

AGENDA

City of Aurora
PLANNING COMMISSION MEETING
Tuesday, January 03, 2011, 7:00 p.m.
Council Chambers
21420 Main Street N.E., Aurora, Oregon

1. **Call to Order of Planning Commission Meeting:**
2. **City Recorder Calls Roll**

Chairman, TBA
Commissioner, TBA
Commissioner, Gibson
Commissioner, Graham
Commissioner, Fawcett
Commissioner, Braun
Commissioner, Schafer

3. **Consent Agenda**

All matters listed within the Consent Agenda have been distributed to each member of the Aurora Planning Commission for reading and study, are considered to be routine, and will be enacted by one motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the consent Agenda and placed on the Regular Agenda by request.

Minutes

- I. Aurora Planning Commission Meeting –December 06, 2011
- II. City Council – November 08 , 2011

Correspondence

4. **Visitor**

Anyone wishing to address the Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Council could look into the matter and provide some response in the future.

5. **New Business**

- A. **Discussion and or Action on perspective applicant Amy Willman**
- B. **Discussion and or Action on Senate Bill 264**
- C. **Appointment of New Officers for the 2012 year.**

6. Old Business

A. Discussion and or Action on Transportation Planning Rule

B. Discussion and or Update on 99E Corridor Study.

7. Commission Action/Discussion

A. City Planning Activity (in Your Packets)

Status of Development Projects within the City.

8. Adjourn

CONSENT AGENDA

Meeting Minutes

Correspondence

Financials

Other Items

Minutes
Aurora Planning Commission Meeting
Tuesday, December 06, 2011 at 7:00 P.M.
Aurora Commons Room, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Kelly Richardson, City Recorder
Renata Wakeley, City Planner

VISITORS PRESENT: Richard Harrison, Aurora

1. Call to Order of Planning Commission Meeting

- **A motion is made to make Joseph Schaefer the Temporary Chairman of the Board by Commissioner Gibson and seconded by Commissioner Fawcett. Motion Passes.**

The meeting was called to order by Temporary Planning Chair Joseph Schaefer at 7:01 p.m.

2. City Recorder Did Roll Call

Chairman, TBA -
Commissioner, TBA
Commissioner, Gibson Present
Commissioner, Graham Present
Commissioner, Fawcett Present
Commissioner, Braun Present
Commissioner, Schafer Present

3. Consent Agenda

Minutes

- I. Aurora Planning Commission Meeting –November 01, 2011
- II. City Council – October 11 , 2011

Correspondence

- I. LCDC Meeting Notice December 7-9, 2011
- II. Marion County Urban Living Flyer

There was a brief discussion on the Traffic Safety Rule it was requested to have it on the next agenda.

A motion to accept the consent agenda for the November 01, 2011 minutes with the changes to pg six with the corrected tax and map lot information was made by Commissioner Braun and seconded by Commissioner Fawcett. Motion Passes Unanimously.

Consensus of the Planning Commission to extend the positions posting since no one has applied as of yet.

4. Visitor

Anyone wishing to address the Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Planning Commission could look into the matter and provide some response in the future.

Councilor Bill Graupp, Aurora was only visiting and made no comments.

5. New Business

Nothing on agenda however a brief discussion on State Rule making on Access Management. Most of the discussion was on Senate Bill 264. January 1, 2012 will be when this takes effect. There has been a temporary rule put into place by ODOT.

6. Unfinished Business

A. Discussion and or Update on Historic Review Guidelines,

- Schaefer and Graupp were at the last meeting and the main topics were paint, roofing, landscaping and discussion was not to require a meeting to approve however their concerns were that the city didn't have staff to approve these items.
- Much of the discussion was that an HRB member rotates to do these administrative review processes.
- Renata pointed out that in Sept or Oct meetings it was stated to allow admin rule and some members of HRB thought it would work out ok.
- The second meeting Renata decided she would stand back and let them go through the document and give there changes and feedback this may be a good time for PC to look at the document and document there changes that were proposed.
- ORS 197.763 quasi judicial requirements for land use decisions. Specific recommendation is if notice goes out to neighbors they have the right to appeal the decision. It then goes on to the Council and this could delay the original decision.
- The other issue is communication currently it is not require to disclose on a title report. 9 out of 10 say they just were not aware they were in the Historic District.
- This is and issue in other cities.
- Possible look into partnership with other cities to make this be a recordable situation on the deed so people are aware they are in the Historic District.

