable access to the proposed land use that meets the criteria of ORS 374.310, **or**
- Where a property has more than one **direct** existing approach to the highway, the applicant agrees to changes that would "move in the direction of" (as defined in OAR 734-051-0040(39)) conformance with existing standards.

***"the approval criteria for private approaches to the highway do not provide objective criteria for safety, safety is not defined". ODOT agreed work still needs to be done on the safety aspect.***

**For Regional and District Level Highways** with traffic volumes under 5000 AADT, the revised spacing standard are shown in the table below. Where the above Approval Criteria are met, the application for the first driveway will be approved based on the Revised Spacing Standard table below, or in situations where there is no other available access to the property and the spacing standards cannot be achieved, the approach shall be located to ~~maximize~~ **optimize** spacing and safety. The spacing standard will be the same for both urban and rural highways and for commercial, **industrial** and residential applications.

***Bold italic text is inserted into the draft document to reflect; consensus on revisions, recommendations for additional or revised text, and, general comments related to issues that have not been resolved within the Access Management Committee at their September 13, 2010 meeting. Agreement on text to be deleted is identified with a strike through line. Revision date – October 21/2010 - Huntington.***

***” the spacing standards don’t take into account the various needs required for industrial properties as they may require two or three driveways for various functions on the property”***

**Revised Spacing Standards:**

~~Maximum spacing available to adjacent driveways and road approaches up to:~~

- ~~≤ 25 MPH - Spacing = 150 feet~~
- ~~30 to 35 MPH - Spacing = 250 feet~~
- ~~40 to 45 MPH - Spacing = 360 feet~~
- ~~50 MPH - Spacing = 425 feet~~
- ~~55 MPH - Spacing = 650 feet (typically running speed for these areas is 65 MPH)~~

**Existing Spacing Standards:**

Speed:	District Level Highway		Region Level Highway	
	Rural	Urban	Rural	Urban
≤ 25 MPH	400 ft	350 ft	450 ft	350 ft
30 & 35 MPH	400 ft	350 ft	600 ft	425 ft
40 & 45 MPH	500 ft	500 ft	750 ft	750 ft
50 MPH	550 ft	550 ft	830 ft	830 ft
55 MPH	700 ft	700 ft	990 ft	990 ft

***There is continuing interest in developing a trip threshold to the property as a means to determine the number of driveways to serve the property.***

**Median Exclusion**

For Regional and District Level highways under 5000 AADT and projected peak hour left-turn volumes from the approach to the highway that are determined to be acceptable given the character and function of the surrounding corridor, a non-traversable median will not be required as mitigation for a private approach. The exception is where a non-traversable median is needed to mitigate identifiable safety or traffic operational problems, or is made a condition of approval by the local government or a requirement as set forth in their adopted Transportation Plan ***or adopted Access Management Plan.***

***Difficulty in determining impacts for exclusions to medians until there is agreement on the drafted legislative concept language related to medians.***

**“Move in the Direction of”** (as defined in OAR 734-051-0040(39))

A traffic impact analysis (TIA) may be required to evaluate the impact of the approach to local streets and identify mitigation measures. The Region Access Management Engineer (RAME) may waive the TIA if the RAME and the applicant agree on a solution that will “move in the direction of” conformance with existing standards or improve safety factors.

***General consensus to develop additional criteria that would achieve “moving in the direction of”***

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## **Exemptions**

These approval criteria do not apply to the following:

- approaches in an interchange management area (with 1320' of ramp terminal), the influence area of a public road intersection, expressways and highways in the statewide classification of the Oregon Highway Plan. These facilities are the highest priority. Less stringent standards present a greater risk of loss to public investment in safety and efficient traffic operations.
- Left turn volume from the approach to the highway equals or exceed 75 vph in the peak hour.
- Access management plan, interchange area management plan, facility plan, refinement plan, or other transportation or project plan approved by the local government or the Oregon Transportation Commission, or applicable local ordinances that establish more stringent standards.

**How This Helps Applicant:** These changes provide the following benefits for the applicant:

- increased certainty of obtaining direct highway access
- reduces need to request a deviations because of lower spacing standards
- eliminates consideration of alternate access as criteria in approving first highway approach.
- Mitigation to address mobility impacts is eliminated.

