

# Access Management Strategy & Livability Plan

## OR 42 and Old Highway 99 Winston, Oregon

### Prepared by:

Umpqua Regional Council of Governments  
for the Oregon Department of Transportation,  
Douglas County, and the City of Winston

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## City of Winston Location

## Aerial Photo

## ACRONYMS

<b>ADT</b>	Average Daily Traffic
<b>AMS &amp; LP Winston</b>	Access Management Strategy & Livability Plan City of Winston
<b>CHAMPS</b>	Central Highway Approach/Maintenance Permit System
<b>Division 51</b>	OAR 734-051
<b>GIS</b>	Geographic Information System
<b>IGA</b>	Intergovernmental Agreement
<b>MP</b>	Milepost
<b>OAR</b>	Oregon Administrative Rule
<b>ODOT</b>	Oregon Department of Transportation
<b>OHP</b>	Oregon Highway Plan
<b>Old Hwy 99</b>	Douglas County Arterial, Main Street
<b>OR 42</b>	Oregon Highway 42, Douglas Blvd
<b>ORS</b>	Oregon Revised Statute
<b>OTIA</b>	Oregon Transportation Investment Act
<b>PD-03</b>	Transportation Operations, Project Delivery Leadership Team Operational Notice for Project Development Access Management Sub-teams
<b>RAME</b>	Region Access Management Engineer (ODOT)
<b>SIP</b>	Safety Improvement Program
<b>SPIS</b>	Safety Priority Index System
<b>STA</b>	Special Transportation Area
<b>SWACT</b>	South West Area Commission on Transportation
<b>TPR</b>	Transportation Planning Rule (OAR 660 Division 12)
<b>TSP</b>	Transportation System Plan
<b>UGA</b>	Urban Growth Area
<b>UGB</b>	Urban Growth Boundary
<b>V/C</b>	Volume to Capacity ratio



## DEFINITIONS

**Access Control:** A limitation of the right and use of access either by law or agreement. The control may be a complete restriction of access or a limitation of access to a specific location.

**Approach:** Legal term for roads or driveways providing access to the State highway.

**Average Daily Traffic (ADT):** The total volume passing a point or segment of a road facility, in both directions, during a 24-hour period.

**Access Management Plan (AMS & LP):** A formal, structured plan that looks at land access and development from a planned, long range, system-wide approach. It coordinates and maintains the safe and efficient use of the arterial street system, while providing necessary vehicular access to adjacent lands.

**Central Highway Approach/Maintenance Permit System (CHAMPS):** A computerized system used by ODOT to manage the application/permit processes and records for Approach, Utility, and Miscellaneous permits.

**Change of Use:** A change in the land use, volume, or type of traffic utilizing an approach. For a more specific definition, see OAR 734-051.0045(2)(b) .

**Deviation:** Deviation that departs from the purpose and intent of the access management spacing standards or which potentially has a significant negative impact on safety or traffic operations.

**Division 51:** Governs the issuance of Construction Permits and Permits to Operate, Maintain and Use an Approach for approaches onto state highways. (OAR 734-051)

**Geographic Information Systems (GIS):** A computerized system designed to manipulate, analyze, and present information tied to a spatial location.

**Grandfathered Approaches:** A legally constructed approach that was constructed before permission from ODOT was required by law, prior to 1949 (OAR 734-051-0040(26))

**Grant of Access:** Constitutes the transfer of a property right and is required to create a new approach where access control exists.

**Indenture of Access:** Modification in the deed record of the location, width or use restrictions of an existing reservation of access. It is required when an applicant wishes to move the access point more than 10 feet from the location listed in the deed. It is also required to increase the deeded width of an existing approach or to remove use restrictions other than a farm use.

**Intergovernmental Agreement (IGA):** A legal contract between two or more governmental agencies.

**Milepost (MP):** A point on a highway indicating the distance, in miles, measured along the course of the highway, usually from west to east or north to south.

**Oregon Highway Plan (OHP):** Defines policies and investment strategies of Oregon's state highway system for the next 20-years. It further refines the goals and policies of the Oregon Transportation Plan and is part of Oregon's Transportation System Plan.

**Oregon Transportation Investment Act (OTIA):** Bonding measure that is used to finance highway projects chosen by the Oregon Transportation Commission.

**Reservation of Access:** The limitation of an abutting property owner's common law right of access to a specific location where ODOT has acquired access control along the highway frontage. A reservation of access is designated to a specific location and may be subject to use restrictions and a specific width. The reservation of access must be designated and specifically identified in the deed or final judgment where the state acquired the access control rights. A reservation of access provides the abutting property owner with the right to apply for an approach pursuant to OAR 734-051-0070 through 734-051-0105.

**Restriction of Access:** The property right of ingress and egress to the roadway or from abutting property.

**Safety Improvement Program (SIP):** One component of the Project Safety Management System aimed at reducing fatalities and serious injury accidents in Oregon. Road segments are in 5-mile segments and are ranked by number of fatalities or serious injuries:

**Safety Priority Index System (SPIS):** A method developed by the Oregon Department of Transportation (ODOT) for identifying hazardous locations on state highways. The SPIS score is based on three years of crash data and considers crash frequency, crash rate, and crash severity. Types of injuries are divided into three categories:

**South West Area Commission on Transportation (SWACT):** An advisory body chartered by the Oregon Transportation Commission made up of one ODOT official, local elected officials, and citizen representatives. They address all aspects of surface transportation with primary focus on the state transportation system.

**Transportation Planning Rule (TPR):** Implements Statewide Planning Goal 12 (Transportation) and promotes the development of safe, convenient and economic transportation systems that are designed to reduce reliance on the automobile.

**Transportation System Plan (TSP):** Establishes a system of facilities and services to meet local transportation needs over a 20-year period.

**Urban Growth Area (UGA):** The area within the Urban Growth Boundary and outside the city limits.

**Urban Growth Boundary (UGB):** A legal boundary line used to separate urban and urbanizable land from rural land.

**Volume to Capacity ratio (V/C):** The peak hour traffic volume (vehicles/hour) on a highway section divided by the maximum volume that the highway section can handle.

## **CHAPTER 1: INTRODUCTION**

This Access Management Strategy and Livability Plan (AMS & LP) has been developed in compliance with the Oregon Highway Plan (OHP), the City of Winston Transportation System Plan, and in response to a Oregon Transportation Commission (OTC) condition for Oregon Transportation Investment Act (OTIA) funding.

The AMS & LP includes access management recommendations that balance the City of Winston's land use and economic development goals with State access management requirements for safe and efficient highway operations.

The goal of the AMS & LP is to complete a comprehensive inventory of all approaches to OR 42 and Old Hwy 99 in the study area and to develop strategies that would meet or improve conditions by moving towards the appropriate access management standards.

The approach inventory will identify all rights of access between properties adjoining the state or county highway, including reservations, indentures, and grants of access. The AMS & LP also includes additional relevant information such as zoning, land use and tax lot identification for properties within the study area. The recommendations that come from this strategy document will ensure that reasonable access to properties adjoining the highway is provided, while moving in the direction of meeting the access spacing standards identified in the Oregon Highway Plan (OHP) and Douglas County Transportation System Plan (TSP).

The Livability Plan will identify strategies to improve the streetscape along the highway segments identified in this study.

### **PROJECT AREA**

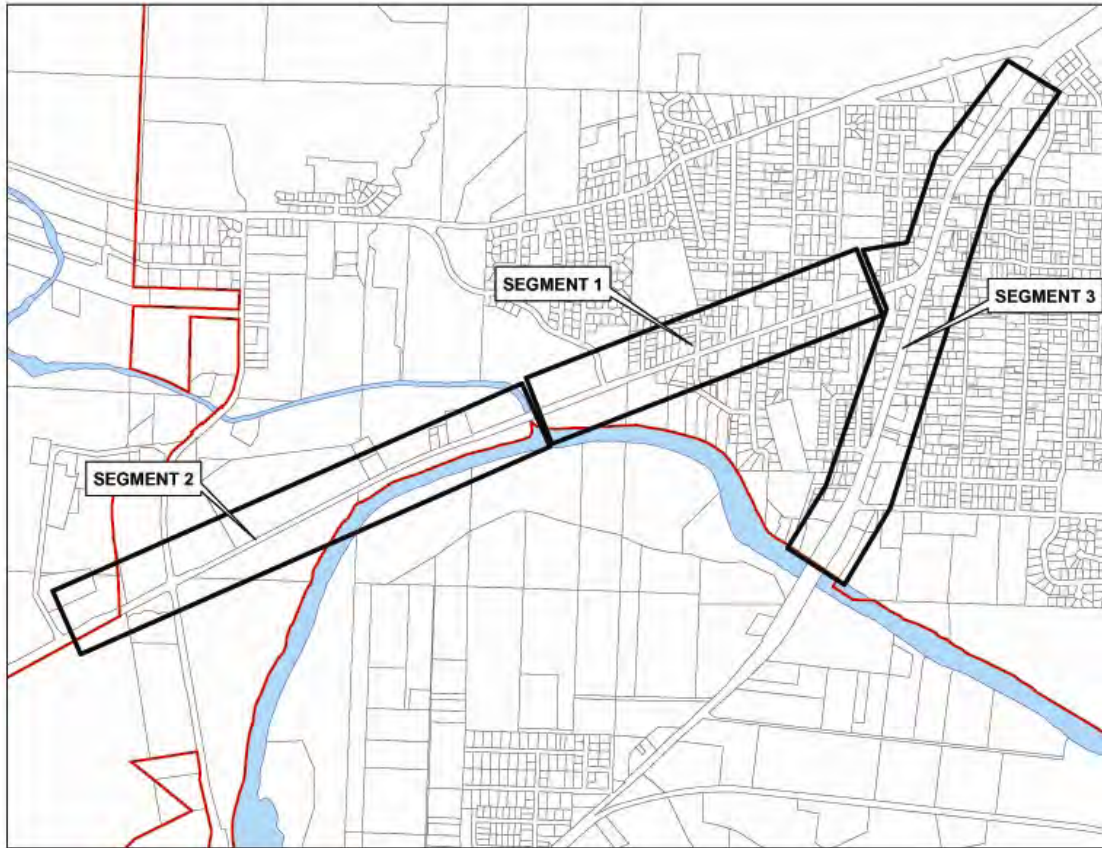
Although the project is mainly within the boundaries of the Winston UGB, portions of the study area are under the jurisdiction of Douglas County. Changes on Old Highway 99 must be coordinated with both the City and the County.

OR 42 is classified as a Statewide Highway and freight route, linking US 101 with Interstate 5. The OHP defines Statewide Highways as:

“Statewide highways (NHS) typically provide inter-urban and inter-regional mobility and provide connections to larger urban areas, ports, and major recreation areas that are not directly served by Interstate Highways. A secondary function is to provide connections for intra-urban and intra-regional trips. The management objective is to provide safe and efficient, high-speed, continuous-flow operation. In constrained and urban areas, interruptions to flow should be minimal. Inside Special Transportation Areas (STAs), local access may also be a priority.”

The AMS & LP has been developed for three segments on OR 42 and Old Pacific Hwy 99 as illustrated in Figure 1.1.

**Figure 1.1 Project Segments**



The Study area for the AMS&LP includes three distinct segments; 1) Lookingglass Creek Bridge to Glenhart Drive on OR 42, 2) Old Brockway Road to Lookingglass Creek Bridge on OR 42, and 3) Old Highway 99, South Umpqua River to Lookingglass Road.

The Oregon Department of Transportation has identified a construction project within Segment 1 to be constructed in 2006. The construction project will widen OR 42 by constructing a continuous center left turn lane. As part of the project, curb, gutter, sidewalk, and bikelanes will be included throughout most of Segment 1.

**Segment 1: OR 42, Lookingglass Creek Bridge to Glenhart Drive (MP 72.52 to MP 73.18)**

Lookingglass Creek Bridge to Glenhart Drive is generally urban in nature and characterized by numerous approaches. Most parcels within this segment are currently developed, many with non-conforming uses, when compared to their commercial designations identified in the City of Winston Comprehensive Plan and city zoning designations. Although an asphalt pedestrian path is available on the north side of the highway, no formal sidewalks or bikelanes exist within this segment. On-street parking is prohibited. Speeds are generally 30 mph, with the area west of Abraham Avenue posted at 45 mph.

Because the ODOT project will construct curb, gutter, and sidewalk, the access strategies for this segment will focus on identifying opportunities for access management measures such as driveway consolidation or other approach modifications. This segment will be further refined to include recommendations to ODOT for the construction

project and provide recommendations for alternate approach locations should redevelopment occur in the future.

**Segment 2: OR 42, Old Brockway Road to Lookingglass Creek Bridge (MP 71.48 to MP 72.52)**

Old Brockway Road to Lookingglass Creek Bridge is rural in character. This segment is access controlled, with reservations of access at various points along its length. The posted speed is 45 mph for the majority of this segment, with a 55 mph speed zone posted west of Brockway Road. No sidewalks or bikelanes exist within this segment, and on-street parking is prohibited.

This segment focuses on developing access options that facilitate site development, while still accommodating through traffic consistent the classification of OR 42 as a statewide freight route. Future roads and local street connections that facilitate this goal will also be identified.

**Segment 3: Old Highway 99, South Umpqua River to Lookingglass Road (Main Street to Hwy 42 MP 73.88)**

Old Oregon 99, South Umpqua River to Lookingglass Road is urban in nature and characterized by numerous approaches. Most parcels are currently developed with commercial uses. Sidewalks exist throughout this segment on both sides of the highway; on-street parking is prohibited. Speeds are posted at 30 mph, transitioning to 45 mph near Jorgen and 55 mph at Lookingglass Road.

This segment focuses on identifying opportunities for access management measures such as driveway consolidation, access channelization, local street connectivity improvements, and intersection modifications.

**GOALS**

The Technical Advisory Committee developed the following goals for development of the AMS & LP and as a guide to move toward the access spacing standards identified in the Oregon Highway Plan and Douglas County Transportation System Plan at the time development or redevelopment occurs in the future along all three segments. These goals are also intended as guidance to ODOT in the design for the construction project currently being planned for Segment 1 of OR 42.

**1) Unused/Vacant Property Approaches:**

(a) Consider location of approaches onto and nearby vacant parcels to improve safety and promote development.

(b) Develop a plan that allows ODOT and the County to respond in a timely manner to requests for access to the highways and simplifies the process for property owners.

**2) Existing Approaches:** Construct all approaches to a structural standard that will support automobiles and truck traffic.

**3) Illegal or No Permit:** Seek waiver of approach permit fees for all approaches to be constructed by ODOT in Segment 1, within project limits.

**4) Pedestrian Median:** Install pedestrian crossing safety medians where practical with special consideration for school children, business access and traffic patterns.

**6) Landscaping:**

- (a) Landscape right-of-ways where sufficient space is available.
- (b) Landscaping should be locally maintained.

**7) Lighting Options:** Include standard traffic safety illumination with decorative type poles at intersections. Other lights should have a pedestrian friendly design with decorative poles.

**8) Underground Power:** Consider undue hardships on adjacent property owners when under grounding utilities.

**9) Other:**

- (a) Identify and provide for the ability to access the proposed city park next to the South Umpqua River from OR 42.
- (b) Extend sidewalk along south side of OR 42 toward Lookingglass Creek Bridge.

## CHAPTER 2: ACCESS MANAGEMENT

Access Management is the careful planning of the location, design, and operation of driveways, median openings, interchanges, and street connections. Roads serve two primary purposes. One is mobility and the other is access. Mobility is the efficient movement of people and goods. Access is getting those people and goods to specific properties. A roadway designed to maximize mobility typically does so in part by managing access to adjacent properties. A good example of this is an Interstate Highway. A motorist can typically expect efficient travel over a long distance using an Interstate Highway. The number of access points is restricted to only freeway interchanges every few miles because this type of roadway primarily serves a mobility function. At the other extreme are local residential streets that provide easy and plentiful access to adjacent properties. This type of roadway primarily serves an access function.

**Figure 2.1 Hierarchy of Roads**



Source: ODOT Access Management Brochure

Most state roads serve a function somewhere between the Interstate Highway and the local road. One of the responsibilities of the ODOT is to ensure that the design of each

state road properly balances access and mobility. Access Management is the means to provide this balance.

Access Management typically includes:

- ◆ Frequency, spacing and design of private driveways
- ◆ Left/Right turn lanes
- ◆ Frequency and location of cross streets
- ◆ Frequency and location of traffic signals
- ◆ Use of median barriers
- ◆ Sight distances and corner clearances

An AMS & LP differs from previous access management efforts in that it looks at highway access and land use from a planned, long range, system-wide approach rather than on a case-by-case basis. It recognizes that parcel by parcel access decisions made in the early stages of corridor development make it difficult, if not impossible, to preserve roadway capacity and mobility as development occurs.

## **Access Management and Mode of Transportation**

### **Pedestrian and Bicycle**

Most conflicts between bikes or pedestrians and vehicles occur at intersections, driveways and alleys. Bicyclists and pedestrians benefit by limiting and consolidating driveways, by providing raised or landscaped medians, or by creating frontage roads, in several ways:

- The number of conflict points is reduced; this is best achieved by replacing a center-turn lane with a raised median (as left turns account for a high number of crashes with bicyclists and pedestrians);
- Motor vehicles are redirected to intersections with appropriate control devices;
- Pedestrian crossing opportunities are enhanced with an accessible raised median and fewer conflicts with turning cars;
- Accommodating the disabled is easier, as the need for special treatments at driveways is reduced;
- Traffic volumes on the arterial may decrease if local traffic can use other available streets or frontage roads for local destinations; and
- Improved traffic flow may reduce the need for road-widening, allowing part of the right-of-way to be recaptured for bicyclists, pedestrians and other uses.

However, limiting the number of street connections may also have negative impacts as well. For example

- Creating a thoroughfare may increase traffic speeds and volumes;
- Eliminating local street crossings eliminates pedestrian crossing opportunities, reduces pedestrian and bicycle travel choices and may increase out-of-direction travel;
- Reduced access to businesses may require out-of-direction travel, discouraging walking and bicycling trips;
- Placing concrete barriers down the middle of the road (rather than raised or landscaped medians) effectively prohibits pedestrian crossings; and
- Improperly designed raised medians act as barriers: pedestrians should be able to see to the other side of the street (vegetation should not decrease visibility) and curbs should be no more than standard height.



## **Freight**

While pedestrian and bicycle access is very important for local access, adequate freight access is necessary for economic vitality. While a typical car is approximately 19 feet long, freight and delivery trucks are usually 30 ft. (single unit) – 50 ft. (with trailer) feet. Freight and delivery trucks typically require a turning radius twice as wide as a passenger car. A more narrow approach then requires a much slower turn by the vehicle, which increases delay on the highway. Because of this, the approach either needs to be the appropriate width, or the traffic should be rerouted to an intersection with appropriate facilities. The later is the preferred approach, because it causes only minimal delay to the delivery vehicle, but a substantial time savings to the general traveling public.

## **Access Management and Economic Development**

There is intense pressure to allow roadside businesses unlimited access to the roadway, often resulting in strip development. This may provide an immediate opportunity for the developer, but over time, the traffic that supported the business can become traffic congestion that may keep prospective customers away. The congestion on the roadway system results in excessive time delays, delayed shipments, interrupted deliveries, loss of potential customers, and transfer of business activity to other more easily accessed businesses. Additionally, the congestion leads to increased fuel consumption, poor air quality and less desirable communities.

