

Access Management Meeting
ODOT HR Center, Conference Room A
2775 SE 19th Street, Salem, OR 97302
April 29, 2010
1:00 – 3:30

Facilitators: Del Huntington and Doug Tindall

Attendees: Sashi Bajracharya, Celia Barry, Doug Bish, Bob Bryant, Victor Dodier, Craig Honeyman, Jamie Jeffrey, Harold Lasley, Michael Rock, Bob Russell, Mark Whitlow, Gail Whitsett

Meeting Notes: Ann Zeltmann

Doug Tindall provided some background information for the meeting: Senator Whitsett approached ODOT before the legislative session with concerns about access management. He asked that ODOT make the approach permitting process more objective, so that applicants could determine themselves at the outset of the process whether the approach would be approved or what would be needed to get it approved. The Senator also asked ODOT to work out a method for evaluating the economic impacts of an approach. That discussion led to the development of SB 1024, which made changes to ODOT's authorizing legislation with respect to "Change of Use" for existing developments. The legislature also asked ODOT to come back with more legislative changes for 2011.

The discussion about the permitting process prior to the legislative session recognized that although the issues are complex and ODOT will not be able to improve the process for 100% of the situations, the process can be improved for a majority of the applications. Doug Tindall suggested that this group focus on the applications where process improvements can be made and let the staff focus on the more complex cases. He noted that this meeting is the starting point and additional people may need to be at the table.

Attendees offered some first impressions of their understanding of the existing rule, the new legislation and issues that should be considered:

- SB 1024 made changes to an authorizing statute that also affects the counties. It would be less complex, and preferable, if the counties and state are treated separately, and that the counties are returned to their access permitting status as it was prior to the adoption of SB 1024. In the discussion today, we are operating on the premise that we are modifying only rules that affect the state/ODOT, not counties. Even if the legislation is changed to put counties back in their pre-SB 1024 status, as we work through the issues it is important that we understand how the legislation otherwise affects counties and cities.
- Compared to other states, it is difficult to obtain an access permit in Oregon.

- Prior to April, 2000 when the extensive Oregon Administrative Rule (OAR) 734 Division 51 related to access management was adopted, cities and counties were treated the same as private developments related to a “change of use”. Upon adoption of the OAR, the rule distinguished between public and private approaches and dropped the requirement for potential mitigation by cities and counties. SB 1024 addresses this issue by not requiring an approach permit for public approaches.
- Cities are concerned about their ability to manage their street network. ODOT has not been consistent as to when they require permits for city streets, though the agency is not typically aggressive about permitting city streets. The issues arose more in the nature of projects or developments that occur on city streets or county roads. ODOT would prefer to collaborate through a planning process. There is still concern in cases where the staff requires approach permits for private approaches that may be transferred to a city. This issue should be addressed in the current process as SB 1024 states that an access permit is not required for a public road.
- In the Portland area, it is difficult to conform to the Metro standards and ODOT standards for street connections though cities may have plans to make future road connections to the state system. There is a question about how to handle situations where a specific location of the future public street connection is not identified, and instead a geographic range of possible locations are possible.
- In Oregon, non-government people should be able to ask a question of ODOT staff and receive the same answer regardless of the ODOT Region or District. When there is a government vs. government issue, the agencies need to reach a solution so that individuals are not stuck in the middle.

Doug Tindall suggested, and there was agreement by consensus, on three questions that the initial meeting should address:

1. Membership – Who needs to be at the table for this series of meetings?
2. Vision – What are we trying to accomplish?
3. Temporary rule – What are the issues with the temporary rule that has been proposed by ODOT to forward to the Oregon Transportation Commission (OTC) for their approval?

I. Membership.

Doug Tindall explained that members should be available to attend six to eight meetings between now and the end of October.

Mark Whitlow explained that the Retail Task Force is comprised of 85 businesses and a number of international shopping centers. The Retail Task Force would like to have four members from their group, including two traffic engineers to help understand the

technical issues and define terms. Mark Whitlow recommended Don Forrest from Fred Meyer and a representative from Group Mackenzie. Doug Tindall asked Mark Whitlow to supply the other two names.

