



# Huntington TRAFFIC SOLUTIONS

1665 A Street NE Salem, OR 97301

503-467-1311

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**Access Management Committee Meeting**  
**ODOT Human Resources Center, Conference Room A**  
**2775 ~ 19<sup>th</sup> Street SE, Salem, OR 97302**  
**November 15, 2010**  
**8:15 AM – 12:30 PM**  
**FINAL**

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**Facilitator:** Del Huntington.

**Attendees:** Brent Ahrend, Doug Bish, Bob Bryant, Victor Dodier, Matt Garrett, Erik Havig, Jamie Jeffrey, Harold Lasley, Michael Rock, Bob Russell, Craig Campbell, Don Forrest, David Warren, Jim Hanks, and Craig Honeyman attended in person. Senator Whitsett attended by telephone.

**Meeting Notes:** Del Huntington.

***Introductions and Approval of Minutes***

Self introductions were made. No comments were made regarding the October 15, 2010 Access Management (AM) Committee meeting minutes.

***Review of final OAR for “Change of Use” per SB 1024***

Harold Lasley provided an overview of the revisions to the text in the Oregon Administrative Rules (OAR) for “Change of Use” as requested by the AM Committee at the October 27<sup>th</sup> meeting (*See Attachment I*). All the committee recommendations were incorporated into the final proposed OAR. A question was raised in regards to the proposed order of wording on Lines 465 – 469. It was recommended that the text be modified as follows;

(18) A new public approach shall not be located on a freeway, a freeway ramp, or an expressway ramp. A new public approach that would be aligned opposite a freeway or expressway ramp must be ~~approved by the Chief Engineer and adopted by the Oregon Transportation Commission~~ and included in an Interchange Area Management Plan or Access Management Plan approved by the Chief Engineer and adopted by the Oregon Transportation Commission.

***Additional discussion on the OAR***

Jamie asked a question related to the grant of access process for a public street (Page 18, Line 688-689) and expressed a concern that the proposed language is unclear. Harold provided insight that as public agencies no longer require a permit, the rule defines the process when local agencies seek permission to construct a public road where there are

no rights of access. There have also been rare instances where ODOT is made aware of existing public roads across an access control line. The rule provides ODOT with the ability to resolve the issue with the local agency.

The AM Committee unanimously recommended that the Oregon Transportation Commission (OTC) adopt the final OAR with the revision to Lines 465-469 as identified above. It is understood that this will occur at the December 15, 2010 OTC meeting.

To facilitate a required public hearing on the OAR on November 16, 2010, prior to advancing the rule to the OTC, an earlier version of the document was distributed to stakeholders for review. It was recommended that ODOT staff enter the revised text from Lines 465-469 into the public hearing process. In the event that additional recommendations are made to significantly revise the final OAR, on November 16<sup>th</sup>, Del will work with ODOT staff and convene a conference call with the AM Committee to provide a final review and recommendation for the Oregon Transportation Commission (OTC).

Director Garrett provided insight on issues that are advanced to the OTC and typical timelines that may be expected for various agenda items. Approval of the OAR would typically be on the OTC consent calendar, however, the Director committed to submitting the OAR as a formal agenda item. This action would allow for a broader discussion at the OTC meeting of the AM Committee work and the expected outcome of the ODOT/stakeholder process as required by SB 1024.

### ***Medians***

Based on the recent consensus at the AM median sub group meeting on November 5<sup>th</sup>, three separate legislative concepts have been developed in coordination to achieve the ability to use raised non-traversable medians as a measure of last resort when considering development applications and possible mitigation measures.

#### ***Multi-tiered mitigation strategy for median treatments (Would only apply to ODOT)***

Victor provided an overview of the “Legislative Concept Concerning ODOT’s Use of Barriers” (*See Attachment II*). Lines 5 through 25 are specific to a multi-tiered mitigation strategy when considering individual development applications. Lines 27 – 30 are specific to the projects in which a raised/depressed non-traversable median is to be installed through a corridor to improve safety on the roadway. Lines 32 - 34 deal with both separate development applications and corridor median treatments.

There was general consensus on the concepts introduced on page 1, Lines 5 – 25 and accompanying text on page 2 with some exceptions and recommendations.

It was questioned if the sentence on page 1, Line 10 and 11 provided an objective standard. It was recommended that in the event ODOT knows that a safety problem exists, and if they know that a raised non-traversable median is the only solution based on

an objective standard, they should not be required to go through a multi-tiered process. It was recommended that this sentence be deleted as follows;

- Requires ODOT to follow a multi-tier approach beginning with pavement markings and signage on an applicant's property and moving to well designed "pork chops" and similar traffic islands located on the property or at the curb line, to pavement markings or signage on the highway and to permanent non-traversable barriers as a last resort. ~~ODOT will determine which tier is appropriate depending on projected left turn volume and crash history.~~

There was general agreement that the concept should include a consideration of economic impacts.

Concerns were expressed on text on page 2, Lines 8 & 9, specifically related to how the "projection of left turns" could be considered an objective standard, and "as determined by traffic studies" though it was unclear on who would conduct the studies. The two issues were not resolved.

There was general consensus on the concepts introduced on page 1, Lines 32 – 34 with the following recommendation.

- Finally, the concept requires ODOT to discuss all installations of non-traversable barriers in the roadway on two-lane roads with ~~stakeholders~~ users as described in the Highway Operations Mobility Manual.

Consensus could not be reached on the concept outlined on page 1, Lines 27 – 30. It was recommended that this portion be pulled out of the legislative concept to allow for additional consideration and discussion.

The concerns included several general themes;

- a) How will this concept apply to planning?
- b) How will the proposed text impact project development?
- c) How does the loss of left-turns to and from adjacent properties create economic impacts, how is this evaluated and how does ODOT compensate impacted property owners?
- d) Can an impacted property owner use the appeals/hearing process to introduce the economic impact and losses when a raised non-traversable median is installed?
- e) How do you determine criteria related to out-of-direction travel?

Senator Whitsett expressed his concern that the installation of corridor non-traversable medians significantly impact property owners adjacent to the highway and results in unacceptable economic impacts. Jim Hanks added that the current appeals process does not provide standing to allow for a discussion on economic impacts when a non-traversable median is installed. Jim also recommended that "residents" be added to the list of notified property owners who are notified in advance of the installation of a median barrier.

Don Forrest stated that large corporations are able to determine economic impacts associated with the loss of turn movements though small business are unable to conduct this type of analysis.

Mark Whitlow stated that the issue is intertwined with Oregon Revised Statute (ORS) 374.313 related to remedies for property owners. Mark proposed a concept that partial closure of a driveway (the restriction on certain turn movements) would be eligible for compensation.

Brent Ahrend – It is critical to identify the movements to and from each individual property rather than simply installing a non-traversable median.

Jamie Jeffery – Requiring ODOT to consider all the possible economic impacts is very significant, however, ODOT should not be requiring motorists to go through neighborhoods or residential areas as a means to return to their destination when a non-traversable median is installed. Related to businesses, Jamie believes that it is most important to ensure that the customer is able to easily access the development. Customers are generally more willing to take a more circuitous travel pattern when they leave the site.

Senator Whitsett and Director Garrett requested that the AM Committee determine areas of agreement on corridor median treatments, and continue to work on the economic impact discussion. Matt Garrett asked Del to review processes that are used in other states to determine if there are existing processes that could be used as a model to assist in the conversation.

*Dividers Designated by Pavement Markings (Would apply to ODOT, Cities and Counties)*

Doug Bish provided an overview of the proposed legislative concept that a double-double solid yellow line in tandem with cross hatching (*See Attachment III*) would restrict turn movements across the flush median.

Craig Campbell recommended that the proposed additional text be modified.

**Amend ORS 811.430 to read as follows:**

**811.430 Driving on highway divider; exceptions; penalty.**

(1) A person commits the offense of driving on a highway divider if the person drives a vehicle over, across or within a dividing space, barrier or section that is an intervening space, physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic and that divides a highway into two or more roadways.

**(a) For purposes of this section, solid double yellow lines with yellow crosshatching between the double yellow lines shall constitute a highway divider.**

*U-Turns (Would apply to ODOT, Cities and Counties)*

Del provided an overview on the proposed text that ODOT will advance to allow U-Turns at intersections unless signed otherwise (*See Attachment IV*). There was a discussion to certain aspects of the existing ORS and how the statute is currently interpreted and enforced. The AM Committee is satisfied with the language and suggested that ODOT should use their discretion related to any possible modifications to (A) & (B).

#### ***Consideration of an Exclusion of Certain Statewide Highways from Impacts of SB 1024***

Del provided an overview of the AM Committee work to date relating to SB 1024 Section 1 (5) which states:

(5) The department shall establish access management rules, mitigation measures and spacing and mobility standards that are less stringent for highway segments where the annual average amount of daily traffic is 5,000 motor vehicles or fewer, than highway segments where the annual average amount of daily traffic is greater than 5,000 motor vehicles.

The AM Committee previously reviewed a draft concept developed by ODOT for Regional and District level highways to meet the intent of SB 1024 (5). The concept did not include statewide highways though ODOT asked the committee to consider a recommendation for permission to exclude certain statewide highways from the requirements of SB1024.

A map (*See Attachment V*) identifies those statewide highways where the annual average daily traffic (AADT) is less than 5,000 which represents many miles of rural highways across the state. The ODOT request is for the AM Committee to advance a recommendation in the Legislative Report to request that rural statewide highways, and/or statewide highways over a certain posted speed be exempted from the requirements of SB 1024 (5).

Jamie asked why ODOT would want to make a distinction on statewide highways when the traffic volumes are similar to regional and district level highways. Del responded that statewide highways interstate role and intended to provide high levels of mobility to through traffic across the state. Statewide highways also carry a high number of motorists that may not be familiar with the roadway, and a high number of trucks transporting goods and services across the state. Regional and district highways often serve more local uses and shorter trip destinations. In the October 27<sup>th</sup> AM Committee meeting, Mark Whitlow stated that based on his recollection on how SB 1024 was developed, the legislature was most concerned with providing relief related to access management standards and mitigation measures for businesses and impacted property owners in the urban environment.