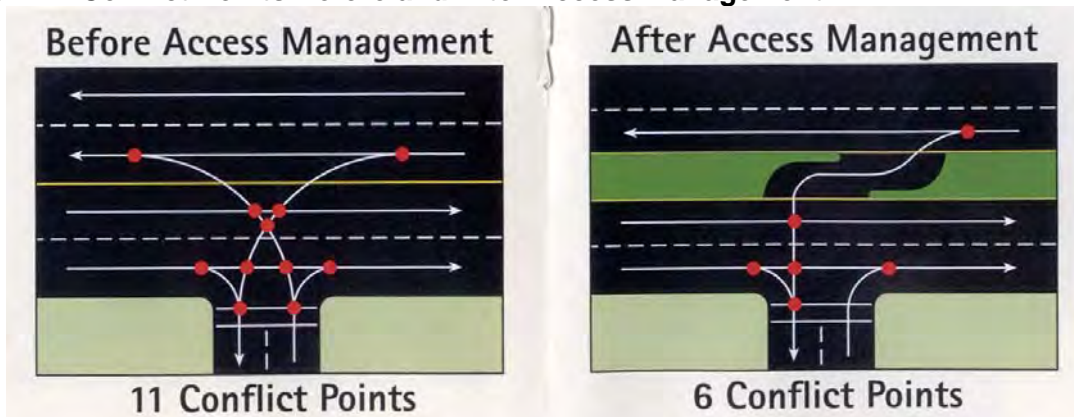
The challenge is to determine how to best apply techniques on Oregon's State Highway System that protects the highway efficiency and investment, and also contributes to the City of Winston' local economy and community values. Access Management is one technique the State employs to provide more efficient highways. As traffic flow becomes more efficient, the roadway is able to handle additional traffic allowing congestion levels to decrease. This results in more motorists being exposed to roadside businesses.

By maintaining higher travel speeds on arterial streets, access management supports more vital commercial development, because market areas will be larger. For example: If average travel speed in a street network is 21 miles per hour, anyone within a 7-mile radius will be within 20 minutes of any given destination. If, because of aggressive access management, average speeds are 30 miles per hour, the same 20-minute travel time captures an area of 10 miles radius, or in other words an area twice as large. At worst, motorists must endure a bit more circuitry of travel in the vicinity of an origin or destination (that is, by using a frontage road or a side street), but this will be offset by reduced travel time throughout the remainder of the trip.

## **Access Management and Safety**

Access management is also a safety issue. A basic principal of access management is to limit the number of conflict points along a roadway by limiting the number of driveways and in some locations restricting turning movements (Figure 2.2). Drivers become overwhelmed by the numerous conflict points when approaches are in close proximity to one another, increasing the potential for crashes. Studies indicate that 50-60% of accidents is access related. These include all left turn and right angle accidents, and most rear end accidents. A 1992 study by the Insurance Institute for Highway Safety found that 58% of urban area accidents occurred at or near intersections.

**Figure 2.2 Conflict Points Before and After Access Management**



Source: ODOT Access Management Brochure

While automobile-automobile accidents are most common, proper access management also increases the ease of travel for cyclists and pedestrians. Excessive access points result in a disjointed network for non-automobile traffic. Also, disabled persons are placed at risk when excessive access points exist.

The principles of access management should be used as a guide to planning and design of access points along corridors to ensure adequate access to property and to ensure the capacity of the roadway is maintained, at a relatively low cost. If, however, construction of access points occurs at random, with little thought given to proper spacing, design, or long-term impacts, it is very costly, and often difficult to correct the situation once development along the corridor is complete.

#### **The Oregon Perspective – Facts & Figures<sup>1</sup>**

- ◆ Approximately 50% of all non-freeway crashes are at or near driveways and intersections, and 50% of these crashes result in an injury.
- ◆ Every time a vehicle stops in a mile, fuel consumption increases by 20%, as well as an increase in emissions and fumes.
- ◆ There are more than 48,000 Oregon-based trucks. If each of those trucks was delayed in traffic only 5 minutes once a month, the extra cost of those trips would amount to \$1.2 million/year.
- ◆ On an average weekday, 780,000 tons of freight worth \$500 million move by truck over Oregon roads.
- ◆ Every year, 45 million tourists travel on Oregon's highways. It is important that tourists enjoy a safe and efficient trip to their destinations. Access management makes these trips possible.

#### **The Research Perspective – Facts & Figures<sup>2</sup>**

- ◆ Each additional access point increases the accident rate by 4%
- ◆ Increasing the access points from 10 to 20 per mile would increase the accident rates by 40%.

A road with 60 access points per mile would have triple the accidents rate of a road with 10 access points per mile

<sup>1</sup> Oregon Department of Transportation, *What is Access Management?* brochure,(2003).

<sup>2</sup> Papayannoulis, Vassilios et al. Access Spacing and Traffic Safety. TRB Circular E-C019: Urban Street Symposium

## **CHAPTER 3: STATUTES, RULES, PLANS, POLICIES, AND STANDARDS**

It is important that the development of this plan be completed in conformity with state and local plans, policies and standards. Following are the relevant documents that were consulted prior to the development of the AMS & LP and a brief description of how they relate to the AMS & LP. Specific policies and standards are detailed in Appendix A.

### **ORS 374 Control of Access to Public Highways**

The ORS contains guidance on permitting accesses to the highway. More detailed direction regarding these policies are contained in other documents, such as Division 51.

### **OAR 734–051 (Division 51)**

Division 51 governs the permitting, management, and standards of approaches to state highways to ensure safe and efficient operation of the state highways. Specifically, OARs 734-051.115,.155,.275, and .285 shall guide the development of the AMS & LP.

Policies were identified which address the following:

- ◆ How to bring existing and future approaches into compliance with access spacing standards, and ensure the safe and efficient operation of the highway;
- ◆ The purpose and components of an AMS & LP; and
- ◆ Requirements regarding mitigation, modification and closure of existing approaches as part of project development.

The Sub-team must consider these policies when developing alternatives for the project area and will ensure that requirements for making changes to existing approaches are followed.

### **OAR 660-012 Transportation Planning Rule (TPR)**

The purpose of the rule is to promote safe, convenient and economic transportation systems and coordination between affected levels of government in all steps of a transportation system plan (TSP). 660-012-0020 requires that TSPs include a road plan, which should address Access Management issues. The AMS & LP is not intended to fulfill access management requirements in a TSP as outlined in the TPR but rather provide supplemental information on a specific highway segment.

### **Oregon Transportation Plan (OTP) (1992)**

The goal of the OTP is to guide the development of a safe, convenient, and efficient transportation system that promotes economic prosperity and livability for all Oregonians. The plan promotes a balanced multimodal system and encourages cooperation among state, regional and local governments.

Relative to the AMS & LP, the OTP directs ODOT to ensure cooperation between state and local jurisdictions to ensure a safe and efficient transportation system, the efficient movement of goods on the highway, and public involvement programs. More detailed direction regarding these policies are contained in other documents as discussed below.

### **Oregon Highway Plan (OHP) (1999)**

The OHP represents one modal element of the OTP, providing policies and actions that address system classification/definition, system management, access management, travel alternatives and environmental and scenic resources for the state highway system. The OHP promotes coordination and collaboration with local governments.

Specific to the AMS & LP, the OHP directs ODOT to address the following when planning highway improvements:

- ◆ Cooperation with local jurisdictions;
- ◆ Improvements to the highway;
- ◆ Mobility and access spacing standards;
- ◆ Traffic signal placement; and
- ◆ Public involvement programs.

### **Oregon Bicycle and Pedestrian Plan (1995)**

The plan provides guidelines to encourage walking and biking as a viable alternative to the single occupancy vehicle as well as information on how different issues affect these modes. The AMS & LP provides general design guidelines and policies, but does not resolve specific issues related to bicycle and pedestrian mobility. For example, placement and type of accesses are important for pedestrians and bicyclists since accesses can lead to more direct routes but at the same time, each access can become a point of conflict for the pedestrian and bicyclist with merging or crossing vehicles. Each access needs to be examined and evaluated with these modes in mind in addition to vehicles.

### **PD-03 Project Development Access Management Sub-teams (2003)**

The purpose as stated in the Operational Notice is to provide detailed guidance and structure for those required to make and carry out appropriate access management decisions in the development of highway projects. This document will guide the Sub-team during the development of the AMS & LP. PD-03 outlines the formation, membership and function of access management sub-teams. It further outlines specifics for the sub-teams for guidance on operation, modernization, preservation, bridge and safety projects.

### **Douglas County Transportation System Plan**

In compliance with the TPR, Douglas County has developed an acknowledged TSP. The TSP guides the management of existing county transportation facilities and the design and implementation of future county facilities for the next 20 years. The TSP outlines access management strategies and recommended standards for county roads. Access management standards for State highways reference OHP standards. The TSP identifies OR 42 as a principal highway and Old Highway 99 as an arterial within the county. The development of the AMP must be consistent with the county's TSP.

### **Douglas County Land Use and Development Ordinance**

The Douglas County Land Use Development Ordinance (LUDO) contains ordinances and zoning codes implementing the plans and policies outlined in the Comprehensive Plan. Ordinances relating to access management for both County and State Highways can be found in this document and are incorporated into the strategies in the AMP.

### **City of Winston Comprehensive Plan**

The City of Winston developed and adopted a Comprehensive Plan on June 30, 2003 that contains major policies concerning desirable future growth and development during the next 20 years. The Comprehensive Plan identifies general categories of land use and densities of development throughout the urban area and provides a framework for involvement of the public, City Planning Commission and City Council in the planning process. This AMS & LP must be consistent with the City of Winston Comprehensive Plan.

**City of Winston Transportation System Plan**

In compliance with the TPR the City of Winston developed and adopted a TSP in 2003 that contains policies concerning a desirable future transportation system of the City and Urban Growth Area for the next 20 years. The TSP outlines access management policies and provides recommended standards for City streets. Access management standards for State highways reference OHP standards. The City TSP identifies Hwy 42 and Old Pacific Highway 99 as principal highways within the Urban Area. The development of this AMS & LP must be consistent with the City's TSP.

**City of Winston Land Use Development Regulations**

The City Zoning Ordinance, Subdivision Regulations and Public Facilities Plan contains detailed implementing policies and measures outlined in the City's Comprehensive Plan. The policies and implementing measures relating to access management in these documents are incorporated into the strategies in this AMS & LP as appropriate.

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## CHAPTER 4: EXISTING CONDITIONS

Data was compiled for OR 42 and Old Highway 99 within the study area. This data was used to gain understanding about the highway and neighboring environment when identifying access issues and developing recommendations for access management for the project area.

### HIGHWAY CHARACTERISTICS

Tables 4.1 and 4.2 summarize the roadway characteristics of OR 42 and Old Highway 99 within the study area.

**TABLE 4.1 OR 42 POSTED SPEED ZONES**

AMS & LP Segment	OR 42 Speed Zones	MP	# Of Lanes	Posted Speed
1	Lookingglass Creek Bridge to Abraham Avenue	72.52 - 72.68	2	45
1	Abraham Avenue to Glenhart Avenue	72.68 - 73.18	2	30
2	Old Brockway Road to Brockway Road	71.48 – 71.73	3	55
2	Brockway Road to Lookingglass Creek Bridge	71.73 – 72.52	2	45
3	Glenhart Avenue to Main Street	73.18 – 73.37	4	30
3	Douglas Avenue to Brosi Orchard Street	73.37 – 73.74	5	30
3	Brosi Orchard to Lookingglass Road	73.74 – 73.88	5	45

Source: ODOT

**TABLE 4.2 OLD HIGHWAY 99 POSTED SPEED ZONES**

AMS & LP Segment	Old Highway 99 Speed Zones	MP	# Of Lanes	Posted Speed
3	South Umpqua River to Douglas Avenue	0.00 – 0.71	5	30

Source: Douglas County Public Works

### Approaches

A list of private approaches was developed from ODOT R/W maps, Central Highway Approach/Maintenance Permit System (CHAMPS), Douglas County Assessor Reports, and from 2004 field visits. Using ODOT’s Central Highway Approach/Maintenance Permit System (CHAMPS) database, approaches were checked for legal approach permits.

In Segment 1 where speeds are 30 MPH, there are 30 private driveways and 10 public road connections. This equates to, on average, one approach every 79-feet. The access management spacing standard for urban statewide highways at 30 MPH is 770-feet.

In Segment 1 where speeds are 45 MPH, there is one public roads and no private driveways. No reservations of access are located within the access controlled area. The access management spacing standard for urban statewide highways at 45 MPH is 990-feet.

### Approach Characteristics – Segment 1

Within the City of Winston, most parcels along the highway are small as a result of multiple land partitions with many having several driveways. Historically, access in this

area has been uncontrolled and most development occurred without any approach permits. Consequently a significant number of approaches are currently constructed within the city limits, many in close proximity to one another. Adjoining property owners between Glenhart Avenue and slightly west of Snow Avenue have a common law right to access. The common law right of access gives property owners the right to request an approach permit for a driveway to their property.

Between Lookingglass Creek Bridge and just west of Snow Avenue, ODOT previously acquired access control. There are no constructed private approaches. One public road connection exists on the north side (Abraham Avenue). No reservations of access are available within segment one on either the north or south side of the highway. Access requests in this area will require a grant of access.

**Driveway Density**

Driveway density (the number of driveways per block or per mile) is important because accident rates increase dramatically as the number of driveways increase along arterial roadways (see Table 4.3). The section of highway within Segment 1 contains on average, more than 70 driveways per mile and as a result could be expected to see a higher crash rate

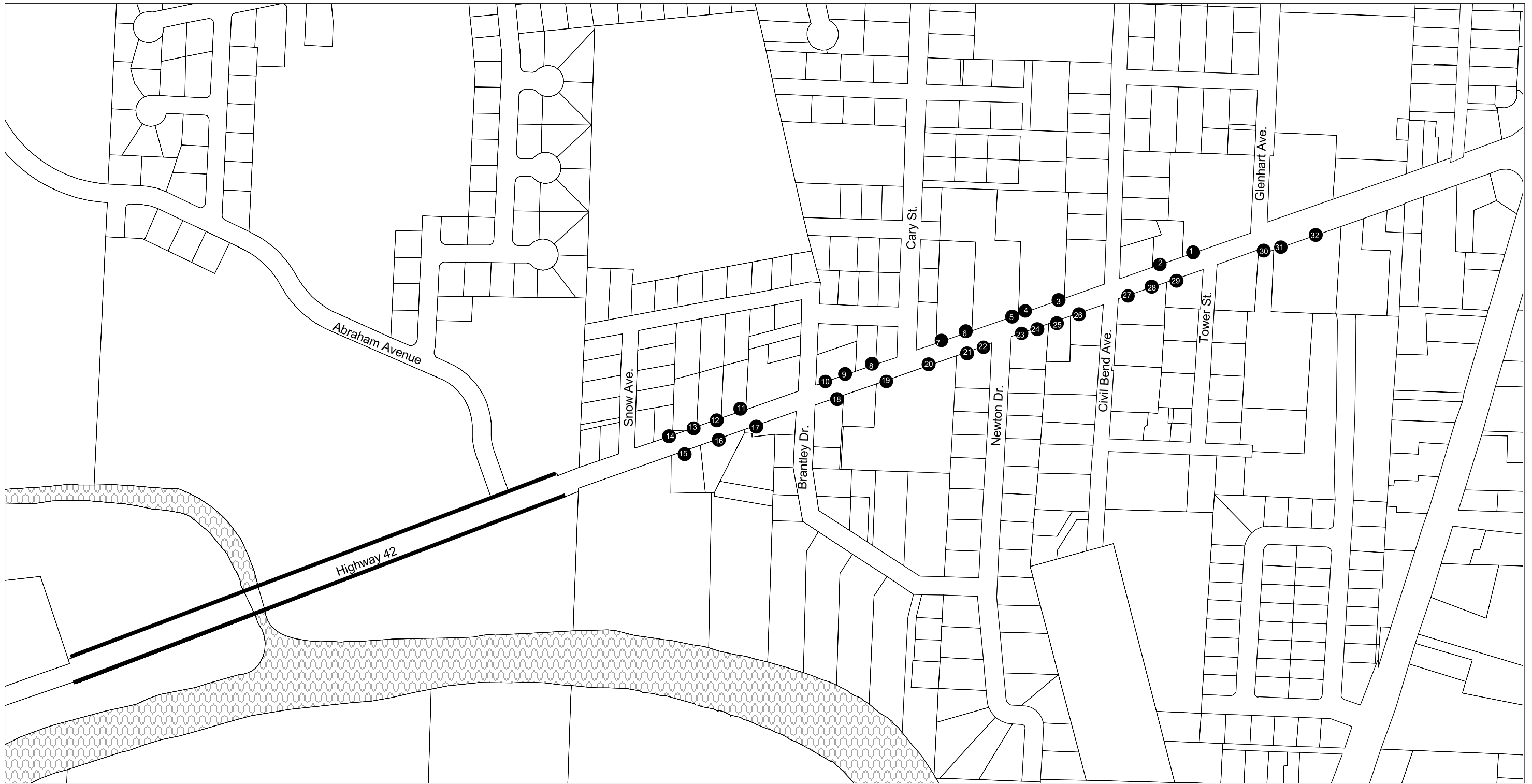
OAR 734, Division 51 and the Oregon Highway Plan contain standards for private driveway and public road approach spacing (see Appendix A) based on highway classification and speed.

**TABLE 4.3: DRIVEWAY DENSITY**

Driveways per Mile	Approx. Number of Driveways per 500-foot City Block	Representative Accident Rate for a Multilane, Undivided Roadway	Increase in Accidents Associated with Higher Driveway Density
Under 20	Under 2	3.4	--
20 to 40	2 to 4	5.9	+74%
40 to 60	4 to 6	7.4	+118%
Over 60	Over 6	9.2	+171%

Source: National Cooperative Highway Research Program Report 3-52; IA Dept. of Transportation








**Figure 4.1**

# Existing Approach Locations

**Segment 1 - Construction**  
**Lookingglass Creek Bridge to Glenhart Ave., Winston, OR**



**LEGEND**

-  Tax Lot
-  Highway Approach/Approach Number
-  Access Control



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## TRAFFIC CHARACTERISTICS

### Traffic Volumes

Traffic volumes were gathered for the study area in the form of average daily traffic (ADT) and volume-to-capacity (V/C)<sup>3</sup> ratio data. The OHP directs ODOT to ensure safe and efficient travel on state highways. The AMS & LP must consider traffic volumes to develop access management strategies so ODOT can preserve mobility on the highway for through traffic and balance the highway's efficiency with local traffic needs to access businesses adjacent to the highway. This analysis is needed because the number of accesses to the highway can create delay along the highway, increase crash rates and interrupt the traffic flow.

As shown in Table 4.4 the ADT volumes range from 18,400 near the eastern end (MP 73.75) of the project to 6,200 at the western end (MP 70.51). Traffic increases dramatically directly northeast of the project, and declines west of the project.

Many approaches in segments one and three must be balanced against the efficiency of the highway. Strategies developed for the urban sections must try to improve the existing efficiency of the system by bringing the existing approaches into compliance with spacing standards. Access management strategies for the urban sections are further discussed in Chapter 5: Strategies.

**TABLE 4.4 2002 OR-42 ADT IN STUDY AREA**

MP	LOCATION	2002 ADT
70.51	Brockway ATR - .98 miles west of Old Brockway	6,200
72.74	West City Limits of Winston	6,100
73.07	0.01 mile west of Civil Bend Ave	8,600
73.09	0.01 mile east of Civil Bend Ave	8,800
73.27	0.1 mile west of Old Highway 99	10,100
73.47	0.1 mile north of Old Highway 99	17,300
73.75	0.01 mile south of Brosi Orchard Rd	18,400
73.87	0.01 mile south of Lookingglass Road	17,600

Source: ODOT 2002 Traffic Volumes Tables

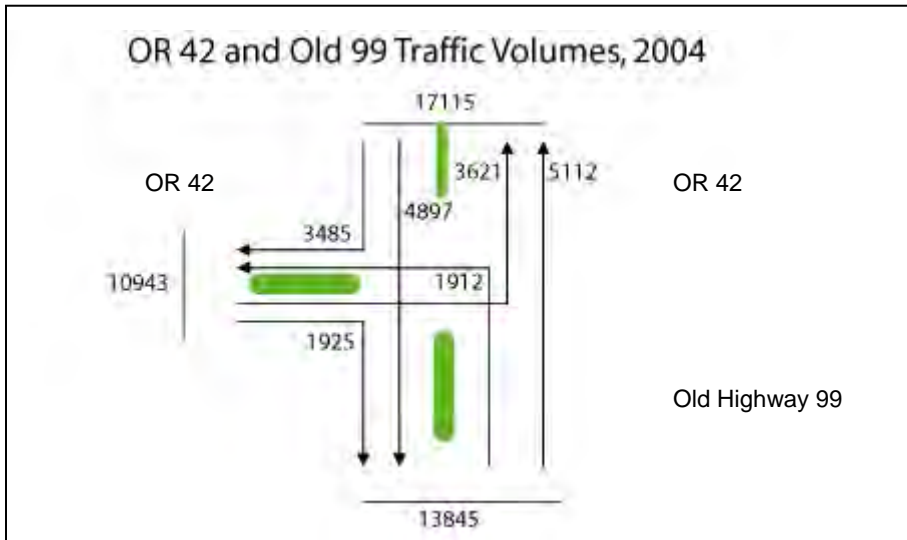
**TABLE 4.5 2002 OLD HIGHWAY 99 ADT IN STUDY AREA**

MP	LOCATION	2002 ADT
0.22	.02 miles north of Edwards Street	13,681
0.71	South Umpqua River Bridge	10,566

Source: Douglas County Public Works Traffic Counts, 5/6/2002.