***ODOT agreed work still needs to be done on “How This Helps Applicant”***

## **Potential Negative Impacts/Concerns**

- Increase in R/W cost when over time conditions warrant closing of approaches.
- Cumulative effects on safety and operations of increasing access densities over time. For speed 25 conditions, this would be 4 times higher densities.
- More direct highway access has cumulative impacts. Properties develop around use of approaches so when growth does occur and access conditions deteriorate, solutions are more limited and more expensive to implement.
- Diminishes opportunities to promote joint use of approaches
- Missed opportunities to apply access management techniques that would be more effective protecting highway capacity and function in the long run.
- Having spacing standards that are less stringent will result in more turning conflict points in the highway system and may be determined not acceptable in some circumstances .
- Basing decisions primarily on safety means less mitigation of impacts to traffic operations, unless we can make connection to safety. Operational problems and expectation to solve them in projects will likely increase the cost of projects.
- On high use recreational highways, the AADT will be greatly exceeded. So, the impacts to these routes would be much more significant during the peak seasons and the risk for crashes will be higher.

***There was a recommendation to reduce the number of bullets, collapse or combine items to provide better clarity for the reader.***

***Bold italic text is inserted into the draft document to reflect; consensus on revisions, recommendations for additional or revised text, and, general comments related to issues that have not been resolved within the Access Management Committee at their September 13, 2010 meeting. Agreement on text to be deleted is identified with a strike through line. Revision date – October 21/2010 - Huntington.*** 3

(\*) The 75 left turn exiting vehicles per peak hour is the calculated threshold for when a highway with 5000 AADT would fail its mobility standard. The assumptions connected with this are.

- 1) The 5000 AADT is equally distributed. i.e. 2500 trips in each direction.
- 2) The 75 left turns out also has 75 right turns or through movements out, for 150 exiting vehicles
- 3) As such, there is also a 150 entering vehicles, with equal distribution for arriving.

The 150 exiting vehicles with 150 entering vehicles in the peak hour equates to a development of about 3000 trips per day. Based upon a highway AADT of 5000, one would not expect to see these conditions. However, smaller developments could trigger some of these conditions, if the traffic flow is unbalanced and predominately from one direction.

**Attachment VII**  
**Support of Infill and Redevelopment – DRAFT with edits**



## Support of Infill and Redevelopment on State Highways within the Urban Growth Boundaries y DRAFT

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### **ORS 374.310 Rules and regulations; permits.**

(3) The powers granted by this section and ORS 374.315 may not be exercised so as to deny any property adjoining the road or highway reasonable access. In determining what is reasonable, the department or county court or board of county commissioners shall apply the following criteria:

(a) The access must be sufficient to allow the authorized uses for the property identified in the acknowledged local comprehensive plan.

(b) The type, number, size and location of approaches must be adequate to serve the volume and type of traffic reasonably anticipated to enter and exit the property, based on the planned uses for the property.

Is there a different process for very large developments? Also, we don't discuss locations where the department has purchased access control. My assumption is this would not be applicable where access control exists unless there is a reservation. Do I have this right?

### **ODOT Policy to Support and Encourage Economic Development**

It is acknowledged that ODOT encourages and supports infill and redevelopment within the Urban Growth Boundaries (UGB). ODOT shall support development requests approved by the local government consistent with the approved land use zoning and conditional uses of properties adjacent to state highways within UGBs under the following conditions as identified in this document.

It is acknowledged that the existing approaches and approach spacing on the state highway may not currently meet the access management spacing standards. Application of the policy may result in additional direct access to state highways that may not meet the access spacing standards.

Would prefer a definition in which a development that generates a certain number of trips is guaranteed a certain number of approaches, acknowledging that large developments cannot succeed when limited to one approach.

It is acknowledged that operations along the state highway may currently, or in future, exceed the desired volume/capacity standards as identified in the 1999 Oregon Highway Plan.

It is acknowledged that there will not be an investment of ~~public~~ **state** funds on the state highway to mitigate impacts associated with infill and redevelopment.

It is acknowledged that motorists entering the highways from adjacent developments within the infill and redevelopment may experience longer delays during portions of the day than is typically expected when entering the highway at city street or county road intersections.

It is acknowledged that solutions to “move in the direction of” will not require the applicant to submit a request for a deviation. ODOT staff may write findings to define the site improvement, though this is not considered a deviation.

It is acknowledged that ODOT approval for the approach application(s) does not guarantee approval for the proposed development or the approach from the local government. It is further acknowledged that where local access management standards exist, it is necessary for approach to be in compliance with local ordinance. The local government may affect an exception to their ordinance for locating an approach, deny an approach, and/or require mitigation for a development as part of their land use site plan approval. Developers are responsible to work with the local agencies to achieve appropriate approvals.

It is acknowledged that approval of approach applications for developments with less than 50 parking spaces in the identified highway segments will not result in a requirement to mitigate upstream or downstream operational or safety (**basic safety concerns should still apply, i.e., sight distance**) concerns on the highway. Developments with 50 or more parking spaces may be required to **perform additional analysis and** mitigate impacts upstream and downstream of the proposed development.