Bob Russell said that AAA needs to be included.

The Association of Counties (AOC) and the League of Oregon Cities (LOC) will participate in the process. The LOC will be represented by the City of Portland and one more technical person.

II. Vision

Doug Tindall opened the discussion about what issues the group will address by identifying four subject areas that he thinks need to be addressed and inviting comment. The four areas are:

- SB 1024 requires ODOT to develop a separate rule for low volume state highways within Oregon. He explained that ODOT will bring back ideas on this matter to the group and that he does not believe this will be the difficult task.
- Medians and physical barriers. An agreement is needed on when they can be required and how to get local buy in. He noted that they should only be required when other mitigation will not work.
- Reasonable access. The concept is in the rule now, but is not interpreted entirely consistently. The concept needs more definition.
- Focus on the balance between safety, flow of traffic while recognizing the need to support economic development.

Meeting participants reacted to Tindall's outline and expressed their viewpoints in a wide-ranging discussion (expressed in detail below.) At the conclusion Tindall thanked participants for their input and said he thought their comments fell into three broad categories:

1. Mitigation of impacts is an issue in whatever form it takes, but medians are a special concern.
2. Driver expectation. The access rules should realistically address the fact that there are some highways where drivers expect to be moving and others that they expect to be congested, and that there may need to be different standards for the same route.
3. Risk assessment. We need to deal with the issue of risk more effectively.

Doug Tindall's summary was drawn from the following comments and discussion:

Bob Russell. We need to look at mitigation in the context of medians, and differentiate between urban and rural settings. We need to look at the issue of who pays for mitigation. Mitigation costs should only be chargeable if they are created by the site development. Another big concern is that applicants cannot figure out what will be required until they sit down with ODOT. We must try to craft a set of regulations that clearly lay out what the expectations will be.

Celia Barry. Access management should make the highways convenient and usable and reasonable in the mind of drivers.

Bob Bryant. It comes down to balance. There are roads where access management strategies were not employed and more recently, where access management standards pose difficulties for abutting land owners. The motoring public wants access to land, but they also want good mobility so they can reach their destinations. We need to be concerned about getting the right balance for each highway.

Del Huntington. Access management standards can be difficult to achieve in Oregon as compared to other states with access management programs, due to the Urban Growth Boundaries (UGB) in the state. We can't just go to the edge of the city and achieve a 990 foot spacing between driveways as the case in other parts of the nation.

Mark Whitlow. The Access Management Advisory Committee (AMAC) in 1999 and 2003, tried to come up with uniform standards, and created the concept of "moving in the direction of." However, that program did not work very well because the term got lost in the shuffle. We need to intensify our development and accept a higher level of congestion within the Portland Metro area. The Portland metro area is working toward enhanced connectivity. We have to reconcile the two conflicting ideas.

Doug Tindall. We should go back to the concept of "convenient and usable." If you are just outside an urban boundary, the provision of an access at that point may seem intuitive. However, drivers may have conflicting viewpoints, one wants access to the land and one wants to get through without any impediments.

Bob Russell. In the Metro area, we are talking about whether we should reduce the level of service. However, in contrast to that discussion, with access management we are trying to provide a higher level of service in an area that people expect to be more congested. It's illogical.

Doug Tindall. I think if we talk about accepting a higher level of congestion, it may provide better guidance.

Jamie Jeffrey. Portland's street system is a 200 foot grid, which does not work with the ODOT spacing standards. In Portland, issues are evaluated on a case by

case basis. General parameters would be preferable. Can we write different rules for different environments because driver expectation is different in different areas? Medians are a problem because they affect so many properties. We need to marry the expectations.

Del Huntington. If the developer puts a logical idea on the table, is the City receptive?

Jamie Jeffrey. Yes, but then ODOT enters the conversation and looks at its highway without looking at the full context of the situation and creates negative impacts on the City.

Michael Rock. Transportation System Planning (TSP) planning is important. If we put more of these discussions in TSPS, then we could get the agreements up front and eliminate a lot of conflict. In terms of accepting higher levels of congestion, ODOT is looking at where this is allowed, the impacts to the area that would have more congestion and what the impacts are on other sections of the highway. Access management strategies are applied to optimize the system. The community vision and the TSP are very important.