The traffic counts at the OR 42 and Old OR 99 intersection were taken the week of January 21, 2004 (Figure 4.2). This includes 14 hour, manual classification counts factored to 24 hour volumes (factor of 1.18). Most of the traffic drives through the intersection (approximately 5,000 ADT), while around 3,500 ADT makes trips to/from the North and West. About 1,900 ADT makes trips to/from the South and West.

**Figure 4.2 Traffic Volumes at OR 42 and Old Highway 99**



Source: ODOT Traffic Count, January 2004

### Traffic Signals

The City of Winston TSP identifies Civil Bend as a potential location for a future new signal. Currently, this location does not meet traffic signal warrants. It is expected that a need for a signal will occur in the next ten to fifteen years. The access management plan should plan to locate approaches outside the intersection influence area so as to not disrupt traffic operations when the signal is added, and to permit a safe means of access into adjoining property.

Identification of a signal in this location does not constitute ODOT approval. Traffic signal warrants must be met prior to installation and approval from the State Traffic Engineer obtained. Identification of a potential signal location is solely intended to assist in developing strategies to locate approaches outside the influence area of the intersection.

### Crash Data

This section examines the crash data by the three segments identified in the Project Limits.<sup>4</sup> It also highlights highway segments containing a high number of crashes that will be considered in Chapter 5: Strategies. In a national study<sup>5</sup> conducted by the Transportation Research Board, crash data showed a strong relationship between the access points per mile and the crash rate. Their study concluded that increasing the access frequency from 20 to 50 access points per mile results in almost a doubling of the crash rate. Thus, each additional approach may increase the crash rate about 3 percent.

In Oregon, 55% of all non-freeway crashes are at or near driveways and intersections, with 50% of these crashes resulting in an injury. In urban areas 75% of crashes are driveway/intersection related. Crash data is used as an indicator of traffic safety by

<sup>4</sup> Crash data for OR 42 and Old Highway 99 were obtained from ODOT for the period 1998-2002. This information was cross-referenced with ODOT's 2002 SPIS rankings. Additionally, the Douglas County TSP and Winston TSP were referenced.

<sup>5</sup> Gluck, J., H.S. Levinson, and V. Stover, *Impacts of Access Management Techniques*, NCHRP Report 420, Washington D.C.: Transportation Research Board, 1999.

focusing on highway segments with a high number of crashes. These locations will be examined closer for access management strategies. Crash rates are calculated by measuring crashes per million vehicle miles traveled (Table 4.5).

**TABLE 4.6 SEGMENT 1 CRASH RATES (MP 72.52 – 73.18), 1998-2002**

	1998	1999	2000	2001	2002
ADT	8,450	8,550	8,175	8,275	8,400
Number of crashes	2	2	6	7	4
Crash Rate	.98	.97	<b>3.05</b>	<b>3.51</b>	1.98
Crash Rate – State Average (Urban Highway)	3.52	3.20	2.71	2.95	2.71

Source: ODOT Traffic Section

**TABLE 4.7 SEGMENT 2 CRASH RATES (MP 71.48 – 72.52), 1998-2002**

	1998	1999	2000	2001	2002
ADT	6,100	6,200	6,100	6,000	6,200
Number of crashes	4	4	5	7	5
Crash Rate	1.73	1.70	2.16	<b>3.07</b>	2.12
Crash Rate – State Average (Urban Highway)	3.52	3.20	2.71	2.95	2.71

Source: ODOT Traffic Section

**TABLE 4.8 SEGMENT 3 (OR 42) CRASH RATES (MP 73.18 – 73.88), 1998-2002**

	1998	1999	2000	2001	2002
ADT	17,700	17,850	17,450	17,625	17,775
Number of crashes	7	9	6	8	3
Crash Rate	1.55	1.97	1.35	1.78	.66
Crash Rate – State Average (Urban Highway)	3.52	3.20	2.71	2.95	2.71

Source: ODOT Traffic Section

**TABLE 4.9 SEGMENT 3: OLD HWY 99 CRASH RATES (MP 0.00 – 0.71), 1998-2002**

	1998	1999	2000	2001	2002
ADT	12,125	12,150	11,925	12,000	12,100
Number of crashes	7	1	2	6	2
Crash Rate	2.23	0.32	0.65	1.93	0.64
Crash Rate – State Average (Urban Highway)	3.52	3.20	2.71	2.95	2.71

Source: ODOT Traffic Section and Douglas County Public Works

The Safety Priority Index System (SPIS) is a method developed by the Oregon Department of Transportation (ODOT) for identifying hazardous locations on state highways. The SPIS score is based on three years of crash data and considers crash frequency, crash rate, and crash severity. ODOT bases its SPIS on 0.10 mile segments to account for variances in how crash locations are reported. To become a SPIS site, a location must meet one of the following criteria:

- Three or more crashes have occurred at the same location over the previous three years
- One or more fatal crashes have occurred at the same location over the previous three years

Each year, a list of the top 10% SPIS sites are generated for review by the five Region Traffic Engineers. These sites are evaluated and investigated for safety problems. If a

correctable problem is identified, a benefit/cost analysis is performed and appropriate projects are initiated.

The intersection of Brockway Road at OR 42 was the only location in all three segments ranking in the top 10% on the SPIS list.

**TABLE 4.10 CRASH TYPES (SEGMENT 1), 1998-2002**

Type of Crash	Frequency
<b>Total Classified</b>	<b>21</b>
Rear End	14
Turning	5
Angle	2

Source: ODOT Crash Analysis Unit

Analysis of the crash records from January 1998 to December 2002 shows that there has been several crashes of various types at the study location. The most frequent crash type is the rear-end type. Fourteen rear-end crashes and five turn movement crashes occurred in the three years analyzed. The five turn movement crashes involved motorists entering driveways along OR 42. The rear-end crashes can generally be attributed to motorists traveling too close and from queueing as vehicles stopped to turn left onto adjoining properties.

The average accident rate slightly exceeded the statewide rate for this segment in 2000 and 2001. The addition of a two-way left turn lane, in addition to increasing driveway spacing through access management, should mitigate the crashes that have occurred along this segment.

**TABLE 4.11 CRASH TYPES (SEGMENT 2), 1998-2002**

Type of Crash	Frequency
<b>Total Classified</b>	<b>25</b>
Rear End	4
Turning	10
Angle	7
Fixed Object	4

Source: ODOT Crash Analysis Unit

Analysis of the crash records from January 1998 to December 2002 shows that there has been several crashes of various types at the study location. The most frequent crash type is the turning movement type. The ten crashes that occurred of the turn movement type are attributed vehicles stopping to turn to or from adjoining properties at driveway approaches.

The average accident rate slightly exceeded the statewide rate for this segment in 2000, but is statistically insignificant. As property develops along this area, crashes are likely to increase. As significant development occurs in this area, the 45mph speed zone should be periodically assessed. Access management, including the addition of curb, gutter, and sidewalks to Brockway Road should be required as part of adjoining property development.

**TABLE 4.12 CRASH TYPES (SEGMENT 3, OR 42), 1998-2002**

Type of Crash	Frequency
<b>Total Classified</b>	<b>33</b>
Rear End	10
Turning	21
Angle	1
Pedestrian	1

Source: ODOT Crash Analysis Unit

**TABLE 4.13 CRASH TYPES (SEGMENT 3, OLD HIGHWAY 99), 1998-2002**

Type of Crash	Frequency
<b>Total Classified</b>	<b>18</b>
Rear End	5
Turning	10
Backing	1
Pedestrian	2

Source: ODOT Crash Analysis Unit

### **Traffic Operations – Segment 1**

Glenhart Avenue, Cary Street and Abraham Avenue intersect OR 42 from the north side only. Civil Bend Avenue intersects OR 42 from the north and south side of the highway.

OR 42 is a two-way highway throughout the study location. All approaches at the intersections mentioned above have only one lane and are controlled by stop signs.

There are two school crosswalk markings on OR 42 within the study area. One of the crosswalk markings is located at Cary Street and the other is located at Civil Bend Road. The speed near these crosswalks is limited to 20 mph when children are present.

The base year traffic data used for the subject analysis are the manual traffic counts for the afternoon peak hour taken in March and April of 2004. The 30<sup>th</sup> Highest Hour Volumes were determined by applying seasonal adjustment factors of 1.19 and 1.15 to the March and April counts respectively. The seasonal adjustment factors were developed using the average weekday traffic/percent of ADT data from the Brockway Automatic Traffic Recorder (ATR) #10-006.

The future year traffic volumes were developed using the Roseburg / Winston EMME/2 model data and the 30<sup>th</sup> Highest Hour Volumes for the year 2004.

For no-build conditions, according to the 1999 Oregon Highway Plan (OHP), a Volume-to-Capacity (V/C) ratio of less than 0.75 is an acceptable operating condition for this highway. For build alternatives, according to ODOT's Highway Design Manual (HDM), a V/C ratio of 0.70 is an acceptable operating condition.

Analysis of the 30<sup>th</sup> Highest Hour Volumes for the year 2004, shows that the maximum volume to capacity ratio (v/c) along OR 42 for the existing lane configuration is 0.33. With the existing lane configuration the maximum v/c ratio on OR 42 for the design hour volume in the year 2025 will be 0.50. This v/c ratio is within the 1999 Oregon Highway Plan maximum acceptable v/c ratio standard for this segment of the highway.

All of the intersections in the study area currently operate within ODOT's acceptable mobility standards. The v/c for the intersections of Glenhart Avenue / OR 42 and Cary Street / OR 42 will exceed the maximum v/c in the future year 2025 analysis. The v/c for the design hour volume in the year 2025 at the intersection of Glenhart Avenue/OR 42 and Cary Street/OR 42 will be 1.11 and 1.04 respectively. These volume to capacity ratios exceed the 1999 OHP maximum v/c ratio of .75 for this highway.

To improve the performance of these intersections a two-way left turn lane (TWLTL) on OR 42 will need to be installed. With the installation of a (TWLTL) the v/c for the intersections of Glenhart Avenue/OR 42 and Cary Street/OR 42 will be 0.67 and 0.53. These volume to capacity ratios are within the acceptable mobility standards for a statewide freight highway. The v/c for intersections within Segment 1 are shown in Table 4.14.

**TABLE 4.14 CAPACITY ANALYSIS, SEGMENT 1**

Intersection	Controlling Approach <sup>6</sup>	Volume to Capacity (V/C) Ratios		
		2004	2025 Undivided	2025 with TWLTL
Glenhart Avenue/OR 42	Southbound Left	0.59	<b>1.11</b>	0.67
Civil Bend Avenue/OR 42	Southbound Left	0.18	0.24	0.11
Cary Street/OR 42	Southbound Left	0.43	<b>1.04</b>	0.53
Abraham Street/OR 42	Southbound Left	0.34	0.59	0.34
OR 42 Through Movement	Westbound	0.33	0.44	N/A
OR 42 Through Movement	Eastbound	0.33	0.50	N/A

Source: ODOT Traffic Section

**LAND USE CHARACTERISTICS**

Land use data<sup>7</sup> was gathered to gain further understanding of the conditions in the project area. Land use data is useful in determining the possible access requirements for properties, particularly if property is vacant or underdeveloped. Different land uses require different access treatments. For example, commercial land uses create higher traffic volumes or must accommodate large truck traffic. As a result, they often require a wider or different type of approach than may be required to a single family residence.

**Segment 1**

Land use in Segment 1 is a mixture of commercial and non-conforming residential development with some undeveloped parcels scattered along Hwy 42 (Douglas Blvd). Most of the properties are relatively small in size as a result of previous land partitioning and are generally developed. The larger parcels, toward the western end are generally planned and zoned for agricultural uses. As the corridor redevelops to conform with the

<sup>6</sup> For Unsignalized Intersections, the operation of the intersection is determined by the approach with the highest volume to capacity (v/c) ratio. This v/c ratio reflects the operation of the controlling approach and not for the entire intersection. Mobility standards that are not met are shown in bold.

<sup>7</sup> The land use data was derived from shapefiles and the buildable lands inventory provided from the City of Winston and the Umpqua Regional Council of Governments.

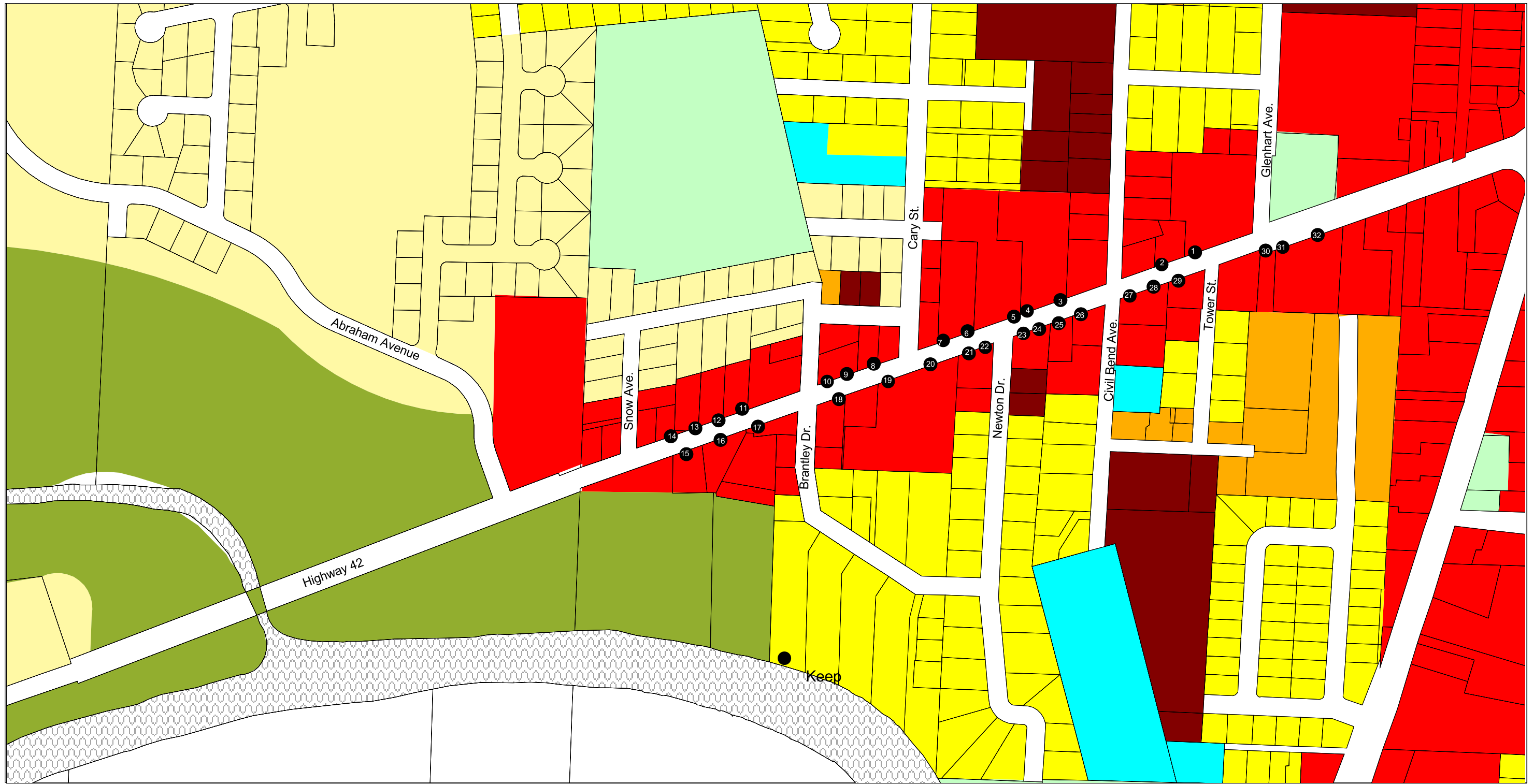
Comprehensive Plan, additional traffic can be expected to be generated by the new land uses. Although the segment contains a more developed local street network than outside the City Limits, many of the properties have driveways to both OR 42 and adjoining local streets. Approaches should be constructed, as part of the ODOT widening project, that provide reasonable access to existing uses. Additional consideration should be given to making recommendations for future approach locations as land uses change to more intense uses allowed by the City's Comprehensive Plan.

Figures 4.3 and 4.4 illustrate the current Comprehensive Plan and zoning of the properties adjoining the highways.

## **Segment 2**

## **Segment 3**





**Figure 4.3**

# City of Winston Planned Land Use

**Segment 1 - Construction**  
**Lookingglass Creek Bridge to Glenhart Ave., Winston, OR**



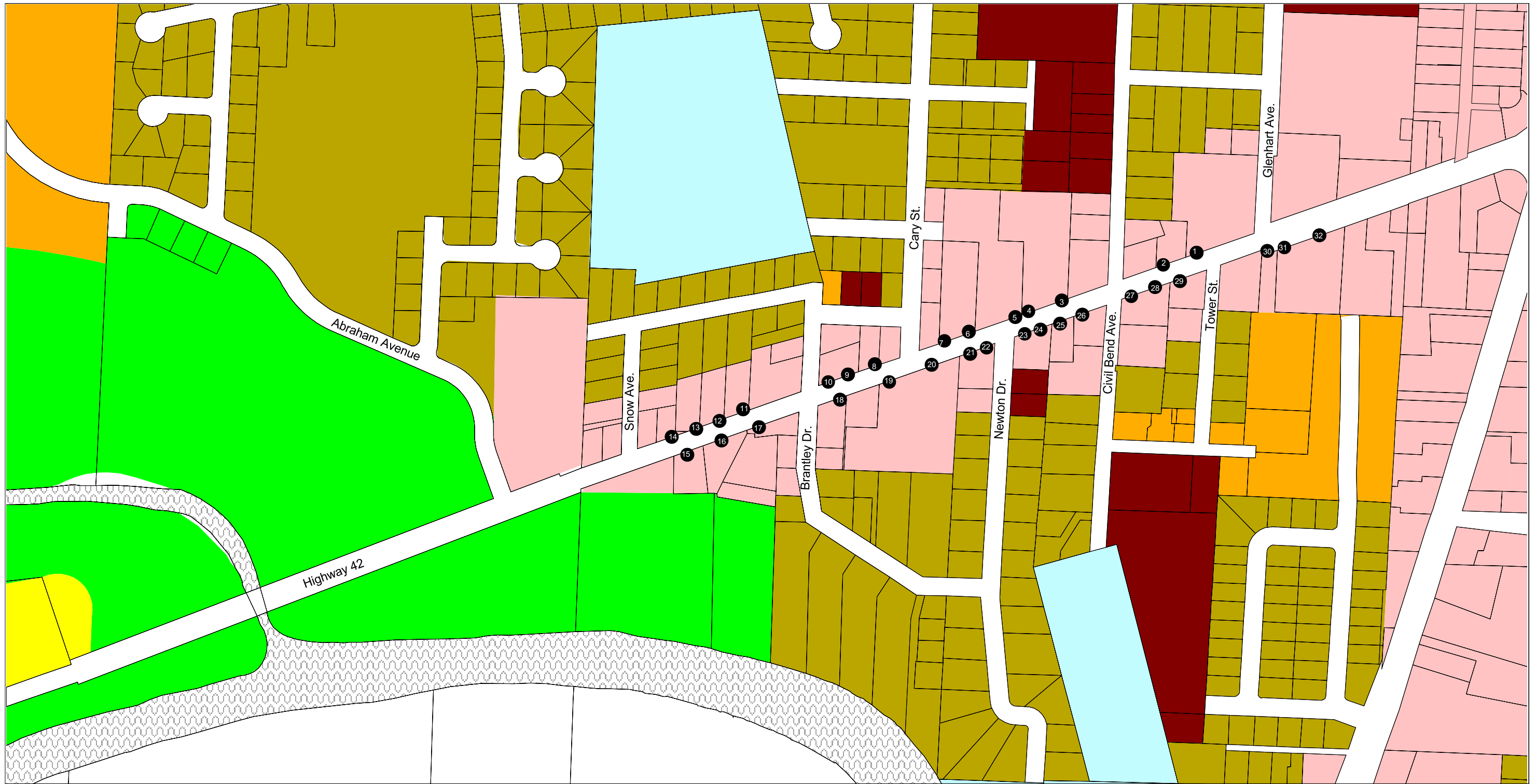
**LEGEND**

- Tax Lot
- Highway Approach/Approach Number
- General Commercial (CG)
- Residential High Density (RH)
- Residential Low Density A (RLA)
- Ag/Open Space (A-O)
- Residential Low Density B (RLB)
- Public Reserve (PR)
- Residential Low Density C (RLC)
- Residential Medium Density (RM)



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











**Figure 4.4**

# City of Winston Zoning

**Segment 1 - Construction**  
**Lookingglass Creek Bridge to Glenhart Ave., Winston, OR**

**LEGEND**

-  Tax Lot
-  Highway Approach/Approach Number
-  General Commercial (CG)
-  Residential Low Density A (RLA)
-  Residential Low Density B (RLB)
-  Residential Low Density C (RLC)
-  Residential High Density (RH)
-  Ag/Open Space (A-O)
-  Public Reserve (PR)
-  Residential Medium Density (RM)



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## CHAPTER 5: STRATEGIES

### IMPLEMENTATION

The goal of the Access Management Plan is to move toward the access spacing standards identified in the OAR 734, Division 51 and the Oregon Highway Plan at the time development, redevelopment, a "change of use", or a construction project occurs. The strategy which discusses future signalization may need to be put into effect at the time signalization improvements are made, to ensure traffic safety and operations.