### **Infill and Redevelopment will be encouraged in the following areas;**

Recommended method to determine where infill and redevelopment will be encouraged. **If this requires ODOT and the local jurisdiction to specifically identify areas, I suggest a timeline be required for this. Otherwise it should apply to all highways within a UGB unless access controlled or an expressway**

1. ~~Define~~ **Designate** specific highways segments, similar to the expressway, Urban Business Areas (UBA), and Special Transportation Area (STA) designation. **Dislikes the segment designation as it is too long a process and may not get local buy-in. Can we use posted speed? Can ODOT designate segments w/o local government approval?**
  - a. This allows for the consideration of all highways and doesn't limit the conversation to Regional and District highways.

- b. To make the process transparent for the end-user, identify the name of the highway, with a clearly defined beginning and ending point, ideally a city street or county road intersection.
- c. This process would allow for a conversation with the local government on the precise locations where the infill and re-development will be encouraged. It is recommended that ODOT engage in a conversation with the city on the precise limits of the “infill and redevelopment” corridor.
- d. Allows for an easy process to include or exempt interchange management areas as appropriate.
- e. Not sensitive to existing or future traffic volumes on the state highway. (eliminates the debate)
- f. Eliminates or reduces debate about the posted speed and the impact on the adjacent development. If a highway has speeds that are considered excessive, it may not be a suitable candidate for and infill/redevelopment segment. (Some of the potential highway segments may have high volumes, high congestion levels, and relatively slow speeds during the am, noon and pm peak hours, and therefore may be considered for this designation as the speeds are slower during the busiest time of commercial activity adjacent to the highway)
- g. Eliminates or reduces the debate about encouraging urban sprawl for those properties that may be zoned for development, but inappropriately located. (Unclear on how this helps. Provide clarifying text)

### **Steps for ODOT Approval for an Approach in Infill and Redevelopment Segments**

Department of Justice Assistant Attorney General adds:

Regarding the bullets on pages 3 and 4: It appears that these “steps” are intended to guarantee direct access to the state highway of at least one approach. This guarantee of direct access seems to supercede and override every other concern, except for sight distance. The bullets do not seem to provide any leeway in the decision of direct access, only qualifiers (if this - then that). The guarantee of direct access raises similar liability concerns to those noted above. In addition, if ODOT wanted to deny the approach for whatever other reason, it would not be able to use the approach permit process, and would be forced to use condemnation to eliminate the access right. Taken together, the bullets on pages 3-4 substantially increase ODOT's obligation to compensate the property owner if ODOT is unwilling to allow the approach. These “steps” put substantial constraints on ODOT's ability to deny approach applications and use approach permitting as a safety or operational tool.

- Each applicant for properties with a right of access to the state highway will be assured a minimum of one approach, assuming that sight distance is available as defined below.
- The applicant is responsible to provide adequate site-circulation on the property to ensure that; vehicles entering the property do not queue onto the state highway, all

- entering and exiting movements to and from the property are in a forward motion (the motorist is not required to back onto the highway to enter or exit the property), and if necessary, provides an approach design to maximize exiting capacity, i.e., separate right/through/left-turn lane.
- For each approach being requested or modified, the applicant must demonstrate that there is existing and future sight distance of 10 times the posted speed in both directions on a two-way highway, or 10 times the posted speed as measured to the left for approaches that will function as a Right-In/Right-Out (RI/RO) only approach, or 10 times the posted speed as measured to the right for approaches that will function as a Left-In/Left-Out (LI/LO) only approach **on a one-way road and, (Left out requires SSD in both directions for two way)**
  - A full movement driveway will be approved at each location where the access spacing standards are met. The exact location of the **full movement** approach may be shifted upstream or downstream to maximize safety and operations, **even if spacing standards would not be met.**
  - A RI/RO or LI/LO will be approved at each location where one half of the access spacing standards are met and where the highway has a non-traversable median or properties adjacent to a one-way highway (i.e., couplet). The exact location of the approach may be shifted upstream or downstream to maximize safety and operations.
  - In those locations where an existing or requested approach connects to the highway with a Continuous Two Way Left Turn Lane (CTWLTL), the developer will not be required to meet a volume/capacity (v/c) threshold for left-turns entering and exiting the approach if the median provides an adequate refuge for motorists.
  - In those locations where an existing or requested approach connects to the highway where there is no median (typically a two lane or a four lane highway), the developer will be required to meet a v/c threshold of 0.95 for roadway operations. Inability to meet this threshold may support the need for an additional approach to the highway. **I am worried this compounds the problem too much. Since the development already has a high use approach to the highway, can the first option be an additional or enhanced approach on the local system. If that doesn't work a second approach could be considered. I would like to see an exception where alternate access is available, allowing motorists a choice when exiting a site. This recognizes an approach may be less .95 during all but the peak hour.**
  - On a three-lane cross section approach (two exiting lanes, one for left-turns and one for right-turns) where operational analysis identifies that the 95<sup>th</sup> percentile queue during the am and/or pm peak hour analysis exceeds four vehicles in the left-turn lane, the finding may support an additional approach to the highway. **Same comment as above**
  - As applications are processed for redevelopment, “moving in the direction of” shall include, but may not be limited to;
    - All vehicle traffic movements to and from the highway shall be completed without any backing maneuvers, and, **This seems like a pretty low bar.**