B. Discussion and or Update on Street Tree list and or Ordinance.

Renata gives a brief discussion on recommendations from a local consultant. Commissioner Schafer suggests that we not put a list of non-approved items only list those items that are approved. Wakeley agrees that we only have an approved list.

Planning Commission directs City Planner to get this tree list and the Ordinance moving forward.

/ / / / / / / /

/ / / / / / / /

/ / / / / / / /

/ / / / / / / /

7. Commission Action/Discussion

- A. City Planner Activity Sheet (in your packets)
Status of Development Projects within the City: Attached.**

City Planner Wakeley read her report.

Wakeley updated the Commission and read her report.

- ODOT Corridor Study's first meeting was essential a meet and greet with some background provided.
- Items of concern were, crosswalk on 99E, planting strips and driveway spacing.
- Brief discussion on the Airport
- Schaefer asked if someone should represent the City at the Airport meetings it was unanimously yes from the rest of the group.
- French Prairie Meetings were discussed briefly as well.

8. Adjourn 8:37 P.M.

A motion to adjourn the December 06, 2011 meeting is made by Commissioner Gibson and seconded by Commissioner Graham. Motion Passes Unanimously.

Planning Commission

ATTEST:

Kelly Richardson, City Recorder

Minutes

Aurora City Council Meeting
Tuesday, November 08, 2011 at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main St. NE, Aurora, OR 97002

STAFF PRESENT: Otis Phillips, Waste Water Superintendent
Kelly Richardson, City Recorder,
Jan Vlcek, Finance Officer
Brent Earhart, Chief of Police

STAFF ABSENT: Bob Southard, Water Superintendent, excused

VISITORS PRESENT: Jackie Valentine, Aurora
Bill Graupp, Aurora
Gary Lovell, Aurora
Jon Montgomery, Aurora
Aaron Reed, Aurora
Jim Fisher, Aurora

1. Call to Order of Regular Meeting

The meeting was called to order by Mayor Greg Taylor at 7:01 p.m.

2. City Recorder does Roll Call

Councilor TBA –Bill Graupp after election
Councilor Roberts – Present
Councilor Sahlin – Present
Councilor Vlcek – Present
Mayor Taylor – Present

3. Consent Agenda

- I. City Council Meeting Minutes – October 11, 2011
- II. Planning Commission Meeting Minutes – October 04, 2011
- III. Historic Review Minutes – September 22, 2011, Work Session September 15, 2011, Notice of Decisions sent out.

A motion to approve the consent agenda for the Council meeting minutes for October 11, 2011 was made by Councilor Vlcek and seconded by Councilor Roberts. Motion Passes Unanimously.

Correspondence

- I. Letter of Resignation from Nick Kaiser
- II. Letter of Resignation from Chief Earhart -----Jan 6th

- III. Letter from DEQ Water Quality Standards, regarding Sewer Treatment Plant standards.
- IV. FYI, The Value of Water an informational piece done by American Water

A motion to approve the correspondence was made by Councilor Vlcek and seconded by Councilor Roberts. Motion Passes Unanimously.

A. Election of New Councilor

- Letter of interest from Gary Lovell, Aurora
- Letter of interest from Jon Montgomery, Aurora
- Letter of interest from Bill Graupp, Aurora

Oath of Office if Councilor elected

- Garry Lovell ---Mayor Taylor.
- Jon Montgomery---Councilor Roberts.
- Bill Graupp-----Councilor Sahlin and Councilor Vlcek.

➤ **Bill Graupp was elected to council with a two out of four vote win.**

4. Visitor

Anyone wishing to address the City Council concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the City Council could look into the matter and provide some response in the future.