Because a significant number of non-conforming uses exist along Highway 42, strategies have been identified in two parts. The first set of strategies will identify appropriate approach locations for the ODOT construction project between Lookingglass Creek and Glenhart Avenue. The intent of these strategies will be to construct the minimum amount of approaches necessary to reasonably serve the current constructed uses. The second set of strategies will be used as development or redevelopment occurs in the future and will apply to segments one through three.

Many of the recommendations in the Strategy Chapter indicate the use of "shared" driveways. As a requirement of the City and as a condition for using the deviation findings in Section Seven, this condition will be attached to and made part of any permits issued for approaches where this strategy is recommended.

Deviation findings for approach locations identified on Figures 5.1 (*Segment 1 Construction*), 5.3 (*Segment 1 Future*), 5.4 (*Segment 2*), and 5.5 (*Segment 3*) are located in Chapter Six. Any changes to specified approach locations in this plan will necessitate following the normal ODOT Approach Permitting Process as outlined in OAR 734 Division 51 (see Appendix A) and may require the submittal of supplemental documentation, such as a traffic impact study.

In some cases redevelopment may include combining several parcels. When this occurs, the recommended approaches may no longer be appropriate. The ODOT Region Access Management Engineer (RAME) will be responsible for making this determination. This plan does not negate the need to apply for and receive a valid ODOT permit nor negate the need to indenture "reservations of access," when necessary. The ODOT permit may require changes to existing approaches that this plan indicates will remain at their current location.

The City of Winston regulates development and redevelopment standards throughout the OR 42 and Old Highway 99 corridor. Property owners and developers are required to comply with City development standards at the time of development, redevelopment, or, change of use, pursuant to the Land Use and Development Ordinance.

**STRATEGIES – SEGMENT 1 CONSTRUCTION**

The following strategies have been identified to improve the number of approaches along the highway.

**Future Signalized Intersections**

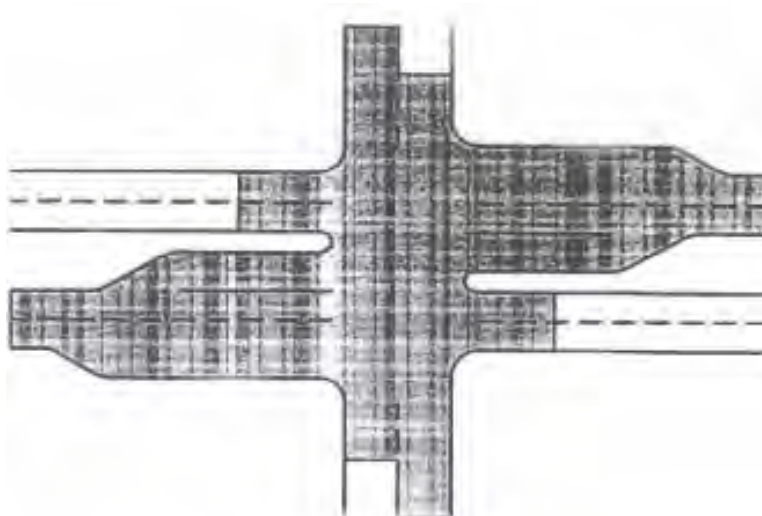
ODOT places a special emphasis on access management in the vicinity of signalized intersections. As much as possible, ODOT prefers approaches to be located outside of the functional area of the intersection. The functional area is generally defined as the area in which motorists must decide to stop, the maneuvering distance required to stop, and the storage length required for queued vehicles.

**TABLE 5.1: SIGNALIZED INTERSECTIONS: APPROACHES RECOMMENDED FOR CLOSURE**

Approach ID	Tax Lot ID	Side of Hwy	Justification
27	280621BD05200	S	Approach within future signal location; Alternate access through approach #28.

Potential future signal locations are identified in this plan to identify conflict areas within the functional area of the signal and to move driveways away from intersections to keep

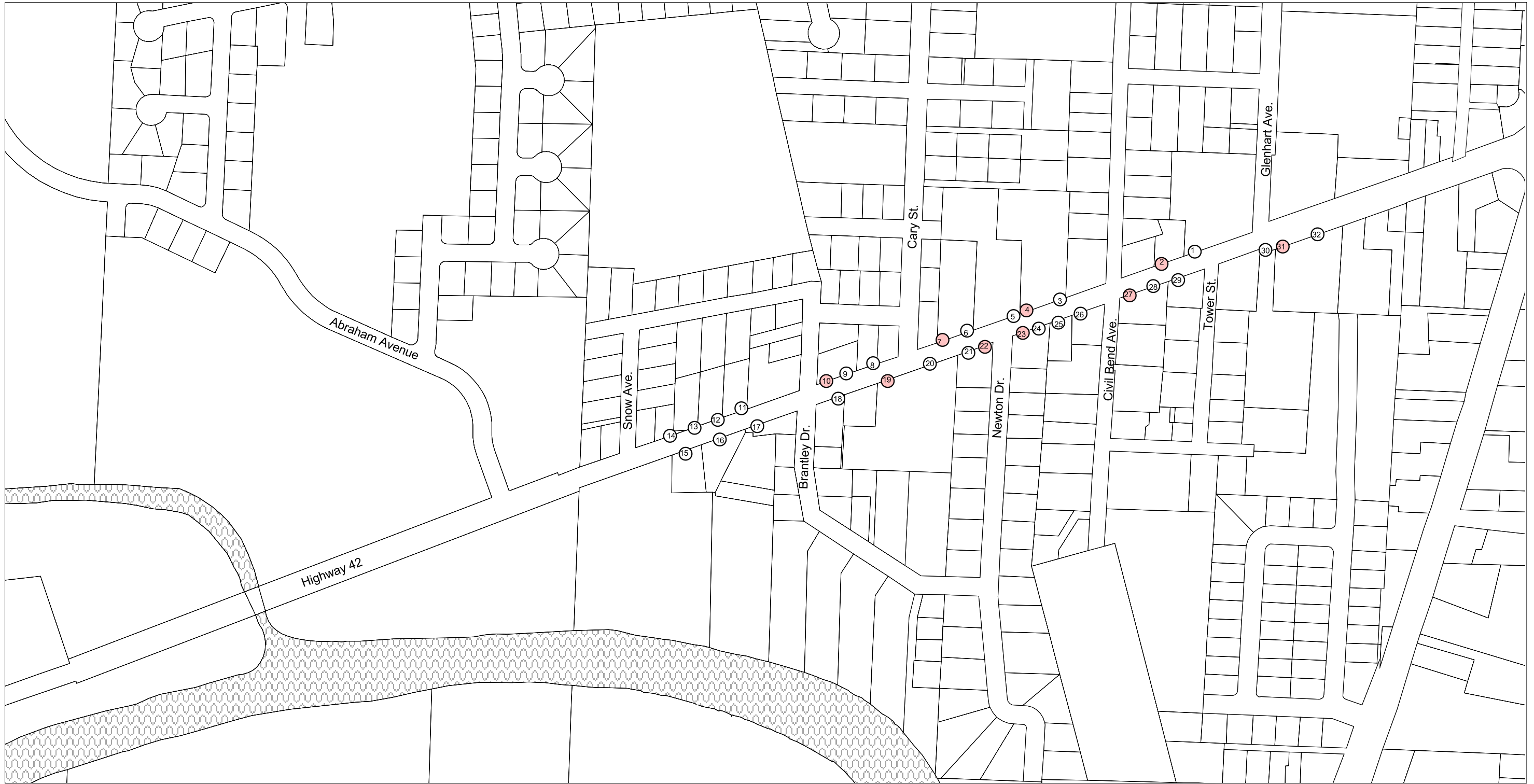
**Figure 5.1 Functional Area of an Intersection**



traffic from backing up and blocking access to adjoining properties. The Winston TSP identifies a potential future signal at the intersection of Civil Bend and OR 42. This strategy addresses approaches that fall within this area. This strategy should be implemented prior to, or at signal installation.

**Alternate Access To Local Street**

Properties adjoining local streets typically have access to both the highway and the local street. In many cases, access to the highway is not required by site layout or transportation needs. If however *reasonable* alternate access is not or cannot be made available from the local street, than limited access should be provided to the highway. In general, access should be provided from roads with lower functional classifications. Only



**Figure 5.2**


# Access Strategies

Segment 1 - Construction

Lookingglass Creek Bridge to Glenhart Ave., Winston, OR



**LEGEND**

 Close Approach

 No Change to Approach



Information displayed on this map was derived from multiple sources. These maps are only for graphic display and general planning purposes. This is not a survey product. The Oregon Department of Transportation and the City of Winston cannot accept responsibility for any errors nor guarantees the accuracy or completeness of this map.

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if reasonable access cannot be obtained from these local streets should access be sought to the highway, and then it should be limited.

**TABLE 5.2: APPROACHES WITH ALTERNATE ACCESS RECOMMENDED FOR CLOSURE**

Approach ID	Tax Lot ID	Side of Hwy	Justification
2	280621BD00700	N	Under same ownership with Tax Lot 280621BD00800. Property currently vacant. Recent conditional use permit requires access to Civil Bend Avenue.
2	280621BD00800	N	Under same ownership with Tax Lot 280621BD00700. Property currently vacant. Recent conditional use permit requires access to Civil Bend Avenue.
19	280621CB04300	S	Alternate access through approach #20 for tax lot 280621CB04400. No alternate access to tax lot 280621CB04300, but property is currently vacant. Future access to lot should occur at west property line, but is also acceptable at east property line of tax lot 280621CB04300.
4	280621BD04700	N	Alternate access at approach #3 and Civil Bend.
10	280621CB00300	N	Alternate access at approach #9 and to Brantly Dr.
22	280621CB04500	S	Alternate access at approach #21 and Newton Dr.
23	280621BD04800	S	Alternate access at approach #24 and Newton Dr.

### Consolidation Of Multiple Approaches

Driveway consolidation is the process of reducing the density of driveways along a major roadway by closing approaches, creating alternative access ways, creating shared approaches, relocating entrances to side streets, or promoting cross access. Such projects are generally done to improve highway safety but also improve traffic flow. This Strategy focuses on the consolidation of multiple approaches into a single existing approach location and therefore affects many of the approaches identified.

In some cases redevelopment may include combining several parcels. When this occurs, the recommend approaches may no longer be appropriate. The ODOT Region Access Management Engineer (RAME) will be responsible for making this determination.

**TABLE 5.3: APPROACHES RECOMMENDED FOR CONSOLIDATION INTO EXISTING APPROACHES**

Approach ID	Tax Lot ID	Side of Hwy	Justification
7	280621BC05200	N	Alternate access at approach #6 and on adjoining leased property at relocated approach #5.
27	280621BD05200	S	Approach within future signal location; Alternate access through approach #28.
31	280621BD06000	S	Alternate access to approach on east. Condition of existing permit.

### Approaches To Remain (No Change)

Several existing locations have been identified where it is necessary to provide access at the current approach location. Many of these are due to the existing type of development. For recommended approach widths to be constructed as part of the ODOT project, see Appendix B.

**TABLE 5.4 APPROACHES TO REMAIN**

Approach ID	Tax Lot ID	Side of Hwy	Justification
1	280621BD01000	N	Approach necessary for drive-up teller service.
3	280621BD04700	N	Provides necessary circulation for drive up fast food service.
5	280621BC05100	N	Parcel under separate ownership. Approach currently needed for existing business.
6	280621BC05200	N	Approach necessary to property for towing service. Leased property to east is under separate ownership.
8	280621CB00200	N	No alternate access.
9	280621CB00300	N	Provides necessary circulation to existing market.
11	280621CB00600	N	No alternate access to duplex.
12	280621CB00700	N	No alternate access.
13	280621CB00800	N	No alternate access.
14	280621CB01000	N	No alternate access.
15	280621CB02000	S	No alternate access.
16	280621CB02100	S	No alternate access.
17	280621CB02200	S	No alternate access to existing structures.
18	280621CB04200	S	No alternate access.
20	280621CB04400	S	No alternate access with closure of approach #19.
21	280621CB04500	S	No alternate access with closure of approach #22.
24	280621BD04800	S	No alternate access with closure of approach #23.
25	280621BD04900	S	No alternate access.
26	280621BD05000	S	No alternate access to existing structure.
28	280621BD05200	S	No alternate access with closure of approach #27.
29	280621BD05300	S	No alternate access to existing structure.
30	280621BD05904	S	No alternate access to existing structure.
32	280621BD06000	S	No alternate access with closure of approach #31.

In addition to those approaches shown above, access should be provided across from Snow Avenue at the west property line as a field access and for potential access to a future city park. Access to two vacant residential parcels on the north side of OR 42 and immediately west of Snow Avenue will be considered under strategies for Segment 1 – Future. Access to the large, vacant parcels on the northwest and northeast corners of Abraham and OR 42 should occur from Abraham Avenue and not OR 42.

## CHAPTER 6: DEVIATION FINDINGS

The following deviation findings are intended to be used as part of the access permit approval process for approach locations identified in Figures 5.2 (Segment 1-Construction), 5.3 (Segment 1-Future), 5.4 (Segment 2), and 5.5 (Segment 3). Because certain assumptions were made during development of this plan (e.g. existing buildings remaining, etc) these findings do not constitute final approval of an application. The ODOT Region Access Management Engineer (RAME) shall determine the applicability of these findings when an application for an approach is made.

Any changes to specified approach locations in this plan will necessitate following the normal ODOT Approach Permitting Process as outlined in OAR 734 Division 51 (see Appendix A) and may require submittal of supplemental documentation, such as a traffic impact study.

In some cases redevelopment may include combining several parcels. When this occurs, the recommended approaches, and therefore deviation findings, may no longer be appropriate. The ODOT Region Access Management Engineer (RAME) will be responsible for making this determination. This plan does not negate the need to apply for and receive a valid ODOT permit nor negate the need to indenture "reservations of access," when necessary. The ODOT permit may require changes to existing approaches that this plan indicates will remain.

### **SEGMENT 1 (CONSTRUCTION):**

The following findings can be referenced to Figure 5.2.

#### **Private Approach Deviations**

734-051-0040

**"Urban"** "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). *The property is located within the city limits and urban growth boundary of Winston, Oregon.*

**Determination:** *The project is located within an urban area. Criteria for governing right of access for private approaches are contained in OAR 734-051-0080.*

734-051-0080

**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 (8) of this rule; and
- (b) Section (10) 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 (8) of this rule; and



(b) Section (10) and section (11) of this rule are met.

**(6)** For a public or 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 (8) of this rule, and section (10) and section (11) 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 (10) of this rule is met.

**(8)** Which approval criteria will be applied to an application (sections (2) through (7) 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.

(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.

**(9)** For purposes of division 51, safety factors include:

- (a) Roadway character;
- (b) Traffic character;
- (c) Geometric character;
- (d) Environmental character; and
- (e) Operational character.

**(10)** As required by sections (2) through (7) of this rule an applicant must demonstrate, consistent with Division 51 rules, that:

(a) The approach is consistent with safety factors in section (9) of this rule;

(b) Spacing standards are met or a deviation is approved as set forth in OAR 734-051-0135; and

(c) The effect of the approach meets traffic operations standards, signals, or signal systems standards in OAR 734-020-0400 through 734-020-0500 and 734-051-0115 and 734-051-0125.

**Determination:** *Access locations 4, 5, 9, 11, 17, 18, 21, 24, 28, and 32 have alternate access to the properties they serve, however the AMS&LP has identified that those approach locations do not provide reasonable access to the existing property uses and require additional access to State Highway 42, a "statewide" classified highway. The AMS&LP addresses each of the safety factors to reduce conflicts and improve safety on the corridor. The approach locations identified in the AMS&LP provide for safe travel on*

*the highway as well as for ingress and egress of the adjoining properties. The reduction in the existing number of driveways will contribute to the improved operation of the highway. These approach locations meet the approval criteria under OAR 734.051.0080(4-6, 8-10)*

**(11)** As required by sections (5) through (7) of this rule the Department may require an applicant to demonstrate that:

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

**Determination:** *The AMS&LP identifies the highway mobility standards and how they are met on this segment of highway. Access locations 4, 5, 9, 11, 17, 18, 21, 24, 28, and 32 have alternate access to the properties they serve and are consistent with the AMS&LP prepared for this segment. Site circulation has been considered during development of this plan to minimize the need to use the highway when circulating between properties. Access locations 4, 5, 9, 11, 17, 18, 21, 24, 28, and 32 are necessary to accommodate reasonably anticipated traffic. These approach locations meet the approval criteria under OAR 734.051.0080(11).*

734-051-0080

**3)** For an Application for State Highway Approach, for a private or public approach in an urban area and to an expressway, the Department may presume that a benefit to the state highway system exists if the requirements of subsection (a) of this section are met, or the requirements of subsections (b) and (c) of this section are met:

- (a) Where a change of use occurs, approaches to the expressway are combined or eliminated resulting in a net reduction in the number of approaches to the expressway, and the applicant demonstrates an improvement of:
  - (A) Access management spacing standards;
  - (B) Public road intersection spacing; or
  - (C) Intersection sight distance.

**Determination:** *The AMS&LP improves approach spacing by eliminating a number of approaches in this segment. The approval criteria are met under OAR 734.051.0085(3).*

734-051-0135

**(1)** A deviation will be considered when an approach does not meet spacing standards and the approach is consistent with safety factors in OAR 734-051-0080(9). The information necessary to support a deviation must be submitted with an application or with the supplemental documentation as set forth in OAR 734-051-0070(5) and (6).