Del referred to “DRAFT SB 1024 – Reasonable Access Change Proposal, Nov. 14, 2010” Page 5, Table 1 and 2 (*See Attachment VI*). As proposed in Table 1, rural statewide

highways would be exempted from reduced AM standards. As proposed in Table 2, urban statewide highways posted at 50 mph and higher would be exempted from reduced AM Standards.

The committee recommended that Table 1 be revised. The “Less than 5,000 ADT” to be revised from N/A to the identical spacing criteria identified in the “Non-Expressway” column. An additional column is to be added for “Unincorporated Communities” with recommended access spacing standards as shown below.

Table 1  
Access Spacing Standards for Statewide Highways - Rural

<b>Posted Speed</b>	<b>Expressway</b>	<b>Non-Expressway<sup>1, 2</sup></b>	<b>Less than 5,000 ADT<sup>1, 2</sup></b>	<b>STA</b>	<b>Unincorporated Communities</b>
<b>55</b>	<b>5280</b>	<b>1320</b>	<b>N/A 1320</b>	<b>N/A</b>	<b>N/A</b>
<b>50</b>	<b>5280</b>	<b>1100</b>	<b>N/A 1100</b>	<b>N/A</b>	<b>N/A</b>
<b>40 &amp; 45</b>	<b>5280</b>	<b>990</b>	<b>N/A 990</b>	<b>N/A</b>	<b>750</b>
<b>30 &amp; 35</b>	<b>N/A</b>	<b>770</b>	<b>N/A 770</b>	<b>N/A</b>	<b>600</b>
<b>&lt; or 25</b>	<b>N/A</b>	<b>550</b>	<b>N/A 550</b>	<b>N/A</b>	<b>450</b>

<sup>1</sup> If the property is landlocked, an application can be approved without processing a deviation (assuming that there is SSD on the roadway).

<sup>2</sup> The spacing standard for Right-in/Right-out and Left-in/Left-out Approaches is ½ the spacing shown in the table on one-way highways or highways with a raised non-traversable median.

The recommended access spacing for unincorporated communities is based on existing spacing standards for rural regional highways at similar posted speeds.

Table 2  
Access Spacing Standards for Statewide Highways – Urban

<b>Posted Speed</b>	<b>Expressway</b>	<b>Non-Expressway<sup>1, 5</sup></b>	<b>Urban Business Area<sup>1, 2, 5</sup></b>	<b>Less than 5,000 ADT<sup>1, 2, 5</sup></b>	<b>STA</b>
<b>55</b>	<b>2640</b>	<b>1320</b>	<b>N/A</b>	<b>1320</b>	<b>N/A</b>
<b>50</b>	<b>2640</b>	<b>1100</b>	<b>N/A</b>	<b>1100</b>	<b>N/A</b>
<b>40 &amp; 45</b>	<b>2640</b>	<b>990</b>	<b>TBD<sup>3, 4, 5</sup></b>	<b>360</b>	<b>N/A</b>
<b>30 &amp; 35</b>	<b>N/A</b>	<b>720</b>	<b>TBD<sup>3, 4, 5</sup></b>	<b>250</b>	<b>6</b>
<b>&lt; or 25</b>	<b>N/A</b>	<b>520</b>	<b>TBD<sup>3, 4, 5</sup></b>	<b>150</b>	<b>6</b>

<sup>1</sup> If the property is landlocked, an application can be approved without processing a deviation (assuming that there is SSD on the roadway).

<sup>2</sup> The spacing standard for Right-in/Right-out and Left-in/Left-out Approaches is ½ the spacing shown in the table on one-way highways or highways with a raised non-traversable median.

Jamie identified a concern with the word “landlocked” in footnote <sup>1</sup> in both Table 1 and 2. The City of Portland defines the word as a property with no means of any available access. ODOT staff will review and revise as appropriate.

As certain statewide highways carry long distance motor vehicle trips, good and services, motorists that may not be familiar with the highway, the AM Committee recommends that the legislature consider excluding certain rural and urban statewide highways from the requirements of SB 1024 (5) as identified in Table 1 (revised) and Table 2. This proposed exclusion would be comprised of rural statewide highways, except for unincorporated communities and urban statewide highways posted at 50 mph and higher.

***“Reasonable Access” & “AM Standards that fit within the Urban Environment”***

Del provided background on the ODOT proposal that would include a major re-write of the OAR related to access management. The agency has acknowledged and affirmed a major philosophical shift in the manner that approach applications are reviewed with the emphasis on how ODOT can reach an approval regardless of whether or not there is other available access to the site. In order to affect positive change in the regions and districts, it was determined that establishing the procedure in administrative rules was preferred over the development of guidelines for staff.

ODOT also acknowledged that they will request the OTC for permission to extract the existing AM spacing tables from the Oregon Highway Plan (OHP). No determination has been made as to the best document to house the revised AM spacing standards though it may be the OAR or the ODOT Design Manual. ODOT will also work with the OTC to clarify and revise the volume to capacity (v/c) ratio, Policy 1F in the OHP. It is understood that ODOT will eliminate left-turn v/c analysis for motorists entering highways that meet the criteria of SB 1024 (5).

Del provided an overview on the intent of the text and tables in “DRAFT SB 1024 – Reasonable Access Change Proposal, Nov. 14, 2010” (*See Attachment VI*).

***Urban Areas***

The main elements of the proposed draft rule are as follows;

1. A property owner would be allowed an approach to the highway when they meet the standard, regardless if there is other available access to the property. In the event that they have sufficient highway frontage to meet the standard for additional accesses, each additional access would also be approved.
2. In the event that they are unable to meet the standard, a table would identify criteria that are required for approval, and if the applicant can meet the criteria they are approved.
3. If the applicant cannot meet the standard and unwilling to meet the criteria, they can pursue a deviation.
4. Where a property has no other means of access, an approach is approved assuming that there is sufficient Stopping Sight Distance (SSD) on the roadway.

5. A list of concepts related to special circumstances is included which would allow ODOT to deny an approach, or would require additional mitigation before an approval.

Tables 2, 4, and 6 and the corresponding footnotes identify proposed approach spacing standards for urban statewide, regional and district highways respectively.

#### *Rural Areas*

The main elements of the proposed draft rule are nearly identical to the urban areas with the following exception. After the applicant has one approach to the state highway when they meet the standard, the applicant would be required to show that additional access was necessary to achieve reasonable access to serve the approved uses of the property, regardless of the amount of property frontage to the highway.

Tables 1, 3, and 5 and the corresponding footnotes identify proposed approach spacing standards for rural statewide, regional and district highways respectively.

Bob Bryant – we plan to develop additional tables that would clearly identify specific criteria that would be required for certain driveways based on speed and volume on the major roadway and driveway volumes, providing more certainty for the applicant and reducing the need for independent traffic analysis. It is acknowledged that proposed large developments that generate high traffic volumes, and/or industrial sites with frequent large truck traffic may be required to conduct additional traffic analysis.

#### *Expressways*

Private approaches are discouraged to expressways and ODOT would place emphasis on the need to serve the property with reasonable access via some other means rather than a direct access to the highway.

The Director asked staff if ODOT is confident with the existing designation of highways to the appropriate classification of facilities, including statewide, regional and district level highways. He also asked if the designation of expressways, UBAs and Special Transportation Areas (STA) are appropriate. Director Garrett recommended that this may need to be reviewed to ensure that the highway classification and specific designations are appropriate.

#### *Additional portions of the OAR that would be re-written*

Significant revisions, additions and deletions are proposed to sections of the OAR, including;

- a) A new process for approving an application with mitigation. This concept includes the concept that a v/c analysis would not be required for left-turns entering the highway for those facilities that fall under SB 1024 (5). Then existing process requires that a developer not exceed a certain v/c threshold, and if so, they are typically required to develop mitigation measures. This change



- b) A new process for approving an application that requires a deviation. This concept will expand the use of “moving in the direction of” and will allow approval for approaches when improvements are made including; relocating the approach, eliminating backing up maneuvers to and from the highway to access the property, and redesigning the approach to accommodate the vehicles that are typical to the site.
- c) A list of actions that are considered “moving in the direction of”. This will be a significant change and will provide many possible remedies as the existing rule requires the closure of an existing approach to meet the intent of “moving in the direction of”.
- d) Additional criteria that would support infill and redevelopment within certain corridors in urban areas across the state that may include concepts proposed in the “*Guidelines in Support of Infill and Redevelopment*”, October 26, 2010. It may be possible to expand the use and boundaries of existing Urban Business Areas (UBA) as locations where the infill and redevelopment rules would be applicable.
- e) A list of mitigation measures that may provide a level of certainty during the approach application process.

#### *Discussion*

There was considerable discussion related to a list of concept criteria on Page 1, (1)(i) and Page 2, (2)(j). The concept lists are intended to identify specific conditions that may exist in which ODOT is unable to approve an approach application without mitigation, or may be unable to mitigate. ODOT does not want to be in a position where they are required to purchase the property, even when the property may have reasonable access by means other than the state highway. The agency is obviously concerned with exposure to liability issues and safety requirements. ODOT committee members stressed that it is not their intention that the criteria be used to limit or deny development, rather, that the criteria would be applied in certain, unique circumstances. Some committee members believe that ODOT staff would continually apply the list of criteria as a means to deny a high number of approach applications. It was acknowledged that the committee will continue to work on a list of objective criteria that will provide the agency with the ability to deny an application in certain circumstances.

#### ***Proposal – Mark Whitlow***

Mark advanced three separate documents for consideration;

1. Overarching Principals/Guidelines (*See Attachment VII*). The overarching principal is that [ORS 374.310(3)] trumps the administrative rule (51-0080) on reasonable access, a determination of what is reasonable is be interpreted from the property owner’s perspective, an adjoiner, and in the urban areas, “moving in the direction of” as a basis of approving an application is intended to be applied much broader than requiring the closure of an approach. Raised non-traversable medians as a development mitigation are only used as a measure of last resort and where they are used in other situations to improve safety conditions, ODOT has the burden of proof to identify why the raised median is required.
2. Legislation (*See Attachment VIII*). The proposed legislation would revise the existing ORS 374.310(3) to more clearly define what is considered “reasonable

- access”, and provided a recommendation for legislative oversight to ensure that the on-going effort to revise the OAR is consistent with legislative intent.
3. Criteria (*See Attachment IX*). Recommends that ODOT has the burden of overcoming the presumption by a preponderance of empirical evidence for new approaches, and the agency has the burden of overcoming the presumption by clear and convincing empirical evidence when considering a “change of use”

Mark recommended that ORS 374.310 (3) be included in the OAR 734 Division 51 in section 0080, or as a preamble to the administrative rules. Mark also identified that the AM Committee has not seen or reviewed the Legislative Report that will detail the activities of the AM Committee and legislative concepts that have been developed. Del responded that much of the content in the Legislative Report will be based on the outcome of the present AM Committee meeting. (November 15<sup>th</sup>).