Aaron Reed, Aurora Oregon asked Council why was City Recorder not performing the swearing in duties, Richardson informed Council that in the beginning it was because she did not have experience doing so and City Attorney Koho did. Koho then informed Council the part he does is just the verbal portion, City Recorder Richardson orchestrate the entire ceremony by providing the oath of office along attesting to and verifying signature. Reed also made a statement that it would be nepotism with Councilor Vlcek being on Council since his wife does work for the City. City Attorney Koho stated he was consulted prior and it is his opinion that overall it would not be and a time or two he may need to state it to the council and let them decide if it is in fact a conflict of some sorts.

Jim Fisher, Aurora, OR wanted to acknowledge the wonderful job that Chief Earhart has done over the past year while serving the citizens of Aurora. There were many applauses.

5. Discussion with the Parks Committee

- **Parks Committee Report (not in packet)** There were comments from the audience as to how the Park lights and shut-offs were happening or not.

6. Discussion with Traffic Safety Commission

- a. **Traffic Safety Report (not Included in your packet)** Council did ask the Chief if the positions have been filled yet and he stated we didn't have a meeting last month so no they have not been filled.

7. Reports

A. Police Chief's Report – (included in your packet) Brent Earhart read his report.

- It was a relatively peaceful month
- 69 Tickets were issues
- 22 written and verbal warnings
- Officer Maxwell assisted Woodburn Police upon their request on a missing young girl.
- Routine vehicle maintenance.
- Chief was asked to review the current job posting for any changes or comments he may have.

Chief Earhart thanked the Council and The City of Aurora for the opportunity to serve the City and it is with great regret due to family illness I am submitting my letter of resignation.

No more questions of the Chief.

B. Finance Officer's Report – Financials (included in your packets)

1. Revenue & Expense Report

- We should be at 33%, which we are currently at on most of the funds.
- Springbrook lease and Engineering cost are high and PERS needs to be distributed.

Vlcek asks Council how much longer are we paying Scott Reilly for court appearances in other courts. Mayor Taylor said until were done with all of his appearances.

No more questions.

C. Public Works Department's Report – (included in your packet)

1. Monthly Status Report (Storm Water) Mayor Taylor reads Public Works report.

A. Waste Water Treatment Plant Update (from Otis Phillips) there was not a lot of discussion on the report as submitted.

- Purchased switches for the Park
- 675 trees stacked and decked waiting for a good price for chips.
- Plant Operator Phillips asks council if it would or could be feasible to reimburse Daryl Hensley for his gas back and forth since he is traveling everyday to volunteer many hours here at the city.

A motion to have volunteers of more than 120 hours a month can file for council consideration of gas reimbursement of a cap of 200 miles at the current rate of .55 cents a mile is made by Councilor Graupp and seconded by Councilor Roberts.

There were no more questions from the Council.

D. City Recorder's Report (included in your packet)

Gives a brief overview of the written report as submitted and there was no discussion.

No questions from the Council.

E. City Attorney's Report – (not Included in your packet)

- The Netter easement is complete.
- Brief Discussion on House Bill 2712 which effects our Courts
- Discussion on drywell situation, Mayor Taylor asks would we charge SDC charges and discussion so far is not to charge.
- New information from DEQ a possible relax in regulation that they will be able to keep well for irrigation only. Mayor Taylor asks Koho to verify this is true.

There were no more questions of City Attorney, Koho.

8. Ordinances and Resolutions

9. Old Business

A. Discussion and or Action on System Development Charges (SDC),

Ray Bartlett, did a brief presentation of his written report.

- It was determined that we are behind in our SDC charges compared to other cities.
- Examples from other cities were discussed in brief.

10. New Business

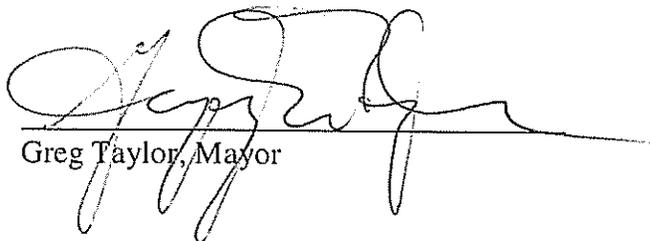
A. Discussion and or Action on Service Contract with Roth Heating for City Hall, Council would like to see more service contracts for the furnace at the next meeting.