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

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

- (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;

**Determination:** *The AMS&LP contains the information that complies with the safety factors under OAR 734-051-0080(9). Although approaches 1, 3, 5, 6, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 24, 25, 26, 28, 29, 30, 32, and the field/park approach do not meet the spacing standards in this rule, they do maximize the spacing between approaches wherever possible. The AMS&LP results in a net reduction of approaches to the highway. Due to the proximity of many of the existing structures to the new right-of-way, vacant parcels, and/or existing site layouts, joint use approaches are not feasible for this segment. The approval criteria under OAR 734.051.0135(1-3) are met.*

734-051-0155

**(1)** The Department encourages the development of Access Management Plans, Access Management Plans for Interchanges, and Interchange Area Management Plans to maintain highway performance and improve safety by improving system efficiency and management before adding capacity consistent with the 1999 Oregon Highway Plan.

**(2)** Access Management Plans and Access Management Plans for Interchanges are developed for a designated section of highway with priority placed on facilities with high volumes or providing important statewide or regional connectivity where:

- (a) Existing developments do not meet spacing standards;
- (b) Existing development patterns, land ownership patterns, and land use plans are likely to result in a need for deviations; or
- (c) An access management plan would preserve or enhance the safe and efficient operation of a state highway.

**(3)** Access Management Plans and Access Management Plans for Interchanges may be developed:

- (a) By the Department;
- (b) By local jurisdictions; or
- (c) By consultants.

**(4)** Access Management Plans and Access Management Plans for Interchanges comply with all of the following:

- (a) Are prepared for a logical segment of the state highway and include sufficient area to address highway operation and safety issues and development of adjoining properties including local access and circulation.
- (b) Describe the roadway network, right-of-way, access control, and land parcels in the analysis area.
- (c) Are developed in coordination with local governments and property owners in the affected area.

- (d) Are consistent with any applicable adopted Transportation System Plan, Local Comprehensive Plan, Corridor Plan, or Special Transportation Area or Urban Business Area designation, or amendments to the Transportation System Plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055.
- (e) Are consistent with the 1999 Oregon Highway Plan.
- (f) Contain short, medium, and long-range actions to improve operations and safety and preserve the functional integrity of the highway system.
- (g) Consider whether improvements to local street networks are feasible.
- (h) Promote safe and efficient operation of the state highway consistent with the highway classification and the highway segment designation.
- (i) Consider the use of the adjoining property consistent with the comprehensive plan designation and zoning of the area.
- (j) Provide a comprehensive, area-wide solution for local access and circulation that minimizes use of the state highway for local access and circulation.
- (k) Are approved by the Department through an intergovernmental agreement and adopted by the local government, and adopted into a Transportation System Plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055.
- (l) Are used for evaluation of development proposals.
- (m) May be used in conjunction with mitigation measures.

**Determination:** *Although Segment 1 (Construction) is being developed solely as a strategy for the construction project (KN 12731), the strategy will follow the requirements for an access management plan with the exception of adoption. When the AMS&LP is completed (for all three segments) it will be adopted by the City of Winston and ODOT as an Access Management Plan. The difference between the strategy and the plan is that the strategy will address the needs of existing uses only along segment 1 in order to construct curb, gutter, and sidewalk. The Access Management Plan will address future changes and additional strategies within segment 1, as well as address all of segments 2 and 3. The strategy and plan are being developed by ODOT and URCOG for an urban portion of statewide highway in the City of Winston. The current patterns of development necessitate the need for deviations from the standards in order to provide reasonable access to a variety of property owners. The AMS&LP provides a comprehensive look at the operation, safety, and land use along the corridor and minimizes the need to access the highway. The approval criteria under OAR 734.051.0135(1-4) are met.*

## Public Approach Deviations

734-051-080

7) For a public approach on a statewide, regional, or district highway or an expressway the Region Manager shall approve an application if:

- (a) The applicant demonstrates that the approach enhances connectivity consistent with, and is included in, the jurisdiction's adopted comprehensive plan, corridor plan, or transportation system plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055;
- (b) The applicant demonstrates that section (10) and subsections (11)(a) and (b) of this rule are met; and
- (c) The Permit to Operate is issued to the local jurisdiction.

**Determination:** *The public roads of Glenhart, Avenue, Tower Street, Civil Bend Avenue, Newton Drive, Cary Street, Brantley Drive, Snow Avenue, and Abraham Avenue are all existing and are consistent with the City of Winston TSP and Comprehensive Plan. The proposed field/park access is also consistent with the City of Winston Comprehensive Plan. Safety standards have been met and are identified in the AMS&LP, and access management strategy for Segment 1. The approval criteria under OAR 734.051.0080(7) are met.*

## 1999 Oregon Highway Plan – Goal 3: Access Management

### POLICY 3A: CLASSIFICATION AND SPACING STANDARDS

**Action 3A.1** – Manage access to state highways based on the access management classifications as defined below:

#### **Statewide Highways – (OR 42)**

- Statewide highways provide for safe and efficient, high speed, continuous flow operation. In constrained and urban areas, interruptions to flow should be minimal.
- The function of the highway supports selected acquisition of access rights.
- The primary function is to provide connections and links to regions within the state, and between small urbanized areas and larger population centers through connections and links to freeways, expressways, or statewide highways.

The access strategy and proposed access management plan is intended to provide inter-urban and inter-regional mobility and provide connections to larger urban areas, ports, and major recreation areas that are not directly served by Interstate Highways.

- Where traffic signals are allowed, their impact on through traffic must be minimized by ensuring that efficient progression of traffic is achieved.

Future traffic signals will require further analysis and approval by the State Traffic Engineer. No signals are proposed as part of this plan, however approaches to the highway have been planned to be located away from potential signalized intersections.

**Action 3A.2** Establish spacing standards on state highways based on highway classification, type of area and speed. Appendix A shows the access spacing standards for the access management classifications listed in Action 3A.1.

- *Access management spacing standards are covered in OAR 734-051. The discussion of spacing standards occurs in these findings under the appropriate OAR heading.*

**Action 3A.3** – Manage the location and spacing of traffic signals on state highways to ensure the safe and efficient movement of people and goods. Safe and efficient traffic signal timing depends on optimal signal spacing. It is difficult to predetermine where such locations should exist, although half-mile intersection spacing for Statewide and Regional Highways is desirable. The following are critical elements in planning an interconnected traffic signal system:

- Signalized intersection capacity and operation analysis must take into account lane balance of existing and future (20-year projection) traffic volumes.
  - *The AMP only identifies future signalized locations for the purpose of moving approaches away from these locations. The City's TSP has identified a future signal at Civil Bend. Approval of the State Traffic Engineer will be necessary.*
- The progression bandwidth must equal or exceed that required to accommodate the through volume on the state highway at the most critical intersection during all periods. The most critical intersection is defined as the intersection carrying the highest through volume per lane on the state highway. The State Traffic Engineer or designated representative shall approve signal progression parameters and analysis methodology.
- All signals must provide for adequate vehicle storage that does not encroach on the operation of adjacent lanes and signalized intersections.
- The common cycle length for the interconnected traffic signal system must provide for adequate pedestrian crossing times.
- The speed of the progressed traffic band should be no more than five miles per hour below the existing speed for both directions of travel during the off-peak periods, nor more than 10 miles per hour below the existing posted speed during peak periods. Approval of the State Traffic Engineer or designated representative is required where speeds deviate more than the above.
  - *The AMP identifies signal spacing consistent with this requirement.*

**Action 3A.4** – In general, traffic signals should not be installed on rural high-speed highways because they are inconsistent with the function of these highways to provide for safe and efficient high-speed travel. Although a rural traffic signal may be warranted in a particular instance to control traffic due to existing conditions, ODOT and local governments must avoid creating conditions that would make future traffic signal installations necessary in rural areas. Amendments to local comprehensive plans or land use ordinances that would require a traffic signal on rural highways are inconsistent with the function of the highway.

- *This project is within an urban area and therefore this section is not applicable.*

**Action 3A.5**

- *Not applicable. No signalized private approach roads to state highways are proposed.*

**POLICY 3D: DEVIATIONS**

It is the policy of the State of Oregon to manage requests for deviations from adopted access management standards and policies through an application process to ensure statewide consistency.

- *This deviation request is prepared in accordance with the standards adopted by the Oregon Transportation Commission.*

**Determination:** *The AMS&LP is consistent with the Access Management Policies of the 1999 Oregon Highway Plan.*

*Deviation findings are consistent with the requirements of OAR 734-051 have are included in this document.*

**DECISION**

**The request for Deviation from the Access Management Spacing Standards is approved.**

Ronald H. Hughes, P.E.  
Region Access Management Engineer

## APPENDIX A

### Access Management Spacing Standards for Approaches on Statewide Highways (Measurement is in Feet)\*

**TABLE A-1 ACCESS MANAGEMENT SPACING STANDARDS FOR STATEWIDE HIGHWAYS**

Posted Speed <sup>③</sup>	Urban			
	Expressway ** ***	Other ***	UBA	STA
≥55	2640	1320		
50	2640	1100		
40 & 45	2640	990		
30 & 35		770	720	④
< 25		550	520	④

NOTE: The numbers in circles (①) refer to explanatory notes below

\*Measurement of the approach road spacing is from center to center on the same side of the roadway.

\*\* Spacing for Expressway at-grade intersections only.

\*\*\*These standards also apply to Commercial Centers.

Notes:

① These access management spacing standards are for unsignalized approaches only. Signal spacing standards supercede access management spacing standards for approaches.

② These access management spacing standards do not retroactively apply to legal approaches in effect prior to adoption of OAR 734-051-0010 through 734-051-0480, except or until any redevelopment, change of use, or highway or interchange construction projects, highway or interchange modernization projects, or any other roadway project as determined by the Region Manager, such as preservation, safety and operation projects that affect curb placement or sidewalks, which affect these legal approaches occurs. At that time the goal is to meet the appropriate access management spacing standards, but at the very least to improve current conditions by moving in the direction of the access management spacing standards. (See OAR 734-051-0190(2)(b).)

③When in-fill development occurs, the goal is to meet the appropriate access management spacing standards. This may not be possible and at the very least the goal is to improve the current conditions by moving in the direction of the access management spacing standards. Thus, in-fill development should not worsen current approach spacing. This may involve appropriate mitigation, such as joint access. (See OAR 734-051-0190(2)(c).)

④In some cases an approach will be allowed to a property at less than the designated access management spacing standards or minor deviation limits, but only where a right of access exists, the designated access management spacing standards or minor deviation limits cannot be accomplished, and that property does not have reasonable access, thus the property would become landlocked without the approach to the state highway. See OAR 734-051-0320(3). Other options should be considered such as joint access. (See OAR 734-051-0190(2)(d).)

⑤Posted (or Desirable) Speed: Posted speed can only be adjusted (up or down) after a speed study is conducted and that study determines the correct posted speed to be different than the current posted speed. In cases where actual speeds are suspected to be much higher than posted speeds, ODOT reserves the right to adjust the access management spacing accordingly. A determination can be made to go to longer access management



spacing standards as appropriate for a higher speed. A speed study will need to be conducted to determine the correct speed.

## **The ODOT Approach Permit Process**

"Approach" is the legal term for roads or driveways providing access to a state highway.

### **Background**

ODOT is responsible for regulating access to state highways to protect the safety and convenience of the travelling public. Persons wishing to establish a new approach to a state highway or change the use of an existing approach must obtain a "*Permit to Construct and a Permit to Operate, Maintain, and Use a State Highway Approach*" from ODOT. The applicant must meet conditions specified in OAR 734 Division 51.

### **Approach Permit Process**

1. The request for a new approach to a state highway or change in use of an existing approach is made by submitting an "*Application for State Highway Approach*" available at all ODOT District Offices. For approach purposes, a change in use is defined as any action or event that alters the character or volume of traffic using the approach, consistent with OAR 734, Division 51.
2. You must fully complete an "*Application for State Highway Approach*" and attach a Tax Lot Map (and photocopy of Recorded Easement(s) when appropriate). The "*Application*" asks for the following information:
  - ◆ Approach information
  - ◆ Applicant information
  - ◆ Property owner concurrence
  - ◆ Property location information
  - ◆ Proposed property use
  - ◆ Development site sketch
3. For ODOT to consider an "*Application for State Highway Approach*," the proposed property use must meet all local land use regulations and zoning requirements. Contact the City or County planning agency to pursue and coordinate land use approval for your proposed use and development plan.
4. The District Office will review the "*Application for State Highway Approach*" within 10 calendar days of the date of receipt to determine whether the application contains all the submittal requirements. You will be notified by ODOT if more information or specific attachments are needed.
5. The District Office will determine whether the requested approach is legally permissible.
6. You will be notified by ODOT within thirty calendar days regarding review of your "*Application for State Highway Approach*" and all required attachments.
  - a. If additional documents are required to continue the application process, ODOT will provide exact details.

- b. If ODOT has all the information necessary to continue processing your "*Application*," ODOT will notify you within sixty calendar days of whether or not it has been approved.
  - c. If your "*Application*" is approved, you will be asked to provide construction drawings and plans. These must be approved before a "*Permit to Construct an Approach*" can be issued.
  - d. If the "*Application*" is denied, the reason will be identified.
7. Some applicants will be required to provide more information than others, depending on the size, type and location of the proposed development. These applicants will be asked to provide the following:
- a. Additional property and use information
  - b. Additional documentation, such as, but not limited to:
    - ◆ **Vicinity Map**  
Showing such items as location on state highway by milepost, engineer's station, or other landmarks; location of other nearby private and public approaches on both sides of the highway; existing zoning, land uses, structures and other features (e.g., drainage ditches and pipes, streams, ponds, lakes or railroads).
    - ◆ **Site Plan**  
Showing (to scale) such items as lot size, property lines and ownership(s), existing and proposed buildings, location of existing and proposed approach(es), adjacent approaches, on-site traffic flow pattern, parking, and drive-through windows or gas pumps.
    - ◆ **Drainage Plan**  
Showing impacts to the highway right-of-way
    - ◆ **Traffic Impact Study**  
To allow ODOT to evaluate the impact of the proposal and the need for roadway capacity, operational, and safety improvements resulting from the proposed approach. A TIS includes the proposed development description, scope of work and data sources, existing area conditions, traffic forecasts and distribution, traffic analysis, mitigation alternatives and recommendations.
    - ◆ **Deviation Request**  
For Deviations from Access Management Policies or Standards
8. ODOT will notify you regarding review of the additional information and all required attachments.
- a. If your "*Application*" is incomplete, you will be asked to provide any missing information or documents.
  - b. If ODOT has all the information necessary to continue processing your "*Application*," you will be notified by ODOT within 60 calendar days of whether or not the "*Application*" has been approved.

- c. If the "Application" is approved, you will be asked to provide construction drawings and plans. These must be approved before a "Permit to Construct an Approach" can be issued.
  - d. If the "Application" is denied, the reason will be identified.
9. If a "Permit to Construct an Approach" is issued, the applicant then constructs the approach according to the terms and conditions of the "Construction Permit." Upon completion of construction, ODOT inspects the approach. Once the approach passes inspection, a final "Permit to Operate, Maintain and Use an Approach" is issued.
10. The District Office will provide information on the appeals process when an "Application for State Highway Approach" is denied.

**Fees**

ODOT requires a non-refundable administrative fee based upon trip generation. Temporary approaches also require a deposit of not less than \$100 per approach, consistent with OAR 734, Division 51. Proof of liability insurance and any required bond or deposit in lieu of bond is required for completion of a "Construction Permit."

<b>Base fee for first approach for:</b>	
29 or fewer vehicle trips per day	\$200
30 to 99 vehicles per day	\$500
100 to 599 vehicles per day	\$1,000
600 to 2,999 vehicles per day	\$2,000
3,000 to 5,999 vehicles per day	\$3,000
6,000 to 9,999 vehicles per day	\$4,000
Greater than or equal to 10,000 vehicles per day	\$5,000

<b>Fee for each additional approach<sup>1</sup> for :</b>	
29 or fewer vehicle trips per day	\$80
30 to 99 vehicles per day	\$200
100 to 599 vehicles per day	\$400
600 to 2,999 vehicles per day	\$800
3,000 to 5,999 vehicles per day	\$1,200
6,000 to 9,999 vehicles per day	\$1,600
Greater than or equal to 10,000 vehicles per day	\$2,000

<sup>1</sup> This fee is charged for each additional approach requested and applies only to additional approaches requested at the time the initial application is submitted and that are within the same development (For example, a request for three approaches to subject property with 600 to 2,999 vehicle trips per day would be: \$2,000 for the first approach + \$800 for the second approach + \$800 for the third approach = \$3,600 in total administrative fees.)

## Access Management Rules, Policies, Statutes, and Standards

### **Oregon Highway Plan Goal 3: Access Management**

(3A) It is the policy of the State of Oregon to manage the location, spacing and type of road and street intersections and approach roads on state highways to assure the safe and efficient operation of state highways consistent with the classification of the highways.

(3B.6) Except on freeways, consider using raised median pedestrian refuge islands and mid-block crosswalks in urban areas that are pedestrian and/or transit oriented.

### **ORS 374: Control of Access to Public Highways**

(310)(3) The powers granted by this section and ORS 374.315 shall not be exercised so as to deny any property adjoining the road or highway reasonable access. In determining what is reasonable, the department shall consider the authorized uses for the property identified in the acknowledged local comprehensive plan.

(312)(b) Standards that will be used in making decisions as to whether to grant or deny a permit. Standards applicable to approach roads shall be based on a policy of using local road systems and state highways in a manner consistent with the local transportation system plan and the land uses permitted in the local comprehensive plan acknowledged under ORS chapter 197. In addition, the standards shall require consideration of safety and highway functionality

### **Oregon Bicycle and Pedestrian Plan**

(A.2)(a) Unlimited access creates many conflicts between cars entering or leaving a roadway and bicyclists and pedestrians riding or walking along the roadway, who are vulnerable if motorists fail to see or yield to them. Pedestrians crossing a roadway require gaps in the traffic stream, but with unlimited access, vehicles entering the roadway quickly fill available gaps.

### **Oregon Transportation Plan**

2A.6 Restrict access from state facilities for incompatible activities and development where land use plans call for rural or resource development.

2C.2 Promote alternative modes and preservation and improvement of parallel arterials so that local trips have alternatives to the use on intercity routes.

2C.3 Encourage regional and local transportation system plans and land use plans to avoid dependence on the state highway system of direct access to commercial, residential or industrial development adjacent to the state highway.

### **Operational Notice PD-03**

Provides detailed guidance and structure for those required to make and carry out appropriate access management decisions in the development of highway projects. This document will guide project sub-teams during development of AMPs. PD-03 outlines the formation, membership and function of access management sub-teams. It further outlines specifics for the sub-teams for guidance on operation, modernization, preservation, bridge and safety projects.

## **Transportation Planning Rule OAR 660.12**

(.020)(2)(b) A road plan for a system of arterials and collectors and standards for the layout of local streets and other important non-collector street connections. Functional classifications of roads in regional and local TSPs shall be consistent with functional classifications of roads in state and regional TSPs and shall provide for continuity between adjacent jurisdictions. The standards for the layout of local streets shall provide for safe and convenient bike and pedestrian circulation necessary to carry out OAR 660-012-0045(3)(b). New connections to arterials and state highways shall be consistent with designated access management categories. The intent of this requirement is to provide guidance on the spacing of future extensions and connections along existing and future streets, which are needed to provide reasonably direct routes for bicycle and pedestrian travel.

(.045)(2) Local governments shall adopt land use or subdivision ordinance regulations, consistent with applicable federal and state requirements, to protect transportation facilities, corridors and sites for their identified functions. Such regulations shall include: Access control measures, for example, driveway and public road spacing, median control and signal spacing standards, which are consistent with the functional classification of roads and consistent with limiting development on rural lands to rural uses and densities

## **Douglas County Transportation System Plan**

Objective B, Policy 3: Pursuant to the Oregon Highway Plan, ...direct access to remaining principal highways (non interstate) and arterial roadways should be discouraged to avoid conflicts with through traffic.

Objective B, Policy 5: Access to state roads is the jurisdiction of the Oregon Department of Transportation.