#### ***Committee Members Recommendations on Next Steps***

Each person was asked to verbalize their preference on the next steps, and if they favor moving forward with a re-write of the OAR as proposed by Del, or prefer the concept advanced by Mark Whitlow. The following statements were offered;

Brent Ahrend – most interested in updating and improving the OAR, as that is the document that is used by the staff at the counter. He acknowledged that there may be benefit in modifying the text in the ORS related to “reasonable access” to ensure that it is interpreted correctly in the future.

Craig Honeyman – was unclear if SB 1024 requires objective standards in statutory revisions, or if the legislative intent could be accomplished through rules. A statutory revision would likely be a cumbersome process.

Jamie Jeffrey – prefers to update and modify the OAR and is pleased with the progress that has been achieved. She understands the need for ODOT to have the ability to deny an application under certain considerations and she supports the concept under (1)(i) though the criteria may need to be improved.

Senator Whitsett – concerned that ODOT may use the (1) (i) feature to trump all the other features in the list and possibly continue ODOT business as usual. The senator categorically AGREES with all three of Mark Whitlow’s three additions except that his suggested preponderance of evidence (50 +% ) for new approaches should be the clear and convincing evidence standard.

Director Garrett – is confident that the AM Committee is moving in the right direction with the proposed concepts. He wants to ensure predictability and clarity for the developer and suggested that there be additional review of Mark’s language to more clearly define what constitutes reasonable access. The Director prefers revising the OAR rather than the ORS. The Director reiterated that ODOT is committed to the process of

considering how to approve an approach application rather than how to deny an application.

Jim Hanks – encouraged by the conversation. An amendment to the ORS isn't necessarily critical, but he doesn't object to (c) in the legislation, which states ""The determinations of "sufficient to allow" and "adequate to serve" the authorized and planned uses of the adjoining property in sections (a) and (b) above are to be based on the economic development considerations of the adjoining property."

Bob Bryant – does not want to add “reasonable” text from the ORS into the OAR. He is confident that we can revise the rules and move forward. Bob also agrees with Jamie that ODOT needs to have a list of “safety” criteria that allows ODOT to deny under certain conditions.

Mark Whitlow – since the requirements of SB 1024 were not completed, the proposed text provides guidance. Mark supports the concept of a legislative oversight committee to ensure that rules are completed that meet the intent of SB 1024.

Bob Russell – is encouraged, especially with the progress made since the last AM Committee meeting. SB 1024 was crafted in a response to a problem and therefore it is critical that we continue working, though it is essential that we deliver a work product.

Craig Campbell – is very pleased with the progress. He agrees that the burden of proof related to safety should be on the agency. Any revisions to statute must be objective, clear and concise. Ideally, the AM Committee will have a completed final report to advance to the legislature.

Harold Lasley – work on the OAR rather than the ORS. Revising statute could have many unintended consequences that may be difficult to resolve. He is concerned that the proposed direction may create an entitlement to direct access as compared to reasonable access.

Don Forrest – thanked the legislature for advancing SB 1024 and the unprecedented agreement from ODOT. He sees meaningful change, though asked if the counter staff will change. Don is worried that the counter staff may apply (1)(i) as the safety trump card that allows the agency to deny an application. The current list is too broad. Don agrees with Jim Hanks to add (c) to the ORS.

Doug Bish – believes that (1)(i) are about as specific as we can get, as it provides objective standard for engineers.

David Warren (observer) – understands the intent, though acknowledged that the key to the process is to ensure that it works at the counter.

Michael Rock – supports direction to revise the OAR and the OHP. “Moving in the direction of” is a great idea and should be expanded.

Erik Havig (observer) – unsure if it is best to revise the ORS or OAR, however, it is critical to change the perspective at the counter. Erik agrees with Doug Bish that (1)(i) is necessary and allows for engineering judgment. The AM Committee has worked to a place where there are more agreements than disagreements.

Del Huntington (working facilitator) – significant progress has been made by the AM Committee and a definite commitment has been made by ODOT to consider approach applications with the intent to figure out how to approve an application rather than the perception that ODOT should deny the permit. Recommend committing energy and time to a thorough rule revision, develop clarity in the text with an emphasis on “moving in the direction of” or incremental improvement as a basis for approval in the urban areas.

In order to accomplish additional work on the proposed revisions, review safety criteria and considerations on the proposed rewrite of the OAR, the AM Committee agreed to meet on Tuesday at 1 p.m., November 23, at the Perkins Coie office, in the McLoughlin Conference Room, Tenth Floor, located at 1120 N.W. Couch Street in Portland, OR 97209. Participants will also be able to call into the conference call. Meeting invitations will be emailed to participants.

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

The next Access Management Committee meeting is Monday, December 20, from 1:00 to 5 p.m., 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 12:30 p.m.

*Attachment I – Access Management Rules, Permanent Amendments*

*Attachment II – Leg. Concept - Standards for Barriers*

*Attachment III – Leg. Concept – Double Double Yellow*

*Attachment IV – LC0516\_73000-009\_ Uturns final*

*Attachment V – Statewide\_Class\_AADT*

*Attachment VI – SB1024 – Section 080 Rewrite with Tables- Nov 14, 2010*

*Attachment VII – Overarching Principals Guidelines*

*Attachment VIII – Legislation*

*Attachment IX - Criteria*

**Attachment I**  
**Access Management Rules, Permanent Amendments**

Text to be added to temporary rules in effect since July 21, 2010 in **red**  
Text to be deleted from temporary rules in effect since July 21, 2010 ~~struck through~~

## Access Management Rules Permanent Amendments

734-051-0020

### Purpose and Applicability of Rules

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

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

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

734-051-0040

### Definitions

The following definitions apply to division 51 rules:

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

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

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

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

interchange project; however, an Access Management Plan is not a highway or interchange project.

(5) “Access Mitigation Proposal” means a proposal offered by an applicant that identifies the location and type of approaches and necessary improvements to the highway and that is intended to improve current conditions of the section of highway by moving in the direction of the access management spacing standards by combining or removing approaches resulting in a net reduction of approaches to that section of highway. An Access Mitigation Proposal must be approved by the Department, agreed to by all affected property owners, and real property interests must be recorded.

(6) “Alternate Access” means the physical existence of other means to access a property than the proposed approach, such as an existing public right of way, another location on the subject state highway, an easement across adjoining property, a different highway, a service road, or an alley, including singularly or as a joint approach, but without a conclusive determination that the alternate access is “reasonable” as defined in section (51) of this rule.

(7) “Appealable decision” means a decision by the Department that may be appealed through a Region Review as set forth in OAR 734-051-0345 or a Contested Case Hearing as set forth in OAR 734-051-0355. An appealable decision includes a decision to deny an application or to deny a deviation or approval of an application with mitigation measures.

(8) “Applicant” means a person, firm or corporation, or other legal entity that applies for an approach or deviation including an owner or lessee, or an option holder of a property abutting the highway, or their designated agent.

(9) “Application” means a completed form Application for State Highway Approach including any required documentation and attachments necessary for the Department to determine if the application can be deemed complete.

(10) “Approach” means a legally constructed, approach road or private road crossing, recognized by the Department as grandfathered or existing under a valid Permit to Operate.

(11) “Approach road” means a legally constructed, public or private connection, providing vehicular access to and/or from a highway and an adjoining property.

(12) “Classification of highways” means the Department’s state highway classifications defined in the 1999 Oregon Highway Plan.

(13) “Commission” means the Oregon Transportation Commission.

(14) “Construction Permit” means a Permit to Construct a State Highway Approach including all attachments, required signatures, and conditions and terms.

(15) “Crash history” means at least the three most recent years of crash data recorded by the Department’s Crash Analysis and Reporting Unit.

(16) “Day” means calendar day, unless specifically stated otherwise.

(17) “Deemed complete” means an application and all required supplemental documentation necessary for the Department to review and assess the application and determine if a Construction Permit or a Permit to Operate may be issued.

(18) “Department” or “ODOT” means the Oregon Department of Transportation.

- (19) “Deviation” means a departure from the access management spacing standards.
- (20) “Division 51” means Oregon Administrative Rules (OAR) 734-051-0010 through 734-051-0560 and Tables 1, 2, 3, 4, 5, 6 and 7 adopted and made a part of division 51 rules and Figures 1, 2, 3 and 4 adopted and made a part of division 51 rules.
- (21) “Double-Frontage Property” means a property with a right of access to more than one state highway.
- (22) “Executive Deputy Director” means the Executive Deputy Director for Highway Division of the Oregon Department of Transportation.
- (23) “Expressway” means a segment of highway defined in the 1999 Oregon Highway Plan and classified by the Oregon Transportation Commission.
- (24) “Fair Market Value” means the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy.
- (25) “Freeway or Expressway ramp” means all types, arrangements, and sizes of turning roadways for right or left turning vehicles that connect two or more legs at an interchange and the components of a ramp area terminal at each leg and a connection road, usually with some curvature and on a grade.
- (26) “Grandfathered approach” means a legally constructed approach existing prior to 1949. A property owner has the burden to prove an approach is grandfathered based upon existence prior to 1949. For purposes of this Division, grandfathered approaches also include approaches presumed in compliance as set forth in OAR 734-051-0285(7) and approaches intended to remain open that were improved in conjunction with a Department project prior to April 1, 2000, as set forth in OAR 734-051-0285(9).
- (27) “Grant of Access” means the conveyance or evidence of the conveyance from the Department of a specific right of access at a location where an abutting property currently does not have that specific right of access.
- (28) “Highway mobility standards” mean the established standards for maintaining mobility as defined in the 1999 Oregon Highway Plan.
- (29) “Highway segment designations” mean the four categories of designations, Special Transportation Area, Commercial Centers, Urban Business Areas, and Urban, defined in the 1999 Oregon Highway Plan.
- (30) “Indenture of Access” means a deeded conveyance that changes the location, width, or use restrictions of an existing reservation of access.
- (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.
- (32) “Influence area of an interchange” means the area 1320 feet from an interchange ramp terminal measured on the crossroad away from the mainline.