Del Huntington. Many agencies that employ access management programs have the impression that all driveways are the same—whether it's for a single home or a Fred Meyer. We should weave into this the idea that some driveways cause more safety and congestion problems, based on traffic volumes to and from the site. In addition, driveways and intersections are typically considered the same though they need to be a distinction between them as the operations and safety issues are often quite different. The way we set up the rule doesn't really work.

Jamie Jeffrey. This has come up in the City of Portland where crash data is identified by the foot along the city street segment. We have rarely been able to remove a driveway due to safety concerns. So when people want to put them in, it's hard for us to say there will be a safety problem. If there is a way to get at this context, we should do it.

Harold Lasley. I'm not sure I agree with that. There is a fair amount of research that says as you increase the density you increase the crash rate.

Doug Tindall. Is there a way to separate out intersections from private driveways?

Harold Lasley. I will have to check that.

Bob Bryant. Fender benders don't get reported. But they do affect congestion.

Bob Russell. Congestion is the volume of traffic. The truck corridors are all in congested areas.

Jamie Jeffrey. In terms of vision, you said safety, traffic flow and congestion. We have mentioned other things. I'm wondering if we should have a lower level of service that must be emphasized in urban areas. But in the rural areas, the issues are safety. Look at what is appropriate for rural areas and urban areas.

Del Huntington. The ODOT spacing standard tables were developed based on speed of the through motorist.

Jamie Jeffrey. If you look at bigger cities, they have traffic lights every other block and they control the speed of the through motorist.

Michael Rock. We need to look at the function of the roads and perhaps link access management to the function.

Bob Russell. We set up Special Transportation Areas (STA)'s and Urban Business Areas (UBA)'s. Our expectations in those areas are different.

Doug Bish. There are differences between urban and rural areas that need to be captured.

Jamie Jeffrey. The use of the roads is different, and where there is a high number of turning movement to on from the roadway, motorists have a lower expectation for speed. In Portland, if the developer proposes an allowed use, there is no analysis of traffic. The City does not have spacing standards in relationship to other driveways; though there is a corner clearance expectation in relationship to an intersection. We do some analysis. We tend to leave existing driveways alone where there is no documented safety issue.

Harold Lasley. I looked at the Washington County standards. Their code states that they only permit arterials and collectors to have direct access to arterials. We have talked about having direct access to highways only from other arterials. We need to talk about the policy of what should be connecting to the state highways. It would be helpful to look at some of the policies of the Highway Plan to understand the context of the access management rules.

Jamie Jeffrey. There is the issue of how land owners in the middle of a block, who do not have access to a side street, get access to the street.

Doug Tindall. We can have a policy; but still in some places it will not make sense to enforce the policy.

Gail Whitsett. We have concerns in Klamath County about roundabouts. We have been told we have to put in a roundabout in an area where several highways come together, and it is not practical for freight. We have a lot of truck/double trailers combinations and they will be in conflict with smaller vehicles.

Bob Bryant. We are looking at a roundabout as a replacement to the existing signal at the specific intersection in question. ODOT is in the process of determining whether a new traffic signal or a roundabout is the preferred solution. Both options have issues that would need to be resolved. The current standards for traffic signals will take out the nearby businesses.

Doug Tindall. We have more work to do at that intersection.

Doug Bish. I would like to clarify that we are not mandated to use roundabouts. But we must at least consider all of the options, including roundabouts. We must also consider the fact that it is a truck route.

Gail Whitsett. There need to be exceptions to rules.

Doug Tindall. It is illegal for us to reduce capacity on a trucking route.

Bob Bryant. If you look at this from the perspective of congestion, if more driveways mean more congestion, then you also have to consider the issue of motorists who do not distinguish between the stopping ability of trucks and cars. They pull out in front of trucks assuming that they can stop. If we're on a freight route, we need to take the density of driveways into account.

Harold Lasley. We don't have spacing standards categorized for freight routes.