B. Discussion and or Action on Posting the Chief of Police Position, Council directs staff to post the position now and keep the range the same as before with Chief Earhart.

C. Discussion and or Action on policy for citizens contacting City of Aurora staff Contractors. The Council directs City Recorder, Richardson to draft a memo to remind staff that if contact is over thirty minutes or so to get approval and or let citizen know they could receive a bill for their time.

11. Adjourn

A motion to adjourn the November 08, 2011 meeting at 9:32 pm was made by Councilor Graupp and seconded by Councilor Vlcek. Motion Passes Unanimously.



Greg Taylor, Mayor

ATTEST:



Kelly Richardson, City Recorder

HISTORIC REVIEW BOARD MINUTES
21420 MAIN STREET NE, AURORA
November 17, 2011

Staff Members Present: Mary Lambert, Court Clerk
Renata Wakeley, City Planner

Others Present: Terri Roberts - City Council

The meeting of November 17, 2011, was called to order at 7:03 p.m. by Vice Chair Hauser.

Court Clerk takes Roll Call

Chairman Thuemmel – Absent
Vice Chair Hauser – Present
Member Townsend – Present
Member Wilcox – Present
Member Frackowiak – Present.

CONSENT AGENDA

A motion to approve the minutes of October 27, 2011, was made by Karen Townsend, seconded by James Frackowiak, and passed unanimously.

VISITORS

Bill Graupp Aurora
Joseph Schaefer Aurora

OLD BUSINESS

A. Discussion of updating the Historic Guidelines per City Council request.

Renata Wakeley attended to go through her markups on Title 17 and the items she would like to have the board go through including:

- Procedural process – go through the code and mark up any language or other changes;
- Applicability;
- Guidelines – language and material may need updating;
- Enforcement.

Land use procedure types from the city of Salem’s code and procedural process were gone over as an example of processes the HRB may want to look at:

1. Type I procedures for applications with clear and objective standards and criteria that do not require interpretation or the exercise of policy or legal judgment.
 - No discussion option
 - Notices of Decision to property owner and adjacent properties for possible appeal
 - Decisions made administratively
 - Need to review and decide on Type 1 applications and who will be making decisions.

2. Type II procedures for applications where the standards and criteria require limited discretion or legal judgment.
 - No hearing
 - Public notice and 14 day comment period
 - Use current Notice of Decision
 - Make sure notices are mailed not only to property owner but also to adjacent property owners

Renata asked that the board continue to work on the updating and she will attend another meeting in a few months to go over their suggestions.

NEW BUSINESS

A. Discussion to declare vacant position after the December meeting.

The court clerk explained that Chairman Thuemmel has submitted his resignation effective after the December meeting of the Historic Review Board. This will leave a vacancy on the board for a position in which the term will expire on 4-01-2012. The vacancy has been posted in the hopes that a recommendation will be given to the city council for their consideration at their January 2012 meeting. The board agreed to get the word out. It was also pointed out that the term for member Wilcox expires on 1-01-2012.

There was discussion about a memo from City Recorder Richardson dated today regarding a fencing project at 14643 Ehlen Rd in which no application has been received and the material is prohibited in the historic district. The property management company has been notified they are in violation and need to submit an application if they wish to proceed. At this point the board can take no action.

There was discussion regarding the December meeting falling during the Christmas break. It was agreed that the December Historic Review Board meeting will be held on Wednesday, December 14, 2011, at 7:00 pm.

ADJOURN

A motion to adjourn was made at 8:53 pm by Karen Townsend, seconded by James Frackowiak, and passed unanimously.

Cheryl Hauser, Vice-Chairman

Mary C. Lambert, Court

NEW BUSINESS

Objective To obtain a position on the City Planning Commission.

Experience

Business Owner
Whole Latte Love Drive Thru Espresso, Aurora Or.
January 2007 - Present.
▪Make drinks for customers.
▪Payroll
▪Accounting/budgeting
▪Become familiar with members of the Aurora Community.