(33) “Interchange” means a system of interconnecting roadways in conjunction with one or more grade separations that provides for the movement of traffic between two or more roadways or highways on different levels.

(34) “Interchange Area Management Plan” means a plan for managing a grade-separated interchange area to ensure safe and efficient operation between connecting roadways and to protect the functional integrity, operations, and safety of the interchange. An Interchange Area Management Plan may be developed independent of or in conjunction with an interchange project and may address local street connectivity, local street improvements and local plans and land use regulations. An Interchange Area Management Plan is not an interchange project.

(35) “Intersection” means an area where two or more highways or an approach and a highway join or cross at grade.

(36) “Land Use Action” means an action by a local government or special district concerning the adoption, amendment or application of the statewide planning goals, a comprehensive plan provision, or a land use regulation including zoning or subdivision codes.

(37) “Median” means the portion of the roadway separating opposing traffic streams.

(38) “Mitigation Measures” mean conditions, improvements, modifications, and restrictions set forth in OAR 734-051-0145 and required by the Department or initiated by an applicant for approval of a deviation or an application.

(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.

(40) “Peak hour” means the highest one-hour volume observed on an urban roadway during a typical or average week or the 30th highest hourly traffic volume on a rural roadway typically observed during a year.

(41) “Permit to Construct” means a Permit to Construct a State Highway Approach including all attachments, required signatures, conditions and terms, and performance bonds or insurance.

(42) “Permit to Operate” means a Permit to Operate, Maintain and Use a State Highway Approach including all required signatures and attachments, and conditions and terms. A Permit to Operate is not required for a public approach however the Department may issue a Permit to Operate for a public approach upon agreement with the governing city or county.

(43) “Permitee” means a person, firm or corporation, or other entity holding a valid Permit to Operate including the owner or lessee of the property abutting the highway or their designated agent.

(44) “Permitted approach” means a legally constructed private or public approach existing under a valid Permit to Operate.

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

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

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

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

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

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

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

(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.

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

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

(55) “Reservation of Access” means a limitation of a common law right of access to a specific location where the Department has acquired access control subject to restrictions that are designated in a deed. A reservation of access may include a use restriction limiting the right of access to a specified use or restriction against a specified use. A use restriction included in a reservation of access does not restrict turning movements nor does the absence of a use restriction allow unrestricted turning movements. A reservation of access affords the right to apply for an approach but does not guarantee approval of an Application for State Highway Approach or the location of an approach.

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

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

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

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

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

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

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

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

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

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

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

(67) “Vehicle trips per day” means the total of all one-direction vehicle movements with either the origin or destination inside the study site that includes existing, primary, pass by, and diverted linked trips and is calculated in accordance with the procedures contained in the current edition of the Institute of Transportation Engineers (ITE) publications Trip Generation and Trip Generation Handbook. Adjustments to the standard rates in the ITE publications for mode split may be allowed if calculated in accordance with Transportation Planning Rule and the ITE procedures. Adjustments to the standard rates for multi-use internal site trips may be allowed if calculated in accordance with ITE procedures and if the internal trips do not add vehicle movements to the approaches to the highway.

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

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

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312, 374.313 & 374.345  
 Stats. Implemented: ORS 374.305 - 374.350 & 374.990

734-051-0045

## Change of Use of an Approach

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

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

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

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

(A) Zoning or plan amendment designation changes;

(B) Construction of new buildings;

(C) Floor space of existing buildings increase;

(D) Division or consolidation of property boundaries;

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

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

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

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

~~(A) (i) The number of peak hour trips increases by 50 trips or more from that of the property’s prior use~~ **and the increase represents a 20 percent or greater increase in the number of peak hour trips from that of the property’s prior use.** ~~and~~

~~(ii) (B) The number of trips on a typical day increases by 500 trips or more from that of the property’s prior use~~ **and the increase represents a 20 percent or greater increase in the number of trips on a typical day from that of the property’s prior use.** ~~and~~

~~(iii) The increase in subparagraph (A)(i) or (A)(ii) 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.~~

~~(B) ODOT demonstrates that safety or operational problems related to the approach are occurring. Mitigation shall be limited to addressing the identified safety or operational problems.~~

**(C) ODOT demonstrates that safety or operational problems related to the approach are occurring.**

~~(D)~~ **(D)** The approach does not meet a **stopping** sight distance requirement (measured in feet) of 10 times the posted speed of the roadway **(measured in miles per hour)** or 10 times the 85<sup>th</sup> percentile speed of the roadway where the 85<sup>th</sup> percentile speed is higher or lower than the posted speed. The permittee may perform a study to determine if the 85<sup>th</sup> percentile speed is

higher or lower than the posted speed. The sight distance measurement and the study to determine the 85<sup>th</sup> percentile speed shall be performed **according to published Department procedures** by or under the supervision of an engineer registered in the state of Oregon.

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

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

(A) Field counts;

(B) Site observation;

(C) Traffic Impact Study;

(D) Field measurement;

(E) Crash history;

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

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

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

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

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

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

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

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

734-051-0070

Application Procedure and Timelines

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

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

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

(c) The Region Manager may waive requirements for information and documentation required from an applicant depending on the nature of the application and on the sufficiency of other information available to the Department for its evaluation of an application;

(d) Where necessary to comply with the permitting criteria under Division 51 rules, approval of an application may be conditioned upon significant changes to a proposed site plan including

relocation of buildings, parking, circulation, reduction of intensity of use, or variances from local jurisdictions; and

(e) Approval of an application may require mitigation measures set forth in OAR 734-051-0145.

(2) The Department, applicant, or local government may request a pre-application meeting to discuss the approach application process.

(3) An application is required:

(a) For a new **private** approach to a state highway;

(b) When a change of use occurs as set forth in OAR 734-051-0045;

(c) For a temporary approach to a state highway; or

(d) For a restricted use approach to a state highway.

(4) An application accompanied by a site plan must be submitted for each approach requested.

All of the following apply to an application:

(a) The Department shall not accept an application for an approach to a freeway, a freeway ramp, or an expressway ramp, or where an approach would be aligned opposite a freeway or expressway ramp terminal.

(b) The Department shall require written evidence of concurrence by the owner where an applicant is not the property owner.

(c) The Department may refuse to accept an application that is incomplete or contains insufficient information to allow the Department to determine if supplemental documentation is required or otherwise determine that the application may be deemed complete.

(5) The Department shall determine if an application is deemed complete:

(a) Within 30 days of accepting an application when section (6) of this rule does not require supplemental documentation; or

(b) When the supplemental documentation is received and the Department determines that the supplemental documentation is sufficient to evaluate the application, if section (6) of this rule requires supplemental documentation.

(6) The Department may require supplemental documentation before an application is deemed complete, and the Region Manager:

(a) May conduct an on-site review to determine the need for supplemental documentation before an application is deemed complete. The on-site review area includes both sides of the highway in the vicinity of the proposed approach including:

(A) The site frontage;

(B) All approaches; and

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

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

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

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

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

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

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

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

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

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

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

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

(e) May require a Traffic Impact Study for:

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

(B) Proposed zone changes or comprehensive plan changes;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

**(18) A new public approach shall not be located on a freeway, a freeway ramp, or an expressway ramp. A new public approach that would be aligned opposite a freeway or expressway ramp must be approved by the Chief Engineer and adopted by the Oregon Transportation Commission and included in an Interchange Area Management Plan or Access Management Plan.**

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

734-051-0080

Criteria for Approving an Application for an Approach

(1) The following apply to all applications:

- (a) Existence of a recorded easement does not by itself establish a right of access and does not guarantee the approval of an application or the location of an approach.
- (b) If an application is for a double-frontage property the approach must be located on the lower classification highway except where the Region Access Management Engineer determines that an approach to the higher classification highway would better meet the approval criteria in sections (2) through (10) of this rule.
- (c) Where a development includes multiple parcels, the development is evaluated in its entirety, regardless of the number of individual parcels or ownership contained within the development, and applications will not be accepted for individual parcels or ownership.
- (2) For a private approach with no alternate access to the property the Region Manager shall approve an application if the applicant demonstrates that section (9) of this rule is met.
- (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 (7) 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; and
- (b) Section (9) of this rule is met.
- (4) For a private approach in an urban area and on a statewide, regional, or district highway 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, even where the Department has evidence that the alternate access is reasonable, if the applicant provides substantial evidence that demonstrates that:
- (a) The alternate access is not reasonable as set forth in section (7) of this rule; and
- (b) Section (9) of this rule is met.
- (5) For a private approach in an urban area and on a statewide, regional, or district highway 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) The alternate access is reasonable as set forth in section (7) of this rule; and
- (b) Section (9) and section (10) of this rule are met.
- (6) For a private approach in an urban area and on an expressway, with alternate access to the property, the Region Manager shall approve an application if the applicant demonstrates that:
- (a) The alternate access cannot be made reasonable as set forth in section (7) of this rule, and section (9) and section (10) of this rule of this rule are met; or

(b) The approach provides an immediate and long-term benefit to the state highway system, as set forth in OAR 734-051-0085, regardless of any required safety or operations mitigation measures, and section (9) of this rule is met.

(7) Which approval criteria will be applied to an application (sections (2) through (6) of this rule) depends in part upon whether alternate access to the site is or can be made reasonable, which is determined based upon the following:

(a) The Department determines that alternate access to the property is sufficient to allow the authorized uses for the property identified in the acknowledged local comprehensive plan.

(b) The Department determines that the type, number, size and location of approaches are 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.

(c) The Department may require mitigation measures are set forth in OAR 734-051-0145:

(A) Including where the applicant or the local jurisdiction commits proportional shares for the cost of removal or mitigation of geographic, safety, or physical restrictions on the property or local street network; and

(B) Neither a lack of commitment by a local government to share the cost of mitigation nor the cost of mitigation alone is determinative in evaluating whether the access is or could be made reasonable.