Doug Tindall. What Bob Bryant is saying is that if we're in a congested area, we have to be willing to live with all of the problems that come with more congestion.

Bob Russell. We don't like non-traversable medians, but we understand they have their place. Unfortunately, it seems that ODOT often views medians as the first line of defense. We think they should be the third line of defense.

Del Huntington. Non-traversable medians work well on the freeway system. South of Lincoln City, ODOT installed a non-traversable median on US 101 which negatively impacted a few land owners adjacent to the highway. However, the majority of the outcomes they feared did not materialize. It's interesting to note that a two-way left-turn lane improves safety by 28%; but non-traversable medians improve safety by only 30%. If we get into the discussion of medians, we need to approach it honestly. What is located on the other side of the road from the approach at issue is usually more important than the spacing between driveways on the same side of the road.

Celia Barry. Medians get to the convenience issue.

Doug Bish. There are thresholds where a non-traversable median needs to go in. But in Oregon you are allowed to turn left into a two-way left-turn lane for a 2-stage entry to highway. That makes it safer.

Jamie Jeffrey. Is this a consideration in the analysis?

Bob Bryant. All of the conflicting moves are evaluated. The failing move may be trying to get to the center median because there is too much traffic.

Del Huntington. We evaluate the 30th highest hour volume of traffic for peak hour. You also need to look at the peak 2 hours, which is computed by analyzing the peak 15 minute period within the 2 hour period. We may be overbuilding highways to vacation homes.

Jamie Jeffrey. There are risks to allowing every driveway. We look at how comfortable we are with the situation. When there is a one-hour congestion problem, that is one thing, however, if we have eight hours of congestion, it is different. ODOT's rules, in contrast, are pretty black and white.

III. Temporary Rule

Doug Tindall moved the discussion to consider the Temporary Rule written by the ODOT Access Management Unit based on SB 1024 and asked what if any of the proposed language does not meet the group's vision. (Comments that reference page numbers below are citing to copies of the temporary rule under discussion.)

Safety Problems "are anticipated"

Mark Whitlow said the site distance and safety issues on page 8 are problematic. As background, he explained that the developers of SB 1024 thought the threshold for needing a change of use was too low. They were concerned about businesses not locating at particular sites and loss of jobs as a result. At the same time, people were spending a lot of money on traffic analysis and finding out that there wasn't a problem. So they looked at how to avoid those issues. They thought the safety issues were being looked at too closely by ODOT staff. The response was to deal with the trip counts and double them. That was not sufficient by itself to solve the problem. So they also looked at percentages. They tried to provide an appropriate way to practically allow for a change of use. He continued that they looked at the safety issue on page 8. Peak hour for change of use is not the same as for a new approach now. We learned there are lots of different peak hours. The peak hour here would not be the 30th highest hour. As developers, we are reluctant to say that we want to have a driveway that is unsafe. But we understand that there is always a risk. In terms of safety, we wanted ODOT to be able to come in and say where something is unsafe. The old language was too speculative – factors, but no standards. We wanted to use objective standards because we were getting clobbered. The language we came up with tried to get around the problem.

Doug Tindall noted that the problem with safety in the current OAR relates to three words “or are anticipated.”

Bob Bryant explained that we have to be able to study the impact of the proposed approach and get it right before the approach is constructed because it is extremely difficult to close an approach.

Mark Whitlow explained that the proposed change was intended to get to a better balance and shift the burden for proving that a proposal is unsafe.

Del Huntington expressed a view that the location of the problem driveways is already known from existing data; you don’t learn about them in the application process by looking at anticipated changes.

Harold Lasley asked for clarification of this point. Are the drafters of SB 1024 saying that if we are engaged in a change of use application we cannot do the analysis to evaluate a proposed change?

Bob Russell explained that that was the intent.

Jamie Jeffrey and Celia Barry both expressed concern that that is not appropriate, and that ODOT must be able to look at what will occur in the future.

Del Huntington countered that in most cases, we are only looking at 25 more cars in and 25 more cars exiting the property in the peak hour, which should not contribute to a queue that would cause a failure.