Would this only apply as “moving in the direction of” if the existing situation has backing maneuvers?

- Widening of existing driveways to accommodate truck turning radius requirements for vehicles that frequent the site, or
  - Widening of existing driveways to accommodate additional exit lanes (separate right and left turning vehicles), or
  - Narrowing of existing driveways while remaining mindful of the need to meet the required truck turning radius and on-site circulation for vehicles that frequent the site and to provide the appropriate number of entry and exit lanes as required for the site, or
  - The development of a throat on the approach entrance to allow for more efficient movement of motorists from the highway. This may include the elimination of on-site obstructions and/or parking stall(s) near the highway, or other complex driving tasks that require the motorist to pause or wait for on-site traffic operations to improve before exiting the highway. The goal is to eliminate queues that may currently extend onto the highway.
  - **Implementation of modal improvements to enhance safety and operations of alternate modes.**
- Moving in the direction of” does not preclude developers from requesting a traffic signal, roundabout, turn lanes or other improvements that they determine may improve traffic operations.

## Exclusions

- Highway segments that are identified and acknowledged as “safety corridors” are not eligible for an “infill and redevelopment” designation. **Are expressways included?**

## Recommendation

It is recommended that in 18 – 24 months after the implementation of this policy, participants of the 2010 SB 1024 Access Management Committee evaluate the effects of “infill and redevelopment” corridors, including a review of:

- A comparison of pre and post crash data,
- Discussions with developers along the corridors to determine the transparency of the revised process, and gain understanding of their perspective.
- Discussions with local agency officials to determine their perspective on the infill and redevelopment designation.
- A comparison of pre and post travel times through the corridor during various time periods of the day **and v/c ratio operations, accounting for changes in through traffic volumes on the highway.**

Selected portions of the existing OAR related to “moving in the direction of”, and infill and redevelopment.

#### **OAR 734-051-0040 Definitions**

(39) "Move in the direction of" means that changes in the approach(es) to a property abutting the highway would bring a site closer to conformance with existing highway standards including where existing approaches to the highway or expressway are combined or eliminated resulting in a net reduction in the number of approaches to the highway or expressway, improvements in spacing of private approaches or public approaches, or improvements to intersection sight distance.

#### **OAR 734-051-0080 Criteria for Approving an Application for an Approach**

(3) For a private approach in a rural area and on a statewide, regional, or district highway or an expressway or within the influence area of an expressway interchange or freeway interchange, with alternate access to the property, the Region Manager shall approve an application if the applicant demonstrates that:

(a) Either:

(A) The alternate access cannot be made reasonable as set forth in section (8) of this rule; or

(B) The proposal is for infill or redevelopment and approval of the proposal will result in a net reduction of approaches on the highway or the net result improves safety for any remaining approaches;

#### **OAR 734-051-0135 Deviations from Access Management Spacing Standards**

(4) When a deviation is considered, as set forth in section (1) of this rule, and the application results from infill or redevelopment:

(a) The Region Access Management Engineer may waive the requirements for a Traffic Impact Study and may propose an alternative solution where:

(A) The requirements of either section (2) or section (3) of this rule are met; or

(B) Safety factors and spacing improve and approaches are removed or combined resulting in a net reduction of approaches to the highway; and

(b) Applicant may accept the proposed alternative solution or may choose to proceed through the standard application review process.

#### **OAR 734-051-0040 Definitions**

(31) “Infill” means development of vacant or remnant land passed over by previous development and that is consistent with zoning. Infill occurs in urban areas. It may also occur in rural areas on commercial or industrial zoned land where the land has been developed into an urban block pattern including a local street network, and the posted highway speed is at or below 45 miles per hour.

(52) “Redevelopment” means the act or process of changing existing development including replacement, remodeling, or reuse of existing structures to accommodate new development that is consistent with current zoning. Redevelopment occurs in urban areas. It may also occur in rural areas on commercial or industrial zoned land where the land has been developed into an urban block pattern including a local street network, and the posted highway speed is at or below 45 miles per hour.