(d) Consideration of factors including:

(A) Legal restrictions;

(B) Geographic restrictions;

(C) Historical or cultural resources;

(D) Safety factors; and

(E) Physical considerations such as planned streets, roadway width, and weight and size restrictions.

(e) Where a significant difference exists between an existing and planned local road network, a phased method addressing access may be considered:

(A) Where a planned public street or road network cannot be provided at the time of development, an application may be approved with conditions requiring connection when such connection becomes available;

(B) The approach permit may be revoked and the approach removed, or the approach permit may be modified and mitigation required when the planned street or road network becomes available; and

(C) An agreement with the local government regarding the planned street or road network may be an intergovernmental agreement.

(8) For purposes of Division 51, safety factors include:

(a) Roadway character;

(b) Traffic character;

552 (c) Geometric character;  
 553 (d) Environmental character; and  
 554 (e) Operational character.  
 555 (9) As required by sections (2) through (6) of this rule an applicant must demonstrate, consistent  
 556 with Division 51 rules, that:  
 557 (a) The approach is consistent with safety factors in section (8) of this rule;  
 558 (b) Spacing standards are met or a deviation is approved as set forth in OAR 734-051-0135; and  
 559 (c) The effect of the approach meets traffic operations standards, signals, or signal systems  
 560 standards in OAR 734-020-0400 through 734-020-0500 and OAR 734-051-0115 and 734-051-  
 561 0125.  
 562 (10) As required by sections (5) through (6) of this rule the Department may require an applicant  
 563 to demonstrate that:  
 564 (a) Highway mobility standards are met on state highways;  
 565 (b) The approach is consistent with an Access Mitigation Proposal, Access Management  
 566 Strategy, or Access Management Plan for the segment of highway abutting the property, if  
 567 applicable;  
 568 (c) The site plan shows that the site circulation does not require vehicles, once on site, to reenter  
 569 the highway to access parking or other portions of the development; and  
 570 (d) More than one approach to the highway is necessary to accommodate traffic reasonably  
 571 anticipated to the site if multiple approaches are requested.  
 572 Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 and 374.345; Ch. 972 and Ch. 974, Oregon Laws 1999  
 573 Stat. Implemented: ORS 374.305 to 374.345 and 374.990; Ch. 974, Oregon Laws 1999, Chapter 371, Oregon Laws  
 574 2003  
 575  
 576 734-051-0135  
 577 Deviations from Access Management Spacing Standards  
 578 (1) A deviation will be considered when an approach does not meet spacing standards and the  
 579 approach is consistent with safety factors in OAR 734-051-0080(8). The information necessary  
 580 to support a deviation must be submitted with an application or with the supplemental  
 581 documentation as set forth in OAR 734-051-0070(5) and (6).  
 582 (2) For a private approach with no reasonable alternate access to the property, as identified in  
 583 OAR 734-051-0080(2), spacing standards are met if property frontage allows or a deviation is  
 584 approved as set forth in this section. The Region Manager shall approve a deviation for a  
 585 property with no reasonable alternate access if the approach is located:  
 586 (a) To maximize the spacing between adjacent approaches; or  
 587 (b) At a different location if the maximized approach location:  
 588 (A) Causes safety or operational problems; or

(B) Would be in conflict with a significant natural or historic feature including trees and unique vegetation, a bridge, waterway, park, archaeological area, or cemetery.

(3) The Region Access Management Engineer shall approve a deviation if:

- (a) Adherence to spacing standards creates safety or traffic operation problems;
- (b) The applicant provides a joint approach that serves two or more properties and results in a net reduction of approaches to the highway;
- (c) The applicant demonstrates that existing development patterns or land holdings make joint use approaches impossible;
- (d) Adherence to spacing standards will cause the approach to conflict with a significant natural or historic feature including trees and unique vegetation, a bridge, waterway, park, archaeological area, or cemetery;
- (e) The highway segment functions as a service road;
- (f) On a couplet with directional traffic separated by a city block or more, the request is for an approach at mid-block with no other existing approaches in the block or the proposal consolidates existing approaches at mid-block; or
- (g) Based on the Region Access Management Engineer's determination that:
  - (A) Safety factors and spacing significantly improve as a result of the approach; and
  - (B) Approval does not compromise the intent of these rules as set forth in OAR 734-051-0020.

(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.

(5) The Region Access Management Engineer shall require any deviation for an approach located in an interchange access management area, as defined in the Oregon Highway Plan, to be evaluated over a 20-year horizon from the date of application and may approve a deviation for an approach located in an interchange access management area if:

- (a) A condition of approval, included in the Permit to Operate, is removal of the approach when reasonable alternate access becomes available;
- (b) The approach is consistent with an access management plan for an interchange that includes plans to combine or remove approaches resulting in a net reduction of approaches to the highway;
- (c) The applicant provides a joint approach that serves two or more properties and results in a net reduction of approaches to the highway; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Denial of a deviation is an appealable decision.

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

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

734-051-0245

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

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

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

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

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

734-051-0255

#### Maintenance of Approaches

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

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

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

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

734-051-0295

#### Grants of Access

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

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

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

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

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

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

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

(b) On an expressway or expressway ramp;

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

(d) In an Interchange Management Area.

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

(a) An applicant submits an Application for State Highway Approach as set forth in OAR 734-051-0070 and concurrently submits an Application for a Grant of Access, as set forth in OAR 734-051-0305.

(b) An applicant meets the requirements for issuance of a Construction Permit, as set forth in OAR 734-051-0175.

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

(d) The grant of access is consistent with the 1999 Oregon Highway Plan.

(e) One of the following occurs:

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

(B) The applicant establishes that the grant of access will benefit the state highway system as set forth in OAR 734-051-0085(1) and (2).

(f) Alternate access to the property is not and cannot be made reasonable as set forth in OAR 734-051-0080(7).

(g) The property owner must agree to deed restrictions to ensure that future development intensity and trip generation can be safely accommodated by the state transportation system.

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

(5) The Department shall not approve an Application for a Grant of Access for a public approach:

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

(b) On an expressway ramp;

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

(d) In an Interchange Management Area.

(6) The Department may approve an Application for a Grant of Access for a public approach to a state highway where all of the following conditions are met:

~~(a) An applicant submits an Application for State Highway Approach, as set forth in OAR 734-051-0070 and concurrently submits an Application for a Grant of Access, as set forth in OAR 734-051-0305.~~

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

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

(d) The grant of access is consistent with the 1999 Oregon Highway Plan, an adopted corridor plan, and local transportation system plan, or in the absence of an adopted corridor plan or transportation system plan, a grant of access may be considered where the applicant has explored all possible alternatives to the connection, including parallel streets, and the purchase of additional right of way.

(e) One of the following occurs:

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



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

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

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

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

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

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

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

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

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

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

(b) Spacing Standards;

(c) Highway mobility standards;

(d) State and local transportation system plans;

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

(f) Safety factors.

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

Stats. Implemented: ORS 374.305 - 374.350 & 374.990

734-051-0315

Indentures of Access

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

(a) An applicant **for a private approach** submits an Application for State Highway Approach as set forth in OAR 734-051-0070 and concurrently submits an Application for Indenture of Access as set forth in OAR 734-051-0325;

- (b) The applicant meets the requirements for issuance of a Construction Permit, as set forth in OAR 734-051-0175;
- (c) The applicant agrees in writing to meet any mitigation measures, conditions, and terms placed on the Construction Permit and the Permit to Operate;
- (d) The Region Manager approves the Application for Indenture of Access; and
- (e) The property owner agrees to the closure of one or more existing reservations of access.
- (2) All of the property owners that have a right of access at and are currently being served by the existing reservation of access must be applicants for any Application for Indenture of Access.
- (3) A request for removal of farm crossing or farm access restrictions requires a grant of access as set forth in OAR 734-051-0295 and 734-051-0305.
- (4) Approval of an Indenture of Access for a public approach may require mitigation measures to ensure that the state transportation system can safely accommodate the traffic at the indentured location. Mitigation measures may include but are not limited to amendments to the comprehensive plan or transportation system plan; or modification to the public street system.
- Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 and 374.345; Ch. 972 and Ch. 974, Oregon Laws 1999  
Stat. Implemented: ORS 374.305 to 374.345 and 374.990; Ch. 974, Oregon Laws 1999, Chapter 371, Oregon Laws 2003
- 734-051-0345
- Region Review Process and Collaborative Discussion Option
- (1) The Region Review process is an optional process that falls outside the 120-day timeline in OAR 734-051-0070(8) and applies to appealable decisions.
- (2) To request a Region Review, an applicant must submit a written request to the Region Manager within 21 days of the mailing date of notice of an appealable decision and identify documentation to be presented at the Region Review.
- (3) A Region Review Committee includes members with expertise in:
- (a) Access Management policies;
- (b) Roadway design standards;
- (c) Right-of-way;
- (d) Traffic engineering; and
- (e) At least one Professional Engineer with experience in the issues being reviewed.
- (4) The Department may invite a representative from the affected local jurisdiction with land use or transportation knowledge to provide input to the Region Review Committee.
- (5) The applicant or permittee may present additional information in writing or in person to the Region Review Committee.
- (6) The Region Review Committee shall meet, consider information presented, and provide written findings to the Region Manager.

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

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

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

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

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

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

(b) The collaborative discussion:

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

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

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

(d) Any agreement made by the Region Manager:

(A) Shall be documented in writing;

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

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

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

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

734-051-0500

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

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

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

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

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

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

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

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

858 Stat. Auth.: ORS 184.616, 184.619, 374.313 & 374.345  
859 Stats. Implemented: ORS 374.310, 374.313 & 374.345

860

861 734-051-0530  
862 Procedure for Resolving Claims

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

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

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

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

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

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

882 Stat. Auth.: ORS 184.616, 184.619, 374.313 & 374.345  
883 Stats. Implemented: ORS 374.310, 374.313 & 374.345

**Attachment II**  
**Leg. Concept - Standards for Barriers**

## Legislative Concept Concerning ODOT's Use of Barriers

1 This concept will establish legislation to direct how ODOT considers traffic control measures to  
2 inhibit or prevent left turns across traffic as a measure both to mitigate traffic at a private  
3 driveway and to improve safety within a highway corridor.