Senior Bank Teller
February 2005 - January 2009, Chase, Canby Or.
▪Manage large volumes of U.S currency with accuracy.
▪Customer service: deposits, withdrawls, mortgage payments etc.
▪Sales/referrals

Shoe Sales Associate
July 2004- February 2005, Factory Brand Shoes, Woodburn Or.
▪Sell shoes
▪Customer service/Cash management
▪Phone support

Education

Portland State University, Portland Or
Spring 2007-Winter 2011
▪Bachelors in Organismal Biology

Clackamas Community College, Oregon City Or
Summer 2004 - Winter 2007
• Associates of Science
• Associates of Art

St. Mary's Academy, Portland Or
Fall 2000 - Spring 2004
• High school Diploma

North Marion, Aurora Or
Fall 1992 - Spring 2000
• Primary Education

Volunteer

City of Aurora Waste Water Treatment Intern
September 2011 - Present

About Me

I love Aurora! I have been a resident for 25 years and would like to participate in preserving its history and planning for its future. I would like to volunteer my time so future generations and visitors can experience all Aurora has to offer. The experience I have gained as a business owner in this town and interacting with members of its community has given me a deeper appreciation for 'life in Aurora'.

References

References are available on request.

Enrolled
Senate Bill 264

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Business and Transportation)

CHAPTER

AN ACT

Relating to access management; creating new provisions; amending 366.290, 373.015, 374.305, 374.310, 374.312, 374.315, 374.330, 374.335, 374.990 and 811.430 and section 2, chapter 31, Oregon Laws 2010; repealing section 2, chapter 31, Oregon Laws 2010; and declaring an emergency.

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

SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS 374.305 to 374.330.

SECTION 2. Definitions. As used in ORS 374.305 to 374.330:

- (1) "Approach road" includes a private road that crosses a state highway or a county road.
- (2) "Channelization" means the roadway lane configuration necessary to safely accommodate turning movements from the highway to an intersecting approach.
- (3) "District highway" means a state highway that has been classified by the Oregon Transportation Commission as a district highway.
- (4) "Expressway" means a state highway that has been designated by the commission as an expressway.
- (5) "Interstate highway" means a state highway that has been classified by the commission as an interstate highway.
- (6) "Move in the direction of" means a change in an approach to a property abutting the highway that would bring a property closer to conformance with existing highway standards.
- (7) "Peak hour" means the hour during which the highest volume of traffic enters and exits the property during a typical week.
- (8) "Private approach" means an approach that serves one or more properties and that is not a public approach.
- (9) "Private road crossing" means a privately owned road designed for use by trucks that are prohibited by law from using state highways, county roads or other public highways.
- (10) "Public approach" means an existing or planned city street or county road connection that provides vehicular access to and from a highway.
- (11) "Regional highway" means a state highway that has been classified by the commission as a regional highway.
- (12) "Sight distance" means a length of highway that a driver can see with an acceptable level of clarity.

(13) "State highway" means a highway that is under the jurisdiction of the Department of Transportation.

(14) "Statewide highway" means a state highway that has been classified by the commission as a statewide highway.

(15) "Trip" means a one-way vehicular movement that consists of a motor vehicle entering or exiting a property.

(16) "Unincorporated community" means a settlement that is not incorporated as a city and that lies outside the urban growth boundary of any city.

SECTION 3. ORS 374.305 is amended to read:

374.305. (1) *[No]* A person *[, firm or corporation]* may **not** place, build or construct on the right of way of any state highway or county road, any approach road, structure, pipeline, ditch, cable or wire, or any other facility, thing or appurtenance, or substantially alter any such facility, thing or appurtenance or change the manner of using any such approach road without first obtaining written permission from the Department of Transportation with respect to state highways or the county court or board of county commissioners with respect to county roads.

(2) After written notice of not less than 10 days to the permittee and an opportunity for a hearing, the department with respect to crossings over a state highway and the county court or board of county commissioners with respect to crossings over a county road may abolish any crossing at grade by a private road or may alter or change any private road crossing when the public safety, public convenience and the general welfare require the alteration or change.

[(3) As used in ORS 374.305 to 374.330:]

[(a) "Approach road" includes a private road that crosses a state highway or a county road.]