Mark Whitlow said that what we are saying is that if a development causes a low level of impact to the highway, ODOT’s standards should not threaten the economic development opportunity afforded by the development.

Harold Lasley asked about a situation where we already have poor geometry and a bad situation, which would only be worsened by more trips. He noted that under the statute it’s possible to go from 5 trips to 500 trips. For 5 trips a day, poor sight distance might not be a problem; but for 500 trips per day it will be a problem and that ODOT should be able to analyze and correct the situation.

Bob Russell noted that ODOT has already allowed a bad situation.

Harold Lasley noted that Mark Whitlow and Bob Russell have themselves expressed concern that ODOT be able to make the situation safe.

Doug Bish called attention to a specific case where a site plan put a lot more traffic into a certain intersection and caused the signal to fail. He said that ODOT should be able to require mitigation in that case.

Jamie Jeffrey noted that site distance is a unique problem and suggested that perhaps we should call that out as a specific problem.

Doug Tindall asked if you have the protection of sight distance, what is the risk?

Del Huntington noted that what had been agreed to in previous meeting during the development of the language in SB 1024. The concept of applying 10 times the posted speed to determine the sight distance in feet was approved.

Doug Tindall asked that if the rule contained the AASHTO standard, would it provide adequate protection?

Harold Lasley said you would also have to account for grade.

Del Huntington said that would be okay as stopping distance increases for downhill grades steeper than 3 percent.

Doug Tindall suggested using a sight distance standards of 10 times the posted speed or the 85th percentile speed when the grade is less than 3%. When the grade exceed 3% you fall back to AASTO standard.

Jamie Jeffrey noted that this puts the onus on the agency to prove problems.

Doug Tindall said he needs to talk about these issues with his staff. We have just focused on sight distance in this discussion. But there may be other issues that need to be addressed.

Mark Whitlow explained that they were also concerned about weight of vehicles and that a change was made to accommodate large vehicles.

Inter-Governmental Agreement (IGA) in Lieu of Permit for a Public Approach

Mark Whitlow explained that another major concern was whether a particular approach is public or private. Roads that didn't have adequate connectivity were classified as a private approach in the rules. Local governments found that offensive and it created a burden that didn't make any sense. He said we needed a bright line so that we don't argue about whether a particular street is public or private. We changed it so that there is no need to get a permit for a public approach. Our concern now is that there is a need to get an IGA on pages 17, 19, 22 and 23. An IGA is a harsher burden than a permit.

Jamie Jeffrey noted that this requirement applies only if there is a deviation from the rules.

Harold Lasley noted that the rule does not say "is" required; it says "may" be required.

Doug Tindall explained that what we are trying to get at is that if there is a maintenance issue for ODOT, we want to know who is responsible for the signs and maintenance. He said this language should be sufficiently limiting because we are just talking about the maintenance.

Jamie Jeffrey noted that if a road is listed in a TSP, then it does not require a permit.

Harold Lasley explained that ODOT's concern was that local governments do not always nail down the location of a road. So at the time you come in, the street may need a deviation for the location. Since it is a government to government negotiation, we thought an IGA would be appropriate. The matter of whether an IGA is needed is one for the Region Manager to decide, not the Region Access Management engineer.

Doug Tindall asked the staff to go back and put some kind of floor under this.

Mark Whitlow asked if an IGA has to go to OTC.

Doug Tindall said "no." We do them all the time.

Jamie Jeffrey explained that it may be easy for ODOT, but cities may have to go before the city council. She said the City of Portland may be able to propose something for ODOT.

Celia Barry pointed to page 5 and noted that county roads are excluded from this procedure and wondered if it causes a problem under 368.

Doug Tindall said counties are not included and that a local access road does not rise to the standard.

Bob Russell asked, in reference to page 22, what is an indenture of access and what does this section mean? Doug Tindall explained that it is a right-of-way process in which a deeded reservation of access is relocated to a different place on the property frontage.

IV. Conclusion

The group will meet again in three weeks.

Doug Tindal reminded Mark Whitlow that we need his contacts and the AAA contacts.

Del Huntington said we will use his website as a clearing house for information and to receive information.