4  
5 With respect to driveways, the concept:

- 6 • Requires ODOT to follow a multi-tier approach beginning with pavement markings and  
7 signage on an applicant's property and moving to well designed "pork chops" and similar  
8 traffic islands located on the property or at the curb line, to pavement markings or  
9 signage on the highway and to permanent non-traversable barriers as a last resort. ODOT  
10 will determine which tier is appropriate depending on projected left turn volume and  
11 crash history.
- 12 • Allows ODOT to deviate from the multi-tier approach described above when ODOT and  
13 the property owner agree on a deviation or for identifiable safety problems. ODOT must  
14 consider deviations within a public process which includes provisions for hearing and  
15 appeal.
- 16 • Requires ODOT to notify property owners and businesses affected by both traversable  
17 and non-traversable barriers before the barriers are placed in the roadway and to provide  
18 a process for hearing and appeal.
- 19 • Allows ODOT to conditionally approve a permit for a driveway so that the applicant's  
20 project is not delayed while ODOT completes the notice and hearings processes. The  
21 applicant will be responsible for the cost of the mitigation required for the driveway.
- 22 • Acknowledges that ODOT is responsible for the cost of future safety improvements at a  
23 driveway that might be needed as a result of the growth in traffic volume. This removes  
24 a major uncertainty from the applicant after the applicant has paid its proportionate share  
25 of the cost of mitigation.

26  
27 With respect to safety improvements within a highway corridor, the concept requires ODOT  
28 to notify property owners and businesses affected by both traversable and non-traversable  
29 barriers before the barriers are placed in the roadway and to provide a process for hearing and  
30 appeal.

31  
32 Finally, the concept requires ODOT to discuss all installations of non-traversable barriers in  
33 the roadway on two-lane roads with stakeholders as described in the Highway Operations  
34 Mobility Manual.

Suggested Language:

New Sections to be added to ORS 374, Control of Access to Public Highways

**SECTION X1. (1) The Department of Transportation shall use traffic control measures that are intended to restrict or prohibit turning movements onto a state highway from a private approach or from a state highway into a private approach in the following order of priority:**

**a. Measures that may be used when the projected volume of left turn movements is less than \_\_\_\_\_, as determined by traffic studies.**

**i. Pavement markings, signage and combinations of pavement markings and signage restricting left turns that are located on private property.**

**ii. Well designed traffic islands located on private property, highway right-of-way, or on a combination of private property and right-of-way that prevent left turns, provided that the traffic island does not extend beyond the curb line.**

**b. Measures that may be used when the projected volume of left turn movements is \_\_\_\_\_ or greater, as determined by traffic studies.**

**i. Pavement markings, signage and combinations of pavement markings and signage that designate a highway divider and prohibit left turns that located on the state highway.**

**ii. Curbs, islands and other barriers that physically prevent left turns and that are located on the state highway.**

**(2) The department may deviate from the order of priority set out in subsection (1) of this section when the department and the applicant for the approach permit agree on the deviation or when the volume of turn movements at the approach creates identifiable safety problems.**

**(3) The department may only employ measures allowed under subsection (1)(b) of this section after the department has provided notice to affected property owners and businesses as required by ORS 374.312 and provided an opportunity for a hearing and appeal.**

1       **(4) The department may only install curbs and other barriers that prevent a left turn as**  
2       **allowed under subsection (1)(b) of this section after the department has consulted**  
3       **with stakeholders as required by section X2 of this 2011 Act.**

4       **(5) The department may conditionally approve an applicant's permit for an approach**  
5       **before completing the notice, hearings, appeals and consultation processes as**  
6       **required by subsections (3) and (4) of this section. The department's conditional**  
7       **approval does not relieve the applicant of responsibility to pay the applicant's**  
8       **proportionate cost of traffic measures required at the private approach.**

9       **(6) After an applicant has completed the requirements of its permit, the department**  
10       **shall bear the cost of traffic measures to improve safety that may be required in the**  
11       **future as a result of the growth in traffic.**

12  
13       **SECTION X2. The Department of Transportation may install a non-traversable barrier**  
14       **on a segment of two lane state highway only after the department has consulted with**  
15       **stakeholders in the highway mobility process.**

16  
17       **SECTION X3. This 2011 Act being necessary for the immediate preservation of the public**  
18       **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on**  
19       **its passage.**



**Attachment III**  
**Leg. Concept – Double Double Yellow**

## Legislative Concept for Dividers Designated By Pavement Markings

Dividers designated by pavement markings could be used as a progressive measure to channel traffic and prevent left turns from the highway without installing curbs or other non-traversable barriers. Currently, pavement markings are used to designate highway dividers across the state. However, some dividers designated by pavement markings can and are being used by drivers as left turn refuges while others were designated to prohibit turns.

This concept clarifies existing law concerning driving on a highway divider (ORS 811.430). An area enclosed by double yellow lines and marked with crosshatching will designate a highway divider that prohibits a left turn.

Suggested Language:

**Amend ORS 811.430 to read as follows:**

### **811.430 Driving on highway divider; exceptions; penalty.**

(1) A person commits the offense of driving on a highway divider if the person drives a vehicle over, across or within a dividing space, barrier or section that is an intervening space, physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic and that divides a highway into two or more roadways. **A dividing section may be indicated by pavement markings including, but not limited to, solid double yellow lines with yellow crosshatching between the double yellow lines.**

(2) This section does not apply when the movement of a vehicle that is otherwise prohibited by this section is made:

- (a) At an authorized crossover or intersection; or
- (b) At the specific direction of a road authority.

(3) The offense described in this section, driving on a highway divider, is a Class B traffic violation. [1983 c.338 §642]

**Attachment IV**  
**LC0516\_73000-009\_ Uturns final**

# D R A F T

## SUMMARY

Modifies offense of making illegal U-turn.

### A BILL FOR AN ACT

Relating to U-turns; creating new provisions; and amending ORS 811.365.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 811.365 is amended to read:

811.365. (1) A person commits the offense of making an illegal U-turn if the person is operating a vehicle and the person turns the vehicle so as to proceed in the opposite direction in any of the following places:

(a) Within an intersection where *[traffic is controlled by an electrical signal. This paragraph does not apply where posted otherwise.]* **a sign prohibits U-turns.**

(b) Upon a highway within the limits of an incorporated city between intersections.

(c) At any place upon a highway where the vehicle cannot be seen by another driver approaching from either direction within a distance of:

(A) 500 feet within the incorporated limits of a city; or

(B) 1,000 feet outside a city.

**(d) In any location where a U-turn cannot be made safely or where a U-turn would interfere with other traffic or pedestrians.**

(2) The offense described in this section, illegal U-turn, is a Class C traffic violation unless commission of the offense contributes to an accident. If commission of the offense contributes to an accident, the offense is a Class B traffic violation.

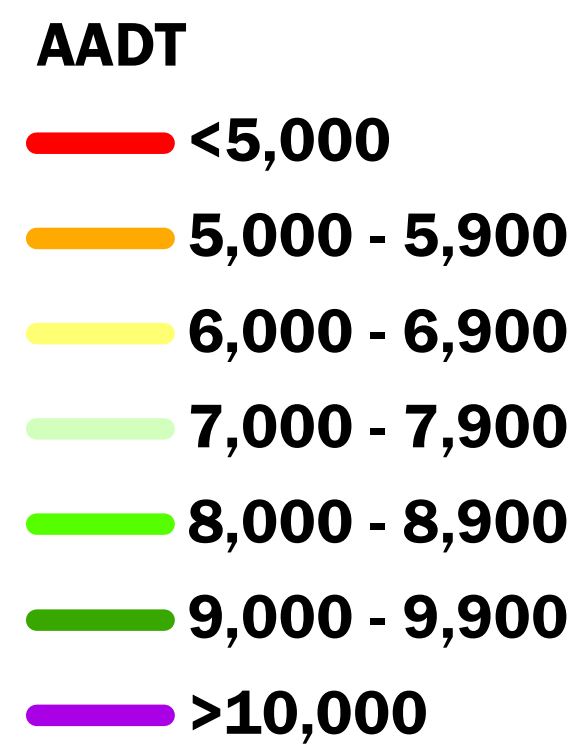
1     **SECTION 2.** The amendments to ORS 811.365 by section 1 of this  
2     **2011 Act** apply to offenses committed on or after the effective date of  
3     **this 2011 Act.**