### **Douglas County LUDO**

3.35.065 Access onto State Roads: ODOT has the responsibility and authority in managing access to State Highways. This section outlines the County coordination process with ODOT when an ODOT access permit for direct access to a state highway, is required. 1) Provide applicants with information related to the need for a state access permit; 2) refer land use permits, including those which result from actions listed in 3.35.060, with direct access to state highways to ODOT, and 3) Require applicants to provide either authorization of an approved State access permit, prior to a land use application or permit being considered complete.

**DEPARTMENT OF TRANSPORTATION, HIGHWAY DIVISION**

**DIVISION 51**

**HIGHWAY APPROACHES, ACCESS CONTROL,  
SPACING STANDARDS AND MEDIANS**

**734-051-0010**

**Authority for Rules**

Division 51 rules are adopted under the Director's authority contained in ORS 374.310(1).

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.345; Ch. 972 & Ch. 974, OL 1999  
Stats. Implemented: ORS 374.305 - 374.345, 374.990; Ch. 974 OL 1999; Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04

**734-051-0020**

**Purpose and Applicability of Rules**

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).

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999; Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0030

**734-051-0030 [Renumbered from 734-051-0020]**

## **734-051-0035**

### **Administration of Rules**

- (1) Approaches in existence and applications filed after March 1, 2004 are governed by these rules.
- (2) Division 51 rules do not affect existing rights of owners of grandfathered approaches.
- (3) Consistent with ORS 374.312 the Department and local governments may enter into intergovernmental agreements allowing local governments to process applications and issue Construction Permits and Permits to Operate for private approaches to regional and district highways, including highways routed over city streets where the local government owns the right of way.
- (4) Approval of a property for a particular use is the responsibility of city, county, or other governmental agencies, and an applicant must obtain appropriate approval from city, county, or other governmental agencies having authority to regulate land use. Approval of an application or issuance of a Construction Permit or a Permit to Operate is not a finding of compliance with statewide planning goals or an acknowledged comprehensive plan.
- (5) Any notice or other communication by the Department is sufficient if mailed by first class mail to the person at the address on the application or where property tax statements for the property are sent. Any notice of an appealable decision is sufficient if sent by certified mail to the person at the address on the application or where property tax statements for the property are sent. The notice date is the date of mailing.
- (6) Pursuant to ORS 374.310(3), the division 51 rules may not be exercised so as to deny any property adjoining the highway reasonable access and ORS 374.312(1)(c) requires adoption of rules establishing criteria for reasonable access consistent with ORS 374.310(3) criteria. These rules address "reasonable access" solely in the context of the issuance of approach permits. "Reasonable access" under these rules does not affect whether access may be reasonable for other purposes or under other reviews.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 347.345 & 374.990; Ch. 974, OL 1999; Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0050 & 734-051-0060

## **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 Commission as of the adoption of this rule.
- (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 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.
- (4) "Access Management Plan" means a plan for a designated section of highway that identifies the location and type of approaches and necessary improvements to the state highway or local roads and that is intended to improve current conditions of the section of highway by moving in the direction of the access management spacing standards. Both the Department and the appropriate local jurisdiction must adopt the Access Management Plan, and the plan should be included in a Transportation System Plan.
- (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, 7 and 8 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(1), and approaches intended to remain open that were improved in conjunction with a Department project prior to the effective date of this Division, 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 lands passed over by previous development, and that is consistent with zoning.

(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 similar to an Access Management Plan or an Access Management Plan for an Interchange developed to plan for and manage grade-separated interchange areas to ensure safe and efficient operation between connecting roadways and to protect the functional integrity, operations, and safety of the influence area of an interchange. Interchange Area Management Plans typically include analysis of the relationships between existing local land uses, zoning and long range plans and the state and local roadway network within a designated study area around an existing or planned interchange, and identify necessary improvements to approach roads and the local street network to support the long-term safety and efficiency of the interchange.

(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 ordinance.

(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.

(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 approach existing under a valid Permit to Operate.

(45) "Planned" means not currently existing but anticipated for the future when referring to items such as a roadway or utility connection shown in a Corridor Plan, or Comprehensive Plan, or Transportation System Plan.

(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 approach serving multiple properties, owned and operated by a public entity, and providing connectivity to the local road system.
- (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.
- (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(9).

(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 2, 3, and 4, 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 5, 6, 7, and 8 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. 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). For purposes of these rules, the Region Access Management Engineer may apply the "urban" standards in OAR 734-051-0080 to infill or redevelopment projects in an otherwise rural area 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.

(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 Institute of Traffic Engineers' Trip Generation Report. Adjustments to the standard Institute of Traffic Engineers' rates for mode split may be allowed if calculated in accordance with Transportation Planning Rule and the Institute of Traffic Engineers' Trip Generation Report procedures. Adjustments to the standard Institute of Traffic Engineer's rates for multi-use internal site trips may be allowed if calculated in accordance with the Institute of Traffic Engineers' 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 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL1999; Ch. 371, OL 2003

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0010; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04

## **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) 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 two 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) Site traffic volume generation increases by more than 250 average daily trips or 25 peak hour trips (external trip generation for multi-use developments).

(B) Operational problems occur or are anticipated.

(C) The approach does not meet sight distance requirements.

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

(E) Use of the approach by vehicles exceeding 20,000 pound gross vehicle weight increases by 10 vehicles or more per day.

(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.

(3) 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 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0065; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0110

**734-051-0050** [Renumbered to 734-051-0035]

**734-051-0060** [Renumbered to 734-051-0035]

**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 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, and the administrative fee as set forth in Table 1, 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 the correct administrative fee, to determine if supplemental documentation is required or otherwise determine that the application may be deemed complete.

(d) All of the following apply to administrative fees and fee adjustments for incorrect charges, refunds, and waivers:

(A) The application, site plan and check for the administrative fee will be returned if the application is not accepted.

(B) The Department may refund 75% of the administrative fee where the Department determines that no right of access exists and the application cannot be deemed complete as set forth in section (5) of this rule.

(C) The administrative fee will be calculated based upon the land uses proposed for the site as early in the application process as is reasonably possible, and the application will not be considered complete until the full amount is received.



(D) The Executive Deputy Director or the Region Manager, not a designee, may waive the administrative fee requirements if a local jurisdiction requests a new approach or modification of an existing approach during project delivery. The reasons for the fee waiver must be documented in writing.

(E) Where the department determines that mitigation measures are required as set forth in OAR 734-051-0145 and those mitigation measures are for the benefit of a local jurisdiction, or where a local government proposes relocation or modification of a public approach to improve safety or spacing, the Executive Deputy Director or the Region Manager, not a designee, may waive the administrative fee requirements. The reasons for the fee waiver must be documented in writing.

(F) Where a development proposes two or more approaches, no administrative fee for an "additional approach" as specified in Table 1, will be added for any shared approach located to serve two or more separate developments when the total number of approaches to the highway does not increase by more than one approach.

(G) An administrative fee is not required for a permit for construction or reconstruction of an approach by the Department or its contractor as part of road improvement, highway or interchange construction, or reconstruction, modernization, or other roadway or interchange project.

(H) An administrative fee is not required for a name change on a Permit to Operate, Maintain and Use an Approach, including issuing an operation permit for a public approach when the applicant is a private entity, when both the original permittee and the proposed new permittee document their concurrence with the change.

(I) Administrative fees are calculated based upon a methodology developed by the Department based upon proposed land uses, and consistent with Table 1.

(J) The Department's decision concerning administrative fees and fee adjustments for incorrect charges, refunds, and waivers is not an appealable decision.

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

(a) Within 30 days of accepting an application when the full administrative fee has been received and section (6) of this rule does not require supplemental documentation; or

(b) When the full administrative fee and supplemental documentation are 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 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.

(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 be processed as a new application, requiring submittal of a new application and fee.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; 2HD 13-1981, f. & ef. 10-2-81; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0015; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0090 & 734-051-0100

### **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 (11) 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 (10) 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 (8) of this rule; or

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

(b) Section (10) 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 (8) of this rule; and

(b) Section (10) 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 (8) of this rule; and

(b) Section (10) and section (11) of this rule are met.

(6) For a public or 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 (8) of this rule, and section (10) and section (11) 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 (10) of this rule is met.

(7) For a public approach on a statewide, regional, or district highway or an expressway the Region Manager shall approve an application if:

(a) The applicant demonstrates that the approach enhances connectivity consistent with, and is included in, the jurisdiction's adopted comprehensive plan, corridor plan, or

transportation system plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055;

(b) The applicant demonstrates that section (10) and subsections (11)(a) and (b) of this rule are met; and

(c) The Permit to Operate is issued to the local jurisdiction.

(8) Which approval criteria will be applied to an application (sections (2) through (7) 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.

(9) For purposes of division 51, safety factors include:

- (a) Roadway character;
- (b) Traffic character;
- (c) Geometric character;
- (d) Environmental character; and
- (e) Operational character.

(10) As required by sections (2) through (7) of this rule an applicant must demonstrate, consistent with Division 51 rules, that:

- (a) The approach is consistent with safety factors in section (9) of this rule;
- (b) Spacing standards are met or a deviation is approved as set forth in OAR 734-051-0135; and
- (c) The effect of the approach meets traffic operations standards, signals, or signal systems standards in OAR 734-020-0400 through 734-020-0500 and 734-051-0115 and 734-051-0125.

(11) As required by sections (5) through (7) of this rule the Department may require an applicant to demonstrate that:

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

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 to 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04



**734-051-0085**

**Benefit to the State Highway System**

(1) For the purposes of this rule a benefit to the state highway system:

(a) Will be found only where an applicant demonstrates that an approach will provide an immediate and long-term benefit to the state highway system;

(b) Is evaluated for no less than 20 years;

(c) For an Application for a Grant of Access, must exceed any mitigation of impacts related to the development regarding safety and operations; and

(d) Is a determination requiring the professional judgment of a professional engineer employed by the Department.

(2) For an Application for State Highway Approach or for an Application for a Grant of Access the Department may determine a benefit to the state highway system exists if the requirements of subsections (a) and (b) of this section are met:

(a) The applicant demonstrates better management of access as a result of either controlling or combining approach locations, or eliminating existing or planned approaches by improving:

(A) Access management spacing standards;

(B) Public approach spacing; or

(C) Intersection sight distance.

(b) The applicant demonstrates with no degradation of the criteria in paragraphs (A) through (E) of this subsection, that any of the following occur:

(A) Highway mobility standards improve.

(B) Safety improves on the section of highway where the approach is located.

(C) Safety problems in the general vicinity are eliminated because of closure of an existing approach.

(D) Operations in the general vicinity improve as a result of connectivity, traffic diversions, or other traffic engineering techniques.

(E) The applicant demonstrates that off-system connectivity improves and reduces demand to the state highway system without creating operational or safety problems elsewhere:

(i) Off-system connectivity must occur immediately; or

(ii) Off-system connectivity must be committed for construction as evidenced by the local government's adopted Capital Improvement Plan.

(F) The Department determines that other circumstances result in a benefit to the state highway system.

(3) For an Application for State Highway Approach, for a private or public approach in an urban area and to an expressway, the Department may presume that a benefit to the state highway system exists if the requirements of subsection (a) of this section are met, or the requirements of subsections (b) and (c) of this section are met:

(a) Where a change of use occurs, approaches to the expressway are combined or eliminated resulting in a net reduction in the number of approaches to the expressway, and the applicant demonstrates an improvement of:

(A) Access management spacing standards;

(B) Public road intersection spacing; or

(C) Intersection sight distance.

(b) The Department determines that an improvement in safety occurs on the section of expressway where an approach is requested and both paragraphs (A) and (B) of this subsection are met:

(A) Only one approach to the expressway is requested and:

(i) Where a new approach is requested, no approach to the site currently exists; or

(ii) Where a change of use occurs, only one private approach to the site currently exists; and

(B) An improvement in safety occurs on the expressway primarily and on other state highways secondarily and includes:

(i) A decrease in the number of existing conflict points;

(ii) Elimination of existing left turns;

(iii) Elimination of an existing overlap of left turn movements;

(iv) The addition of a left turn lane where existing conditions meet the Department's installation criteria; or

(v) Provision of adequate sight distance at the alternate approach or the subject approach where existing sight distance is deficient.

(c) The Region Access Management Engineer determines that the approach results in a benefit to the state highway system due to other circumstances.

(4) A benefit to the state highway system is determined by:

(a) The Region Access Management Engineer when an Application for State Highway Approach is submitted for a private approach in an urban area and on an expressway; or

(b) The Department's Technical Services Manager when an Application for a Grant of Access is submitted.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 347.345 & 374.990; Ch. 974, OL 1999; Ch. 371, OL 2003

Hist.: HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04

**734-051-0090** [Renumbered to 734-051-0070]

**734-051-0095**

### **Temporary Approaches**

(1) The Region Manager may approve an application for a temporary approach where:

(a) The approach is consistent with safety factors;

(b) Conditions such as signing or flagging are identified on the Construction Permit and the Permit to Operate and are enforced during construction and operation; and

(c) A closure date is specified on the Permit to Operate.

(2) A deposit of not less than \$1000 per temporary approach is required prior to issuance of a Construction Permit and a Permit to Operate a Temporary Approach to guarantee its removal by the applicant:

(a) The appropriate District office will determine the amount of the deposit;

(b) If the Department incurs no expense in the removal of the temporary approach, the entire deposit is refunded to the applicant; and

(c) If the Department incurs any expenses in the removal of the approach, the applicant will be billed for the amount in excess of the amount deposited or refunded the difference if the expense is less than the amount deposited.

(3) The Region Manager may extend the time period for a temporary approach where extenuating circumstances beyond the control of the applicant or permittee exist.

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

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, O L 1999, Ch. 371, OL 2003

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0060; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0120

**734-051-0100** [Renumbered to 734-051-0070]

**734-051-0105**

**Restricted Use Approaches**

(1) The Region Manager may approve an application for a restricted use approach where the approach is consistent with safety factors.

(2) The Department shall require restricted use approaches:

(a) To be restricted from general use by physical means such as a gate or other design approved by the Department; and

(b) May require special design considerations such as reinforced sidewalks, curb design options, and landscaping considerations.

(3) The Region Manager may require mitigation measures to be incorporated into a Construction Permit and a Permit to Operate a Restricted Use Approach.

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

Stat. Auth.: ORS 184.616, 814.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 to 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04

**734-051-0110** [Renumbered to 734-051-0045]

**734-051-0115**

**Access Management Spacing Standards for Approaches**

(1) Access management spacing standards for approaches to state highways:

(a) Are based on the classification of the highway and highway segment designation, type of area, and posted speed;

(b) Apply to properties abutting state highways, highway or interchange construction and modernization projects, and planning processes involving state highways or other projects determined by the Region Manager; and

(c) Do not apply to approaches in existence prior to April 1, 2000 except where any of the following occur:

(A) These standards will apply to private approaches at the time of a change of use.

(B) If infill development or redevelopment occurs, spacing and safety factors will improve by moving in the direction of the access management spacing standards, with the goal of meeting or improving compliance with the access management spacing standards.

(C) For a highway or interchange construction or modernization project or other roadway or interchange project determined by the Region Manager, the project will improve spacing and safety factors by moving in the direction of the access management spacing standards, with the goal of meeting or improving compliance with the access management spacing standards.

(2) Spacing standards in Tables 2, 3, and 4, adopted and made a part of this rule, identify the spacing standards.

(3) An applicant may provide evidence to support a determination that an approach is located in a commercially zoned area that has the characteristics established in the Oregon Highway Plan for a Special Transportation Area (STA) or for an Urban Business Area (UBA), in which case the spacing standards for such segment designation may be applied to the application. A decision by local government or by the Oregon Transportation Commission to either designate or not designate an STA and/or UBA makes this provision unavailable. This provision may not be applied where a management plan would be required for an STA or a UBA under the provisions of the Oregon Highway Plan

(4) Deviations must meet the criteria in OAR 734-051-0135.

(5) Location of traffic signals on state highways must meet the criteria of OAR 734-020-0400 through 734-020-0500.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04 cert. ef. 3-1-04, Renumbered from 734-051-0190

**734-051-0120** [Renumbered to 734-051-0095]

**734-051-0125**

### **Access Management Spacing Standards for Approaches in an Interchange Area**

(1) Access management spacing standards for approaches in an interchange area:

(a) Are based on classification of highway and highway segment designation, type of area, and posted speed;

(b) Apply to properties abutting state highways, highway or interchange construction and modernization projects, planning processes involving state highways, or other projects determined by the Region Manager; and

(c) Do not apply to approaches in existence prior to April 1, 2000 except where any of the following occur:

(A) These standards will apply to private approaches at the time of a change of use.

(B) If infill development or redevelopment occurs, spacing and safety factors will improve by moving in the direction of the access management spacing standards, with the goal of meeting or improving compliance with the access management spacing standards.

(C) For a highway or interchange construction or modernization project or other roadway or interchange project determined by the Region Manager, the project will improve spacing and safety factors by moving in the direction of the access management spacing standards, with the goal of meeting or improving compliance with the access management spacing standards.

(2) Spacing standards in Tables 5, 6, 7, and 8 and Figures 1, 2, 3, and 4, adopted and made a part of this rule, identify the spacing standards for approaches in an interchange area.

(3) When the Department approves an application:

(a) Access management spacing standards for approaches in an interchange area must be met or approaches must be combined or eliminated resulting in a net reduction of approaches to the state highway and an improvement of existing interchange management areas spacing standards; and

(b) The approach must be consistent with any applicable access management plan for an interchange.

(4) Deviations must meet the criteria in OAR 734-051-0135 .

(5) Location of traffic signals within an interchange management area must meet the criteria of OAR 734-020-0400 through 734-020-0500.

(6) The Department should acquire access control on crossroads around interchanges for a distance of 1320 feet. In some cases it may be appropriate to acquire access control beyond 1320 feet.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0200

### **734-051-0135**

#### **Deviations from Access Management Spacing Standards**

(1) A deviation will be considered when an approach does not meet spacing standards and the approach is consistent with safety factors in OAR 734-051-0080(9). The information necessary to support a deviation must be submitted with an application or with the supplemental documentation as set forth in OAR 734-051-0070(5) and (6).

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

(a) To maximize the spacing between adjacent approaches; or

(b) At a different location if the maximized approach location:

(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 may approve a deviation for a public approach that is identified in a local comprehensive plan and provides access to a public roadway if:

(a) Existing public approaches are combined or removed; or

(b) Adherence to the 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.

(7) The Region Access Management Engineer may require that an access management plan, corridor plan, transportation system plan, or comprehensive plan identifies measures to reduce the number of approaches to the highway to approve a deviation for a public approach.

(8) 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.

(9) 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.

(10) Where section (2), (3), (4), (5) or (6) 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.

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

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

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0320

## **734-051-0145**

### **Mitigation Measures**

(1) The Department may require mitigation measures on the state highway or the subject property to comply or improve compliance with the division 51 rules for continued operation of an existing approach or construction of a new approach.

(2) Unless otherwise set forth in division 51 rules, the cost of mitigation measures is the responsibility of the applicant, permittee, or property owner as set forth in OAR 734-051-0205.

(3) Mitigation measures may include:

(a) Modifications to an approach;

(b) Modifications of on-site storage of queued vehicles;

(c) Installation of left turn or right turn channelization or deceleration lanes;

- (d) Modifications to left turn or right turn channelization or deceleration lanes;
  - (e) Modifications required to maintain intersection sight distance;
  - (f) Modification or installation of traffic signals or other traffic control devices;
  - (g) Modification of the highway;
  - (h) Modification or installation of curbing;
  - (i) Consolidation of existing approaches or provisions for joint use accesses;
  - (j) Installation of raised medians;
  - (k) Restriction of turn movements for circumstances including:
    - (A) The proximity of existing approaches or offset of opposing approaches;
    - (B) Approaches within an Interchange Management Area;
    - (C) Approaches along an Expressway;
    - (D) Areas of insufficient decision sight distance for speed;
    - (E) The proximity of railroad grade crossings;
    - (F) Approaches with a crash history involving turning movements;
    - (G) The functional area of an intersection; and
    - (H) Areas where safety or traffic operation problems exist.
  - (l) Installations of sidewalks, bicycle lanes, or transit turnouts;
  - (m) Development of reasonable alternate access; and
  - (n) Modifications of local streets or roads along the frontage of the site.
- (4) Mitigation measures are directly related to the impacts of the particular approach on the highway and the scale of the mitigation measures will be directly proportional to those impacts, as follows:
- (a) Where safety standards can be met by mitigation measures located entirely within the property controlled by the applicant or within existing state right of way, that will be the preferred means of mitigation.
  - (b) Where safety standards cannot be met with measures located entirely within the property controlled by the applicant or within existing state right of way, ODOT will make an effort to participate in negotiations between the applicant and other affected property owners or assist the applicant to take necessary actions.
  - (c) When cumulative effects of existing and planned development create a situation where approval of an application would require mitigation measures that are not directly

proportional to the impacts of the proposed approach, the Region Manager may allow mitigation measures to mitigate impacts as of the day of opening and defer mitigation of future impacts to ODOT project development provided the applicant conveys any necessary right of way to ODOT prior to development of the subject approach.

(5) Mitigation to an alternate access may be more significant where the property fronts a higher classification of highway than where the property fronts a lower classification of highway.

(6) An applicant may propose an Access Mitigation Proposal or an Access Management Plan to be implemented by the applicant or the local jurisdiction.

(7) The Department will work with the local jurisdiction and the applicant to establish mitigation measures and alternative solutions including:

(a) Changes to on-site circulation;

(b) On-site improvements; and

(c) Modifications to the local street network.

(8) Where mitigation measures include traffic controls:

(a) The applicant bears the cost of the controls and constructs required traffic controls within a timeframe identified by the Department or reimburses the Department for the cost of designing, constructing, or installing traffic controls; and

(b) An applicant that is a lessee must provide evidence of compliance with required traffic controls and must identify the party responsible for construction or installation of traffic controls during and after the effective period of the lease.

(9) Traffic signals are approved in the following priority:

(a) Traffic signals for public approaches.

(b) Private approaches identified in a Transportation System Plan to become public.

(c) Private approaches.

(10) Traffic signals are approved with the following requirements:

(a) A signalized private approach must meet spacing standards for signalization relative to all planned future signalized public road intersections; and

(b) The effect of the private approach must meet traffic operations standards, signals, or signal systems standards in OAR 734-020-0400 through 734-020-0500 and 734-051-0115 and 734-051-0125.

(11) All highway improvements within the right of way resulting from mitigation constructed by the permittee, and inspected and accepted by the Department, become the property of the Department.

(12) Approval of an application with mitigation measures is an appealable decision.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0210

### **734-051-0155**

#### **Access Management Plans, Access Management Plans for Interchanges, and Interchange Area Management Plans**

(1) The Department encourages the development of Access Management Plans, Access Management Plans for Interchanges, and Interchange Area Management Plans to maintain highway performance and improve safety by improving system efficiency and management before adding capacity consistent with the 1999 Oregon Highway Plan.

(2) Access Management Plans and Access Management Plans for Interchanges are developed for a designated section of highway with priority placed on facilities with high volumes or providing important statewide or regional connectivity where:

- (a) Existing developments do not meet spacing standards;
- (b) Existing development patterns, land ownership patterns, and land use plans are likely to result in a need for deviations; or
- (c) An access management plan would preserve or enhance the safe and efficient operation of a state highway.

(3) Access Management Plans and Access Management Plans for Interchanges may be developed:

- (a) By the Department;
- (b) By local jurisdictions; or
- (c) By consultants.

(4) Access Management Plans and Access Management Plans for Interchanges comply with all of the following:

- (a) Are prepared for a logical segment of the state highway and include sufficient area to address highway operation and safety issues and development of adjoining properties including local access and circulation.
- (b) Describe the roadway network, right-of-way, access control, and land parcels in the analysis area.

- (c) Are developed in coordination with local governments and property owners in the affected area.
  - (d) Are consistent with any applicable adopted Transportation System Plan, Local Comprehensive Plan, Corridor Plan, or Special Transportation Area or Urban Business Area designation, or amendments to the Transportation System Plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055.
  - (e) Are consistent with the 1999 Oregon Highway Plan.
  - (f) Contain short, medium, and long-range actions to improve operations and safety and preserve the functional integrity of the highway system.
  - (g) Consider whether improvements to local street networks are feasible.
  - (h) Promote safe and efficient operation of the state highway consistent with the highway classification and the highway segment designation.
  - (i) Consider the use of the adjoining property consistent with the comprehensive plan designation and zoning of the area.
  - (j) Provide a comprehensive, area-wide solution for local access and circulation that minimizes use of the state highway for local access and circulation.
  - (k) Are approved by the Department through an intergovernmental agreement and adopted by the local government, and adopted into a Transportation System Plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055.
  - (l) Are used for evaluation of development proposals.
  - (m) May be used in conjunction with mitigation measures.
- (5) The Department encourages the development of Interchange Area Management Plans to plan for and manage grade-separated interchange areas to ensure safe and efficient operation between connecting roadways:
- (a) Interchange Area Management Plans are developed by the Department and local governmental agencies to protect the function of interchanges by maximizing the capacity of the interchanges for safe movement from the mainline facility, to provide safe and efficient operations between connecting roadways, and to minimize the need for major improvements of existing interchanges;
  - (b) The Department will work with local governments to prioritize the development of Interchange Area Management Plans to maximize the operational life and preserve and improve safety of existing interchanges not scheduled for significant improvements; and
  - (c) Priority should be placed on those facilities on the Interstate system with cross roads carrying high volumes or providing important statewide or regional connectivity.

(6) Interchange Area Management Plans are required for new interchanges and should be developed for significant modifications to existing interchanges consistent with the following:

(a) Should be developed no later than the time an interchange is designed or is being redesigned;

(b) Should identify opportunities to improve operations and safety in conjunction with roadway projects and property development or redevelopment and adopt strategies and development standards to capture those opportunities;

(c) Should include short, medium, and long-range actions to improve operations and safety in the interchange area;

(d) Should consider current and future traffic volumes and flows, roadway geometry, traffic control devices, current and planned land uses and zoning, and the location of all current and planned approaches;

(e) Should provide adequate assurance of the safe operation of the facility through the design traffic forecast period, typically 20 years;

(f) Should consider existing and proposed uses of the all property in the interchange area consistent with its comprehensive plan designations and zoning;

(g) Are consistent with any adopted Transportation System Plan, Corridor Plan, Local Comprehensive Plan, or Special Transportation Area or Urban Business Area designation, or amendments to the Transportation System Plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055;

(h) Are consistent with the 1999 Oregon Highway Plan; and

(i) Are approved by the Department through an intergovernmental agreement and adopted by the local government, and adopted into a Transportation System Plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 to 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0360

### **734-051-0165**

#### **Design of Approaches**

(1) Approach design must conform to standards in the 2002 Oregon Highway Design Manual and allow movement to and from the highway of vehicles reasonably expected to utilize the approach without undue conflict with other traffic.

(2) Design of an approach may require mitigation measures as set forth in OAR 734-051-0145.

(3) No person may place curbs, posts, signs, or other structures on the highway right of way without written approval of the Region Manager.

(4) An applicant is responsible for the cost of accommodating drainage from the property.

(5) Approaches that are private road crossings must be constructed by grade separation except where the Technical Services Manager determines that grade separation is not economically feasible. Where no grade separation is required, the applicant shall install signing, signalization, or other traffic safety devices the Technical Services Manager determines necessary:

(a) The Department may construct the approach and additional facilities in accordance with the plans and specifications approved by the Department; or

(b) The applicant may be required to install the approach and additional facilities, other than signalization, in accordance with plans and specifications approved by the Region Manager, where installation can be completed adequately and safely.

Stat. Auth.: ORS 184.616, 184.619, 374.305, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch.371, OL 2003

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0035; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0260

### **734-051-0175**

#### **Issuance of Construction Permits**

(1) The Region Manager shall issue a Construction Permit when construction plans, if required, and all other required documents are received and approved.

(2) Receipt of the Construction Permit by the applicant constitutes acceptance of the special provisions, mitigation measures, conditions, or agreements, consistent with and identified and approved through the application process, unless the applicant provides written notification to the Department that the special provisions, mitigation measures, conditions, or agreements are not accepted within 21 days of the date of mailing Construction Permit.

(3) If the applicant does not accept the special provisions, mitigation measures, conditions, or agreements the Construction Permit will be void.

(4) The applicant must provide the Department with proof of liability insurance and bond or deposit in lieu of bond as required by OAR 734-051-0215 within 60 days from the date of transmittal or the Construction Permit and approval of the application are void.

(5) No work on highway right of way may begin until an applicant obtains a valid Construction Permit, approved and signed by the Region Manager.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0230

### **734-051-0185**

#### **Construction of Approaches**

(1) An applicant must notify the Region Manager at least two work days prior to beginning construction.

(2) Construction must conform to the terms of the Construction Permit including any special provisions, mitigation measures, conditions, or agreements, and the applicant must notify the Region Manager when construction is complete.

(3) Upon inspection of the approach the Department shall notify the applicant if construction deficiencies exist:

(a) The applicant must correct all deficiencies within 60 days of notification that deficiencies exist and notify the Region Manager; and

(b) The Region Manager shall re-inspect the approach.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0040; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0250

### **734-051-0190** [Renumbered to 734-051-0115]

### **734-051-0195**

#### **Effective Period of Construction Permits**

(1) A Construction Permit is effective for the time period specified on the permit. The Region Manager shall extend the time period of a Construction Permit for good cause shown.

(2) If an applicant fails to comply with the terms and conditions of the Construction Permit the Department may, at the applicant's expense:

(a) Reconstruct or repair the approach; or



(b) Cancel the Construction Permit and remove the approach.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0240

**734-051-0200** [Renumbered to 734-051-0125]

### **734-051-0205**

#### **Allocation of Costs for Construction and Maintenance of Approaches**

(1) Except as otherwise provided in the Division 51 rules, the applicant or permittee is responsible for the cost of mitigation measures and the cost of construction of an approach including the cost of materials, labor, signing, signals, structures, equipment, traffic channelization, and other permit requirements.

(2) The Department may be responsible for the cost of mitigation measures and the cost of construction of an approach where the costs are a part of the terms and conditions of a right of way acquisition obligation or other contractual agreement.

(3) The Department is responsible for the cost of removal or relocation of a permitted or grandfathered approach during project delivery unless the removal or relocation is at the request of a permittee or owner of a grandfathered approach.

(4) The applicant, permittee, or owner of a grandfathered approach is responsible for the cost of maintenance of an approach from the outside edge of the highway pavement, shoulder, or curb-line to the right of way line, and any portion of the approach on the applicant's property required to be maintained as part of the permit.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Chapter 371, OL 2003

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0020; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0270

**734-051-0210** [Renumbered to 734-051-0145]

### **734-051-0215**

#### **Liability and Control for Construction and Maintenance, Repair, Operation and Use of Approaches**

(1) An applicant or permittee assumes responsibility for damage or injury to any person or property resulting from the construction, maintenance, repair, operation, or use of an

approach for which a Construction Permit or a Permit to Operate is issued and where the applicant may be legally liable.

(2) An applicant or permittee indemnifies and holds harmless the State of Oregon, the Commission, the Department, and all officers, employees or agents of the Department against damages, claims, demands, actions, causes of action, costs, and expenses of whatsoever nature which may be sustained by reasons of the acts, conduct, or operation of the applicant, his agents, or employees in connection with the construction, maintenance, repair, operation, or use of an approach.

(3) Construction of an approach may not begin until the applicant provides the Department with evidence of insurance in the following minimum amounts:

(a) \$50,000 for property damage resulting from any single occurrence, or \$500,000 combined single limit; and

(b) \$200,000 for the death or injury of any person, subject to a limit of \$500,000 for any single occurrence.

(4) Insurance policies must include as named as insured the State of Oregon, the Commission, and the Department, its officers, agents and employees, except as to claims against the applicant, for personal injury to any members of the Commission or the Department and its officers, agents, and employees or damage to any of its or their property.

(5) Construction of an approach may not begin until a copy of the insurance policy or a certificate showing evidence of insurance is filed with the Department.

(6) An applicant or permittee shall provide 30 days written notice to the Department of intent to cancel or intent not to renew insurance coverage. Failure to comply with notice provisions does not affect coverage provided to the State of Oregon, the Commission, or the Department, its officers, agents and employees.

(7) If the highway surface or highway facilities are damaged by the applicant or the applicant's contractor, the applicant must replace or restore the highway or highway facilities to a condition satisfactory to the Department.

(8) The applicant or permittee must furnish, in an amount specified by the Region Manager and for the time period necessary to install the approach, a cash deposit or a bond issued by a surety company licensed to do business in the State of Oregon to ensure that any damage to the highway has been corrected to the Department's satisfaction; and no construction is performed until a deposit or bond is filed with the Department.

(9) The applicant or permittee is responsible for relocating or adjusting any utilities located on highway right of way when required for accommodation of the approach, and no construction may be performed until the applicant furnishes evidence to the Department that satisfactory arrangements have been made with the owner of the affected utility facility.

(10) The applicant or permittee is responsible for erosion control during construction of the approach.

(11) Where warning signs are required by the Construction Permit, other regulations, or the Region Manager, the Department furnishes, places, and maintains the signs at the applicant's or permittee's expense, and unauthorized signs are not allowed on any portion of the right of way.

(12) The work area during any construction or maintenance performed under a Construction Permit or a Permit to Operate is protected in accordance with the Manual on Uniform Traffic Control Devices adopted under OAR 734-020-0005.

(13) An applicant or permittee shall provide true and complete information, and if any required fact that is material to the assessment of the approach's impact upon traffic safety, convenience or the legal or property rights of any person (including the State of Oregon) is false, incorrect or omitted, the Region Manager may:

(a) Deny or revoke the Construction Permit; and

(b) At the applicant's or permittee's expense:

(A) Require the applicant or permittee to remove the approach and restore the area to a condition acceptable to the Region Manager;

(B) Require the applicant or permittee to provide additional safeguards to protect the safety, convenience, and rights of the traveling public and persons (including the State), if such safeguards are adequate to achieve these purposes, as a condition of the continued validity of the Permit to Operate;

(C) Reconstruct or repair the approach; or

(D) Remove the approach.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 724-050-0025; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0280

### **734-051-0225**

#### **Post-Decision Review Procedure**

(1) An applicant may request a post-decision review to modify a Construction Permit if:

(a) Ambiguities or conflicts exist in the Construction Permit;

(b) New and relevant information concerning the approach or the Construction Permit is available; or

(c) Requirements of local governments or state agencies are relevant to the modification of the Construction Permit.

(2) The Region Manager shall determine if a request for a post-decision review meets the criteria in section (1) of this rule.

(3) The Region Manager may conduct a post-decision review and may modify the Construction Permit.

(4) A post-decision review does not stay the time period to request a Region Review or Contested Case Hearing.

(5) A post-decision review decision is an appealable decision.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0235

**734-051-0230** [Renumbered to 734-051-0175]

**734-051-0235** [Renumbered to 734-051-0225]

**734-051-0240** [Renumbered to 734-051-0195]

**734-051-0245**

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

(1) The Department shall issue a Permit to Operate 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 an approach is legal only after a Permit to Operate is issued.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 to 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00 HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0290

**734-051-0250** [Renumbered to 734-051-0185]

**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.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003;

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0045; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0310

**734-051-0260** [Renumbered to 734-051-0165]

**734-051-0265**

### **Effective Period of Permit to Operate, Maintain and Use an Approach**

(1) Except as otherwise provided a Permit to Operate is effective unless:

(a) Revoked by mutual consent;

(b) Revoked for failure to abide by the terms and conditions;

(c) A change of use occurs as set forth in OAR 734-051-0045;

(d) Safety or operational problems exist as set forth in OAR 734-051-0275;

(e) The highway facility is significantly improved to meet classification of the highway, highway mobility standards, spacing standards, and safety criteria that are inconsistent with the approach; or

(f) By other operation of law.

(2) The Permit to Operate is binding on successors and assignors including successors in interest to the property being served by the approach.

(3) The operation, maintenance, and use of an approach are subject to the control of the legislature over the state highway system.

(4) A Permit to Operate should not be construed to be beyond the power or authority of the legislature to control the state highway system.

(5) Acceptance of a Permit to Operate is acceptance of all special provisions, mitigation measures, conditions, or agreements, identified and approved through the application process and acknowledgment that all rights and privileges may be changed or relinquished by legislative action.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: 1 OTC 43, f. 11-26-74, ef. 12-1-74; 1 OTC 20-1980, f. & ef. 10-22-80; TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; Renumbered from 734-050-0050; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0300

**734-051-0270** [Renumbered to 734-051-0205]

**734-051-0275**

### **Removal of Approaches**

(1) The Department may revoke a Permit to Operate and may remove an approach:

(a) If current or potential safety or operational problems exist that are verified by an engineering analysis;

(b) If an applicant or permittee fails to comply with any terms or conditions of a Permit to Operate; or

(c) During project delivery as set forth in OAR 734-051-0285.

(2) The Department shall provide written notification of the intent to remove an approach under section (1) of this rule as required by ORS 374.305, 374.307, and 374.320.

(3) The Region Manager may determine that an approach identified for removal as described in section (1) of this rule may remain open if mitigation measures are required as set forth in OAR 734-051-0145:

(a) The Department shall provide written notification of the intent to remove the approach unless mitigation measures are taken; and

(b) The applicant must agree to comply with mitigation measure and to bear the cost of the mitigation measures.

(4) An applicant, permittee, or property owner is responsible for the expense of removing an approach except as set forth in OAR 734-051-0205 and 734-051-0285.

(5) Removal of a permitted or grandfathered approach is an appealable decision.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0380

**734-051-0280** [Renumbered to 734-051-0215]

## **734-051-0285**

### **Project Delivery**

(1) This rule applies to construction of new highways and interchanges, highway or interchange modernization projects, highway and interchange preservation projects, highway and interchange operations projects, or other highway and interchange projects. Access Management Strategies, Access Management Plans, and Access Management Plans for Interchanges are developed during project delivery to maintain highway performance and improve safety by improving system efficiency and management before adding capacity, as provided by this rule and consistent with the 1999 Oregon Highway Plan. All approaches identified to remain open in an area that is not access controlled in an Access Management Strategy, Access Management Plan, or Access Management Plan for an Interchange Area are presumptively found to be in compliance with Division 51 rules once any measures prescribed for such compliance by the plan are completed, and subsequent changes will be measured from that status. However, that status does not convey a grant of access.

(2) This rule does not create an obligation that the Department apply documentation requirements in OAR 734-051-0070(1) or the standards and criteria in OAR 734-051-0080, 734-051-0115, 734-051-0125, 734-051-0275 or 734-051-0295 through 734-051-0335.

(3) The Region Manager shall develop Access Management Strategies for modernization projects, projects within an influence area of an interchange where the project includes work along the crossroad, or projects on an expressway and may develop Access Management Strategies for other highway projects.

(4) Except where the Region Manager documents the reasons why an Access Management Plan is not appropriate, the Region Manager shall develop an Access Management Plan for modernization projects and an Access Management Plan for an Interchange for modernization projects where the project includes work along the crossroad.

(5) The Region Manager may require modification, mitigation, or removal of approaches within project limits:

(a) Pursuant to either:

(A) An Access Management Plan or an Access Management Plan for an Interchange adopted by the Department; or

(B) An approved Access Management Strategy; and

(b) If necessary to meet the classification of highway or highway segment designation, mobility standards, spacing standards, or safety factors; and

(c) If a property with an approach to the highway has multiple approaches and if a property with an approach to the highway has alternate access in addition to the highway approach.

(d) The determination made under subsections (a) through (c) of this section must conclude that the net result of the project including closures, modification and mitigations will be that access will remain 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.

(6) Access Management Strategies comply with all of the following:

(a) Are developed for the project limits, a specific section of the highway within the project limits, or to address specific safety or operational issues within the project limits.

(b) Must improve access management conditions to the extent reasonable within the limitation, scope, and strategy of the project and consistent with design parameters and available funds.