4

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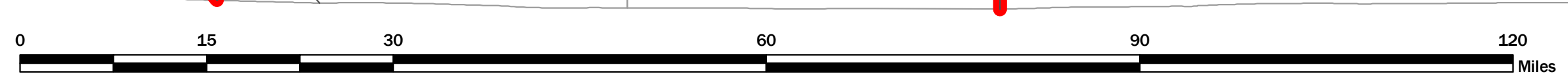
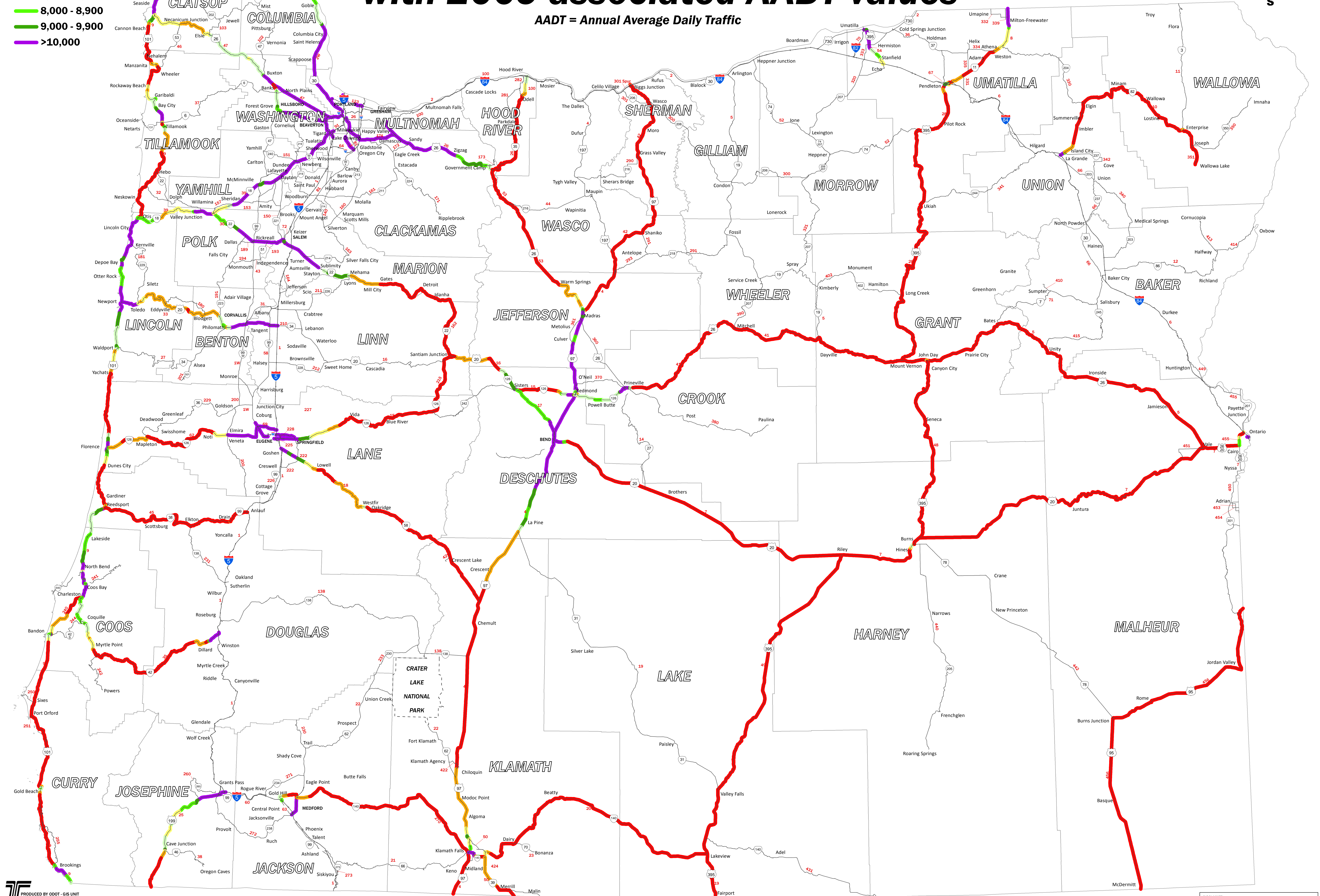
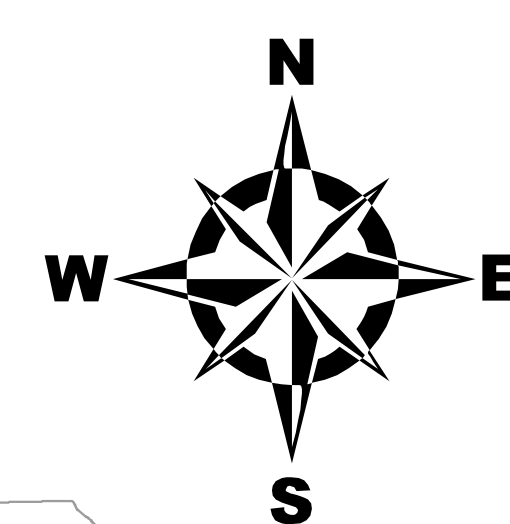
**Attachment V**  
**Statewide\_Class\_AADT**





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

AADT = Annual Average Daily Traffic



**DISCLAIMER:**  
This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



**Attachment VI**  
**SB1024 – Section 080 Rewrite with Tables- Nov 14, 2010**



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

**(1) Within the Urban Growth Boundaries and Unincorporated Communities**

The following apply to all approach applications **within** the Urban Growth Boundaries and unincorporated communities when the development is consistent with the authorized uses for the property identified in the acknowledged local comprehensive plan:

(Introduce the 3 step process of approval)

- a) The applicant is approved for one or more direct approaches to the state highway if the criteria in the table are met,
- b) Where the applicant is unable to meet the standards as identified in the table, the applicant is approved if they agree to implement the criteria as identified in the table, or
- c) The applicant does not meet the criteria and cannot implement the mitigation measures; they can pursue a deviation under OAR 734-051-0135
- (d) Stopping Sight Distance (SSD) along the highway is required for each approach that is approved. (Ensure that SSD is defined in the definitions)
- (e) If an application is for a double-frontage property the approach must be located on the lower classification highway when the applicant is unable to meet the standard for the major roadway (have to meet SSD and where the crash rate is not higher than the statewide crash rate for similar highways)
- (f) Other exceptions where the Region Access Management Engineer determines that an approach to the higher classification highway would better meet the approval criteria in sections ???.
- (g) Where a development includes multiple parcels, the development is evaluated in its entirety, regardless of the number of individual parcels or ownership contained within the development, and applications will not be accepted for individual parcels or ownership.
- (h) 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)
- i) The applicant meets the standards/criteria necessary for the approval of an approach permit, but special circumstances/conditions are present that may require ODOT to consider need for additional analysis and potential for mitigation before a permit can be approved. Conditions may include but are not limited to: *(the following is a list of possible concepts)*
  - Regular queuing that impedes turning moments.
  - Offset approaches causing potential for overlapping left turn movements.
  - Insufficient weave movements across multiple lanes.
  - Driveway spacing on opposite side of roadway that creates competing use of center turn lane.
  - Approach grades affecting ingress and/or egress movements.
  - Lack of adequate *intersection* sight distance
  - Site limitations/layout and design of approach cause traffic at the approach to queue on the highway
  - Traffic movements at the approach contribute or are projected to contribute to crashes at a statewide top 10% SPIS site or where the crash rate exceeds the statewide crash rate for similar facilities

- Peak hour v/c exceeds 1.0 at adjacent intersections
- Approaches in areas with high volumes of bicycle or pedestrian traffic, such as a school or recreation destination

## **(2) Outside Urban Growth Boundaries**

The following apply to all approach applications **outside** Urban Growth Boundaries and unincorporated communities and where the development is consistent with the authorized uses for the property identified in the acknowledged local comprehensive plan:

- a) The application for one direct approach to the state highway is approved if the criteria in the table are met,
- b) Where the applicant is unable to meet the standards as identified in the table, the applicant is approved if they agree to implement the criteria as identified in the table, or
- c) Where the applicant does not meet the criteria and cannot implement the mitigation measures, the applicant may pursue a deviation as set forth in.
- d) Where the applicant requests additional direct access to the state highway, the applicant is required to show that one direct access and all other available alternate access is not, or cannot be made reasonable to serve the authorized uses for the property identified in the acknowledged local comprehensive plan.
- (e) SSD along the highway is required for each approach that is approved.
- (f) If an application is for a double-frontage property the approach must be located on the lower classification highway when the applicant is unable to meet the access spacing standard for the major roadway (applicant must meet SSD and where the crash rate is not higher than the statewide crash rate for similar highways)
- (g) Other exceptions, where the Region Access Management Engineer determines that an approach to the higher classification highway would better meet the approval criteria in sections ???
- (h) Where a development includes multiple parcels, the development is evaluated in its entirety, regardless of the number of individual parcels or ownership contained within the development, and applications will not be accepted for individual parcels or ownership.
- (i) 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)
- (j) The applicant meets the standards/criteria necessary for the approval of an approach permit, but special circumstances/conditions are present that may require ODOT to consider need for additional analysis and potential for mitigation before a permit can be approved.

Conditions include but are not limited to: *(the following is a list of possible concepts)*

- Regular queuing that impedes turning moments.
- Offset approaches causing potential for overlapping left turn movements.
- Insufficient weave movements across multiple lanes.
- Driveway spacing on opposite side of roadway that creates competing use of center turn lane.
- Approach grades affecting ingress and/or egress movements.
- Lack of adequate *intersection* sight distance
- Site limitations/layout and design of approach cause traffic at the approach to queue on the highway
- Traffic movements at the approach contribute or are projected to contribute to crashes at a statewide top 10% SPIS site or where the crash rate exceeds the statewide crash rate for similar facilities

- Peak hour v/c exceeds 1.0 at adjacent intersections
- Approaches in areas with high volumes of bicycle or pedestrian traffic, such as a school or recreation destination

### **(3) Expressways**

It is understood that private approaches are discouraged to expressways. The agency in tandem with the applicant will work to make alternative access reasonable per ORS 374.310. In instances where the property is landlocked, the agency may approve a temporary access until such time as reasonable access is made available. , the Region Manager may approve an application if the applicant demonstrates that:

- or -

(b) The approach provides an immediate and long-term benefit to the state highway system, as set forth in OAR 734-051-0085, regardless of any required safety or operations mitigation measures, and section (10) of this rule is met. *How does a private driveway provide a benefit?*

### **734-051-0081 - Process for Approving an Application for an Approach with Mitigation**

#### **Including;**

- a) For those urban statewide highways with less than 5,000 AADT and where speeds equal to and less than X mph, a volume/capacity (v/c) analysis will not be applied for left-turns entering the highway.
- b) For rural and urban regional highways with less than 5,000 AADT, a volume/capacity (v/c) analysis will not be applied for left-turns entering the highway.
- c) For rural and urban district highways with less than 5,000 AADT, a volume/capacity (v/c) analysis will not be applied for left-turns entering the highway

**734-051-0082 - Process for Approving an Application for an Approach Requiring a Deviation**  
Criteria identified in OAR 734-051-0083 “moving in the direction of” may be the basis to approve the request for a deviation.

**734-051-0083 - Process for Approving an Application for proposed developments that exceed change of use of allowed peak hour trips, daily trips and 20% increase in the number of trips**  
*Develop a streamlined or "delta factor" criteria for greater than 20% trip increase change of use applications*

**734-051-0084 – “Moving in the Direction of”** *(the following is a list of possible concepts)*

As applications are processed for redevelopment, “moving in the direction of” shall include, but may not be limited to;

- a) All vehicle traffic movements to and from the highway shall be completed without any backing maneuvers, and,
- b) Widening of existing driveways to accommodate truck turning radius requirements for vehicles that frequent the site, or
- c) Widening of existing driveways to accommodate additional exit lanes (separate right and left turning vehicles), or
- d) 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

- e) 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.
- f) 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.

#### **734-051-0085 – Infill and Redevelopment**

*It is proposed to develop text from the October 26, 2010 Guidelines in Support of Infill and Redevelopment*

#### **734-051-0086 – Mitigation Measures** *(the following is a list of possible concepts)*

- a) Meets or exceeds threshold for left turn lane based on highway volume and turning volume criteria,
- b) Meets or exceeds threshold for right turn lane based on highway volume and turning volume criteria,
- c) Meets or exceeds warrants for traffic control devices such as traffic signals, illumination, and signage as appropriate.
- d) Existing acceleration/deceleration turning lane does not meet design standards
- e) Frequent occasions of high degree of speed differential between turning and through traffic creating unsafe conditions.
- f) Use of approach by high percentage of trucks and RVs (ski resorts, camping areas, coastal communities or attractions). Longer time to make turns, slower acceleration, and larger turning radii may cause unacceptable safety or operational problems.
- g) Areas where winter driving conditions impact stopping distance and approach visibility

#### **734-051-0089 - Public Approaches**

**DRAFT – DRAFT - DRAFT**

Table 1  
Access Spacing Standards for Statewide Highways - Rural

Posted Speed	Expressway	Non-Expressway <sup>1, 2</sup>	Less than 5,000 ADT <sup>1, 2</sup>	STA
55	5280	1320	N/A	N/A
50	5280	1100	N/A	N/A
40 & 45	5280	990	N/A	N/A
30 & 35	N/A	770	N/A	N/A
< or 25	N/A	550	N/A	N/A

<sup>1</sup> If the property is landlocked, an application can be approved without processing a deviation (assuming that there is SSD on the roadway).

<sup>2</sup> The spacing standard for Right-in/Right-out and Left-in/Left-out Approaches is ½ the spacing shown in the table on one-way highways or highways with a raised non-traversable median.

Table 2  
Access Spacing Standards for Statewide Highways – Urban

Posted Speed	Expressway	Non-Expressway <sup>1, 2, 5</sup>	Urban Business Area <sup>1, 2, 5</sup>	Less than 5,000 ADT <sup>1, 2, 5</sup>	STA
55	2640	1320	N/A	1320	N/A
50	2640	1100	N/A	1100	N/A
40 & 45	2640	990	TBD <sup>3, 4, 5</sup>	360	N/A
30 & 35	N/A	720	TBD <sup>3, 4, 5</sup>	250	<sup>6</sup>
< or 25	N/A	520	TBD <sup>3, 4, 5</sup>	150	<sup>6</sup>

<sup>1</sup> If the property is landlocked, an application can be approved without processing a deviation (assuming that there is SSD on the roadway).

<sup>2</sup> The spacing standard for Right-in/Right-out and Left-in/Left-out Approaches is ½ the spacing shown in the table on one-way highways or highways with a raised non-traversable median.

<sup>3</sup> See OAR 734-051-0084 – “Moving in the Direction of”

<sup>4</sup> See OAR 734-051-0085 – “Infill and Redevelopment”

<sup>5</sup> Where the public street spacing is less than shown in the table, X number of full movement or restricted movement approaches are allowed.

<sup>6</sup> Minimum access management spacing for public road approaches is the existing city block spacing or the city block spacing as identified in the local comprehensive plan. Public road connections are preferred over private driveways and in STAs driveways are discouraged. However, where driveways are allowed and where land use pattern permit, the minimum access management spacing for driveways is 175 feet or mid-block if the current city block spacing is less than 350 feet. (<sup>6</sup> text in existing OHP)

Table 3  
Access Spacing Standards for Regional Highways - Rural

Posted Speed	Expressway	Non-Expressway <sup>1, 2</sup>	Less than 5,000 ADT <sup>1, 2</sup>	STA
55	5280	990	650	N/A
50	5280	830	425	N/A
40 & 45	5280	750	360	N/A
30 & 35	N/A	600	250	
< or 25	N/A	450	150	

<sup>1</sup>If the property is landlocked, and has a right of access, an application can be approved without processing a deviation (assuming that there is SSD on the roadway).

<sup>2</sup> The spacing standard for Right-in/Right-out and Left-in/Left-out Approaches is ½ the spacing shown in the table on one-way highways or highways with a raised non-traversable median.

Table 4  
Access Spacing Standards for Regional Highways – Urban

Posted Speed	Expressway	Non-Expressway <sup>1, 2, 5</sup>	Urban Business Area <sup>1, 2, 5</sup>	Less than 5,000 ADT <sup>1, 2, 5</sup>	STA
55	2640	990	N/A	650	N/A
50	2640	830	N/A	425	N/A
40 & 45	2640	750	TBD <sup>3, 4, 5</sup>	360	N/A
30 & 35	N/A	425	TBD <sup>3, 4, 5</sup>	250	<sup>6</sup>
< or 25	N/A	350	TBD <sup>3, 4, 5</sup>	150	<sup>6</sup>

<sup>1</sup>If the property is landlocked, an application can be approved without processing a deviation (assuming that there is SSD on the roadway).

<sup>2</sup> The spacing standard for Right-in/Right-out and Left-in/Left-out Approaches is ½ the spacing shown in the table on one-way highways or highways with a raised non-traversable median.

<sup>3</sup> See OAR 734-051-0084 – “Moving in the Direction of”

<sup>4</sup> See OAR 734-051-0085 – “Infill and Redevelopment”

<sup>5</sup> Where the public street spacing is less than shown in the table, X number of full movement or restricted movement approaches are allowed.

<sup>6</sup> Minimum access management spacing for public road approaches is the existing city block spacing or the city block spacing as identified in the local comprehensive plan. Public road connections are preferred over private driveways and in STAs driveways are discouraged. However, where driveways are allowed and where land use pattern permit, the minimum access management spacing for driveways is 175 feet or mid-block if the current city block spacing is less than 350 feet. (<sup>6</sup> text in existing OHP)

Table 5  
Access Spacing Standards for District Highways - Rural

Posted Speed	Expressway	Non-Expressway <sup>1, 2</sup>	Less than 5,000 ADT <sup>1, 2</sup>	STA
55	5280	700	650	N/A
50	5280	550	425	N/A
40 & 45	5280	500	360	N/A
30 & 35	N/A	400	250	
< or 25	N/A	400	150	

<sup>1</sup>If the property is landlocked, an application can be approved without processing a deviation (assuming that there is SSD on the roadway).

<sup>2</sup> The spacing standard for Right-in/Right-out and Left-in/Left-out Approaches is ½ the spacing shown in the table on one-way highways or highways with a raised non-traversable median.

Table 6  
Access Spacing Standards for District Highways – Urban

Posted Speed	Expressway	Non-Expressway <sup>1, 2, 5</sup>	Urban Business Area <sup>1, 2, 5</sup>	Less than 5,000 ADT <sup>1, 2, 5</sup>	STA
55	2640	700	N/A	650	N/A
50	2640	550	N/A	425	N/A
40 & 45	2640	500	TBD <sup>3, 4, 5</sup>	360	N/A
30 & 35	N/A	350	TBD <sup>3, 4, 5</sup>	250	<sup>6</sup>
< or 25	N/A	350	TBD <sup>3, 4, 5</sup>	150	<sup>6</sup>

<sup>1</sup>If the property is landlocked, an application can be approved without processing a deviation (assuming that there is SSD on the roadway).

<sup>2</sup> The spacing standard for Right-in/Right-out and Left-in/Left-out Approaches is ½ the spacing shown in the table on one-way highways or highways with a raised non-traversable median.

<sup>3</sup> See OAR 734-051-0084 – “Moving in the Direction of”

<sup>4</sup> See OAR 734-051-0085 – “Infill and Redevelopment”

<sup>5</sup> Where the public street spacing is less than shown in the table, X number of full movement or restricted movement approaches are allowed.

<sup>6</sup> Minimum access management spacing for public road approaches is the existing city block spacing or the city block spacing as identified in the local comprehensive plan. Public road connections are preferred over private driveways and in STAs driveways are discouraged. However, where driveways are allowed and where land use pattern permit, the minimum access management spacing for driveways is 175 feet or mid-block if the current city block spacing is less than 350 feet. (<sup>6</sup> text in existing OHP)

**Attachment VII**  
**Overarching Principals Guidelines**



1. Overarching Principals/Guidelines:

a. Reasonable Access

- i. the statute [ORS 374.310(3)] trumps the rule (51-0080) regarding any inconsistency
- ii. the statutory criteria of "sufficient to allow" and "adequate to serve" the authorized use of the adjacent property are to be interpreted through the perspective of the abutting property owner or user
- iii. an adjoining property is presumed to be entitled to direct highway access
- iv. urban applications which improve existing conditions ("move in the direction of") are presumed to be approvable

b. Medians

- i. medians are to be used for mitigation only as a mitigation option of last resort
- ii. medians that are required for safety are the burden of ODOT to establish the need for

c. Move in the Direction Of

- i. this principal is the primary permitting criterion inside UGBs, especially for change of use applications
- ii. moving in the direction of does not require one or more closures

**Attachment VIII**  
**Legislation**

## 2. Legislation

### a. Reasonable Access ORS 374.310 (3) amendment

- i. previously discussed with the committee as to (a) and (b)
- ii. will provide handout at meeting if possible
- iii. the proposal would be to:
  - add the words "to the highway" to ORS 374.310 (3):
    - (a) after the words "the access"
    - (b) after the words "of approaches"; and
  - add a new subsection (c) "The determinations of "sufficient to allow" and "adequate to serve" the authorized and planned uses of the adjoining property in sections (a) and (b) above are to be based on the economic development considerations of the adjoining property."

### b. Legislative Oversight

- i. this concept has not been specifically discussed with the committee, but the general need for legislative oversight has been
- ii. amend statute to require appointment of legislative oversight committee to monitor access management rulemaking consistent with statute and to prepare periodic reports to the legislature regarding the need for further legislative amendments
- iii. the committee's membership would include one representative from each of ODOT's regions

**Attachment IX**  
**Criteria**

3. Criteria

- a. applications which meet the standards are presumed to be safe
- b. ODOT has the burden of overcoming the presumption by a preponderance of empirical evidence for new approaches
- c. DOT has the burden of overcoming the presumption by clear and convincing empirical evidence for change of use of approach applications