(c) Promote safe and efficient operation of the state highway consistent with the highway classification and the highway segment designation.

(d) Provide for reasonable use of the adjoining property consistent with the comprehensive plan designation and zoning of the area.

(e) Are consistent with any applicable adopted Access Management Plan, Transportation System Plan or Corridor Plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055.

(7) Access Management Plans comply with all of the following:

(a) Must include sufficient area to address highway operation and safety issues and the development of adjoining properties including local access and circulation.

(b) Must improve access management conditions to the extent reasonable within the limitation and scope of the project and be consistent with design parameters and available funds.

(c) Describe the roadway network, right-of-way, access control, and land parcels in the analysis area.

(d) Are developed in coordination with local governments.

(e) Are consistent with any applicable adopted Transportation System Plan, corridor plan, or Special Transportation Area or Urban Business Area designation, or amendments to the Transportation System Plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055.

(f) Are consistent with the 1999 Oregon Highway Plan.



(g) Contain short, medium, and long-range actions to improve operations and safety and preserve the functional integrity of the highway system.

(h) Consider whether improvements to local street networks are feasible.

(i) Promote safe and efficient operation of the state highway consistent with the highway classification and the highway segment designation.

(j) Consider the use of the adjoining property consistent with the comprehensive plan designation and zoning of the area.

(k) Provide a comprehensive, area-wide solution for local access and circulation that minimizes use of the state highway for local access and circulation.

(l) Are approved by the Department through an intergovernmental agreement and adopted by the local government, and adopted into a Transportation System Plan unless the jurisdiction is exempt from transportation system planning requirements under OAR 660-012-0055.

(8) In the event of a conflict between the access management spacing standards and the access management spacing standards for approaches in an interchange area the more restrictive provision will prevail. These spacing standards are used to develop Access Management Plans for Interchanges and where appropriate:

(a) Support improvements such as road networks, channelization, medians, and access control, with an identified committed funding source, and consistent with the 1999 Oregon Highway Plan;

(b) Ensure that approaches to cross streets are consistent with spacing standards on either side of the ramp connections; and

(c) Support interchange designs that consider the need for transit and park-and-ride facilities and the effect of the interchange on pedestrian and bicycle traffic.

(9) Notwithstanding other provisions of this Division, the Region Manager, not a designee, may recognize an approach to be in compliance where there is no Access Control, and where construction details for a Department project show the intention to preserve the approach as a part of that project, as documented by plans dated before the original effective date of Division 51, April 1, 2000.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0370

**734-051-0290** [Renumbered to 734-051-0245]

**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.
- (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(8).

(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, the adopted State Highway 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; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003;

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0430

**734-051-0300** [Renumbered to 734-051-0265]

**734-051-0305**

**Application Procedure for Grants of Access**

(1) An Application for a Grant of Access to a state highway must be made on the standard state form, and the processing fee must accompany the Application for a Grant of Access as set forth in OAR 734-051-0335.

(2) The Department may refuse to accept an Application for a Grant of Access if the application is:

(a) Incomplete;

(b) Not accompanied by an Application for State Highway Approach and all required documentation;

(c) Not accompanied by a current preliminary title report covering the property to be served by the approach, showing any access easements appurtenant to the property; or

(d) From anyone other than the owner of the abutting property or a designated agent.

(3) Upon acceptance of an Application for a Grant of Access and any required attachments, the Department shall use Division 51, ORS Chapter 374, and any other applicable state statutes, administrative rules, and Department manuals for evaluating and acting upon the application for a grant of access.

(4) The Region Manager shall review the Application for a Grant of Access, determine if the Application for a Grant of Access meets the requirements of Division 51 and Department policy, and shall:

(a) Forward the Application for a Grant of Access to the State Traffic Engineer; or

(b) Deny the Application for a Grant of Access.

(5) When the Application for a Grant of Access is forwarded to the State Traffic Engineer, the State Traffic Engineer, with the assistance of Department staff, shall:

(a) Evaluate the Application for a Grant of Access;

(b) Notify the applicant of any additional information required; and

(c) Make a recommendation to the Technical Services Manager.

(6) The Technical Services Manager shall approve or deny the Application for a Grant of Access and notify the applicant.

(7) If the Application for Grant of Access is approved, the Department shall:

(a) Appraise the abutting property to determine the fair market value of the grant of access;

(b) Notify the applicant of the value of the grant of access; and

(c) Provide the applicant with instructions for payment.

(8) After payment of fair market value is received by the Department:

- (a) The grant of access will be executed and recorded; and
- (b) A copy of the grant of access will be sent to the Region Manager so that a Construction Permit may be issued in accordance with OAR 734-051-0175.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0440

**734-051-0310** [Renumbered to 734-051-0255]

**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 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.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0450

**734-051-0320** [Renumbered to 734-051-0135]

## **734-051-0325**

### **Application Procedure for Indentures of Access**

(1) An Application for Indenture of Access to a state highway must be made on the standard state form and the appropriate processing fee must accompany the Application for Indenture of Access as set forth in OAR 734-051-0335 except where the Region Manager, not a designee, waives the processing fee and documents in writing the reasons for the waiver.

(2) The Department may refuse to accept an Application for Indenture of Access if the application is:

(a) Incomplete;

(b) Not accompanied by an Application for State Highway Approach and all required documentation;

(c) Not accompanied by a current preliminary title report covering the property to be served by the approach showing any access easements appurtenant to the property; or

(d) From anyone other than the owner of the abutting property or a designated agent.

(3) The Department shall use division 51, ORS Chapter 374, and any other applicable state statutes, administrative rules, and Department manuals for evaluating and acting upon the Application for Indenture of Access.

(4) The Region Manager shall approve or deny the Application for Indenture of Access and shall notify the applicant.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0460

## **734-051-0335**

### **Administration of Grants and Indentures of Access**

(1) A processing fee must be submitted with the Application for Indenture of Access.

(2) A processing fee must be submitted with the Application for a Grant of Access. The processing fee is based on the actual documented costs incurred by the Department plus a 10 percent charge for general administration:

(a) The processing fee includes the cost to secure an appraisal of the fair market value of the grant of access;

- (b) An initial deposit, applied towards the processing fee, must accompany the Application for a Grant of Access; and
- (c) The Department shall determine the amount of the initial deposit based on the complexity of the request and the anticipated cost of obtaining an appraisal of the grant of access.
- (3) The applicant shall pay all costs incurred by the Department in processing the Application for a Grant of Access.
- (4) Upon approval of an Application for a Grant of Access and prior to issuance of the Construction Permit, payment must be made to the Department in an amount equal to the appraised value of the grant of access. This payment is in addition to the processing fee.
- (5) The Department may waive payment of the appraised value of the grant of access when:
  - (a) An application for a grant of access is for a public approach and the applicant has demonstrated that the public approach will benefit the State highway system as set forth in OAR 734-051-0085(1) and (2); and
  - (b) The benefit to the State highway system is a direct and immediate result of the public approach.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999  
 Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003  
 Hist.: 1 OTC 19-1980, f. & ef. 10-22-80, TO 4-2000, f. 2-14-00, cert. ef. 4-1-00;  
 Renumbered from 734-050-0085; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0470

**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.
- (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 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0390

## **734-051-0355**

### **Contested Case Hearings**

(1) An applicant may request a contested case hearing as provided by the Administrative Procedures Act (ORS Chapter 183):

(a) The request for a hearing and the hearing are governed by OAR 137-003-0501 through 137-003-0700;

(b) The request for a hearing must evidence an intent to request a hearing and must be submitted to and received by the Office of Administrative Hearings within 21 days of the mailing date of the notice of an appealable decision by the Department;

(c) The hearings process falls within the 120-day timeline in OAR 734-051-0070(8) unless the Department and the applicant agree to a time extension:

(A) Time extensions fall outside the 120-day timeline; and

(B) Filing of exceptions falls outside the 120-day timeline.

(2) The Department is authorized to use agency representatives in access management contested case hearings as set forth in OAR 137-003-0545.

(3) The Department and the applicant may present additional information in writing or in person at the contested case hearing.

(4) An Administrative Law Judge will review the Region Manager's decision, conduct a hearing, and may approve, reverse, or modify the decision. The Administrative Law Judge:

(a) Shall issue a proposed order as set forth in OAR 137-003-0645; and

(b) May require conditions or limitations to be incorporated into the Construction Permit or the Permit to Operate.

(5) The Executive Deputy Director shall issue a final order or may adopt as final the proposed order issued by the Administrative Law Judge.

Stat. Auth.: ORS 184.616, 184.619, 374.310, 374.312 & 374.345; Ch. 972 & Ch. 974, OL 1999

Stats. Implemented: ORS 374.305 - 374.345 & 374.990; Ch. 974, OL 1999, Ch. 371, OL 2003

Hist.: TO 4-2000, f. 2-14-00, cert. ef. 4-1-00; HWD 2-2004, f. 2-18-04, cert. ef. 3-1-04, Renumbered from 734-051-0400

**734-051-0360** [Renumbered to 734-051-0155]

**734-051-0370** [Renumbered to 734-051-0285]

**734-051-0380** [Renumbered to 734-051-0275]

**734-051-0390** [Renumbered to 734-051-0345]

**734-051-0400** [Renumbered to 734-051-0355]

**734-051-0430** [Renumbered to 734-051-0295]

**734-051-0440** [Renumbered to 734-051-0305]

**734-051-0450** [Renumbered to 734-051-0315]

**734-051-0460** [Renumbered to 734-051-0325]

**734-051-0470** [Renumbered to 734-051-0335]

### **Remedies in Closure of Approaches**

**734-051-0500**

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

(1) Pursuant to Ch. 972, OL 1999, 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 pursuant to OAR 734-051-0400 by filing a claim for relief when:

(a) The Department closes an approach for which a permit was issued under ORS 374.310 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:

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

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

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

**734-051-0510**

#### **Definitions**

The following definitions apply to OAR 734-051-0500 through 734-051-0560:

- (1) "Claim for relief," means an appeal of the denial of an approach application or the closure of an existing permitted approach under OAR 734-051-0400.
- (2) "Person holding an interest in real property," means the owner of the title to real property or the contract purchaser of such real property, or record as shown on the last available complete tax assessment roll.
- (3) "Administrative remedy," "appropriate remedy" or "remedy" mean the monetary or non-monetary benefits to a property that would address issues related to real property value, utility or uses, which include the equivalent value of:
  - (a) Actual physical reconnection of an approach to the highway or some other public facility;
  - (b) Construction of public roads or other public facilities, including frontage or utility roads, city streets, alleys or county roads;
  - (c) Improvements or modifications to the real property served or intended to be served by the approach, including paving of parking, restriping of lanes or parking, relocation of other traffic barriers and other items that directly address the impact to the property of the closure or denial; and
  - (d) Improvements or modifications to highways or other public facilities, including medians or other traffic channelization, signing or signal installation.
- (4) Remedies will include any benefits derived by the property by virtue of highway improvements and highway modifications, whether or not related to the specific closure.
- (5) Remedies will be limited to those necessary to serve existing uses or other uses reasonably allowed given the existing zoning of the property and other factors, including physical or geographic constraints.
- (6) Remedies do not include:
  - (a) Reimbursement for attorney fees;
  - (b) Relocation expenses;
  - (c) Lost profits;
  - (d) Lost opportunities; or
  - (e) Costs not specifically related to value, utility or use of the property itself.
- (7) Offers of remedies are totally discretionary on the part of the Department and are not subject to a contested case appeal.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999  
Stats. Implemented: ORS 374.310 & Ch. 972, OL 1999  
Hist.: TO 7-2000, f. & cert. ef. 7-14-00

### **734-051-0520**

#### **Offer of Remedies**

- (1) The Department shall make a determination of whether closure of the approach or denial of an application would create issues related to real property value, utility and use, and what remedies would address those issues.
- (2) The Department will provide a written statement of such remedies, if any, within 30 days of the denial of the application or notice of intent to close a permitted approach.
- (3) If such remedies are acceptable to the property owner, and there is written acceptance:
  - (a) The property owner shall not be entitled to any other remedies for such closure or denial; and
  - (b) Any appeal under OAR 734-051-0400 shall be dismissed.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999  
Stats. Implemented: ORS 374.310 & Ch. 972, OL 1999  
Hist.: TO 7-2000, f. & cert. ef. 7-14-00

### **734-051-0530**

#### **Procedure for Resolving Claims**

- (1) Parties may agree to participate in mediation consistent with the applicable provisions of ORS 36.180 to 36.210 at any time during the process of determining the appropriate remedies, but prior to the final order in any contested case under OAR 743-051-0400 .
- (2) During mediation the parties may discuss any appropriate remedies in reaching agreement. Such mediation may also occur during the collaborative discussion phase of the review procedure for the denial or closure. (See OAR 734-051-0390).
- (3) The property owner and the Department also may enter into an agreement to collaborate if the Department determines that the difference between the remedies offered and remedies claimed by the property owner is less than \$30,000.
  - (a) The agreement to collaborate may provide for a mutually chosen mediator as defined in ORS 36.180 to 36.210 to review the information made available to each party as of that time and other information mutually agreed to by the parties.
  - (b) The value of the remedies offered and claimed will include a dollar value assigned by the Department to any non-monetary remedies. Such review will result in a recommendation of remedies, subject to the condition that such remedies are neither less than the lower nor more than the greater of the offer and claim, in terms of assigned monetary value.

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

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

### **734-051-0540**

#### **Appraisals**

(1) Either the Department or the property owner, at their own cost, may at any time before or during the appeal of the closure or denial under OAR 734-051-0400, have an appraisal performed to assist in determining the remedies that would address the real property value, utility or use:

(a) Each party shall notify the other party of such appraisal in a timely manner; and

(b) There shall be full disclosure and sharing between the parties of any appraisal and appraisal information without the necessity of formal requests or discovery.

(2) A qualified review appraiser must review all appraisals to ensure conformance with federal and state eminent domain and access laws:

(a) The reviewer may be selected by the Department or selected jointly by way of mutual agreement of both the Department and the property owner; and

(b) The same review appraiser must review all appraisals for one effected property to ensure consistency.

(3) The Department and property owner may agree to mutually select one appraiser, share the appraisal costs and submit agreed to instructions to the appraiser:

(a) An appraisal from an appraiser selected under this section, after review as set forth in section (2) of this rule, will be presented to the Director or the Director's designee; and

(b) The Director or designee shall take the information in the appraisal into consideration in making subsequent offers of remedies.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

### **734-051-0550**

#### **Conditions of Agreement**

Reaching agreement on the appropriate remedies is contingent upon:

(1) Receipt by the Department of a recordable document relinquishing any grant or reservation of access at the location of the approach closure or approach application; and

(2) Termination of the permit for any approach which is a subject of the settlement.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

### **734-051-0560**

#### **Delegation**

(1) For OAR 734-051-0500 through 734-051-0560, the Director delegates authority to the Right of Way Manager or the Manager's designee to:

(a) Determine the Department's offer of remedies, and

(b) Agree to any settlement which includes providing administrative remedies.

(2) The actions in section (1) of this rule must occur prior to the final order in a contested case conducted under OAR 734-051-0400.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 972, OL 1999

Stats. Implemented: ORS 374.310 & Ch. 972, OL 1999

Hist.: TO 7-2000, f. & cert. ef. 7-14-00

## APPENDIX B

**TABLE B-1 EXISTING PRIVATE APPROACH INVENTORY**

Approach No.	Tax ID	Owner (last name)	Site Address	Acre	Zone	(Exist.) Approach Width	(Proposed) Approach Width	Mile Point	Permit	Use	Additional Notes
1	280621BD01000	United Bancorp	30 NW Glenhart	1.67	GC	30'	30'	73.13	22748 06A	Drive Up Bank	
2	280621BD00700	Russell	301 NW Douglas Blvd	0.29	GC	26'	Closed	73.1		Vacant	
2	280621BD00800	Russell	11 NW Civil Bend	0.24	GC	26'	Closed	73.1		Vacant	
3	280621BC04700	Norton	375 NW Douglas	0.65	GC	33'	40'	73.07	10317 06A	Fast Food w/ Drive-up	
4	280621BD04700	Norton	375 NW Douglas	0.65	GC	30'	Closed	73.05	10317 06A	Fast Food w/ Drive-up	
5	2800621BC05100	Atkinson	391 NW Douglas	1.55	GC	30'	30'	73.03	20381 06A	Vacant/Used Car Sales	Frontage leased to Roseburg Towing (adjoining property to west - 280621BC05200.) Remainder of parcel is vacant.
6	280621BC05200	YDC LLC	397 NW Douglas	0.8	GC	30'	36'	73.04		Towing/Used Car Sales	
7	280621BC05200	YDC LLC	397 NW Douglas	0.8	GC	30'	Closed			Towing/Used Car Sales	
8	280621CB00200	Brimhall	491 NW Douglas	0.2	GC	25'	24'	72.92	13376 06A	Single Family House	
9	280621CB00300	Johnston	501 NW Douglas	0.28	GC	35'	24'	72.9		Market	
10	280621CB00300	Johnston	501 NW Douglas	0.28	GC	54'	Closed	72.89		Market	
11	280621CB00600	Bonner	551 NW Douglas	0.31	GC	26'	24'	72.85		Duplex/Auto Repair	Used by auto repair to east for parking and access to OR 42.
12	280621CB00700	Miller	587 NW Douglas	0.32	GC	20'	20'	72.83		Single Family House	
13	280621CB00800	Miller	591 NW Douglas	0.33	GC	17'	20'	72.82		Single Family House	
14	280621CB01000	Roth	611 NW Douglas	0.15	GC	28'	30'	72.8	13485 06A	Auto Repair	



Approach No.	Tax ID	Owner (last name)	Site Address	Acre	Zone	(Exist.) Approach Width	(Proposed) Approach Width	Mile Point	Permit	Use	Additional Notes
15	280621CB02000	Winston	610 SW Douglas	0.32	GC	19'	20'	72.83		Single Family House	
16	280621CB02100	Thomson	590 SW Douglas	0.33	GC	19'	20'	72.84		Single Family House	
17	280621CB02200	Hill	17 SW Brantley	0.18	GC	21'	24'	72.85	26829 06A	VFW Post	
18	280621CB04200	Freamon	520 SW Douglas	0.3	GC	17'	20'	72.89		Single Family House	
19	280621CB04300	Vandermark	500 SW Douglas	0.28	GC	44'	Closed	72.91		Vacant	
20	280621CB04400	Vandermark	470 SW Douglas	2.18	GC	24'	20'	72.95		Single Family House	
21	280621CB04500	Roberts	390 SW Douglas	0.32	GC	28'	24'	73.04	31273 06A	Store	
22	280621CB04500	Roberts	390 SW Douglas	0.32	GC	33'	Closed	73.05	31272 06A	Store	
23	280621BD04800	Narkiewicz	380 SW Douglas	0.34	GC	32'	Closed	73.03	13410 06A	Laundromat	
24	280621BD04800	Narkiewicz	380 SW Douglas	0.34	GC	41'	24'	73.04	13410 06A	Laundromat	
25	280621BD04900	Johnson	370 SW Douglas	0.23	GC	31'	20'	73.06		Single Family House	
26	280621BD05000	Wright	352 SW Douglas	0.24	GC	16'	20'	73.07		Single Family House	
27	280621BD05200	Sanders	310 SW Douglas	0.4	GC	31'	Closed	73.09	12324 06A	Fast Food Restaurant	
28	280621BD05200	Sanders	310 SW Douglas	0.4	GC	40'	36'	73.1	12324 06A	Fast Food Restaurant	
29	280621BD05300	McCord	280 SW Douglas	0.28	GC	21'	20'	73.11		Single Family House	
30	280621BD05904	Douglas Square LLC	250 SW Douglas	0.33	GC	26'	20'	73.13		Single Family House	
31	280621BD06000	Power	0 SW Douglas	1.17	GC	30'	Closed	73.15		Fast Food Cart/Coffee Cart	Approach closure condition of ODOT access permit.
32	280621BD06000	Power	0 SW Douglas	1.17	GC	46'	No Change	73.16		Fast Food Cart/Coffee Cart	

## **Economic Development Committee Letters**