[(b) "Private road crossing" means a privately owned road designed for use by trucks which are prohibited by law from using state highways, county roads or other public highways.]

SECTION 4. ORS 374.310, as amended by section 1, chapter 31, Oregon Laws 2010, is amended to read:

374.310. (1) The Department of Transportation *[with respect to state highways and the county court or board of county commissioners with respect to county roads]* shall adopt reasonable rules *[and regulations]* and may issue permits, not inconsistent with law, for the use of the rights of way of *[such]* state highways *[and roads]* for the purposes described in ORS 374.305. However, the department may not issue a permit for the construction of any approach road at a location where no rights of access exist between the highway and abutting real property.

(2) *[Such]* **The** rules *[and regulations and such]* **and** permits shall include *[such]* provisions, terms and conditions *[as]* **that** in the judgment of the *[granting authority may be]* **department are** in the best interest of the public for the protection of the highway *[or road]* and the traveling public and may include, but need not be limited to:

(a) Provisions for construction of culverts under approaches, requirements as to depth of fills over culverts and requirements for drainage facilities, curbs, islands and other facilities for traffic channelization as may be deemed necessary.

(b) With respect to private road crossings, additional provisions for the angle of intersection, crossing at grade or other than grade, sight distances, safety measures including flaggers, crossing signs and signals, reinforcement for protection of the highway, maintenance of the crossing and for payment by the applicant of **any of** the costs of *[any of the foregoing]* **complying with the provisions.**

(c) With respect to private road crossings, the *[granting authority]* **department** may also require the applicant to furnish:

(A) Public liability and property damage insurance in a sum fixed by the *[granting authority, which insurance shall also indemnify]* **department that indemnifies** the *[members,]* officers, employees and agents of *[such authority]* **the department** from any claim that might arise on account of the granting of the permit and the crossing of the highway *[or road]* by vehicles operating under the permit; and *[the granting authority may also require the applicant to furnish]*

(B) Indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in a sum fixed by the *[granting authority, indemnifying such authority]* **department that indemnifies the department** for any damage to the highways *[or roads]* that may be caused by the use of the crossing.

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

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

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

(4)(a) As used in this subsection:

(A) "Peak hour" means the hour during which the highest volume of traffic enters and exits the property during a typical week.

(B) "Private approach" means an approach that serves one or more properties and that is not a public approach *[as defined in this subsection]*.

(C) "Public approach" means an existing or planned city street or county road connection that provides vehicular access to and from a highway.

(D) "Trip" means a one-way vehicular movement that consists of a motor vehicle entering or exiting a property.

(b) An approach permit is not required for a public approach.

(c) A new approach permit for a change of use of an approach is required for a private approach if:

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

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

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

(d) A new approach permit for a change of use of an approach is required for a private approach if the daily use of a private approach increases by 10 or more vehicles with a gross vehicle weight rating of 26,000 pounds or greater.

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

(6) The department may not charge any fee for issuance of a permit under this section for construction of an approach road.

SECTION 5. ORS 374.310, as amended by section 1, chapter 31, Oregon Laws 2010, and section 4 of this 2011 Act, is amended to read:

374.310. (1) The Department of Transportation shall adopt *[reasonable rules and may issue permits, not inconsistent with law, for the use of the rights of way of state highways for the purposes described in ORS 374.305.]* **rules consistent with this section and ORS 374.312 to govern the process of application for issuance of permits for approach roads to state highways by owners of property abutting highways.** However, the department may not issue a permit for the construction of any approach road at a location where no rights of access exist between the highway and abutting real property.

(2) The rules and permits shall include provisions, terms and conditions that in the judgment of the department are in the best interest of the public for the protection of the highway and the traveling public and may include, but need not be limited to:

(a) Provisions for construction of culverts under approaches, requirements as to depth of fills over culverts and requirements for drainage facilities, curbs, islands and other facilities for traffic channelization as may be deemed necessary.

(b) With respect to private road crossings, additional provisions for the angle of intersection, crossing at grade or other than grade, sight distances, safety measures including flaggers, crossing signs and signals, reinforcement for protection of the highway, maintenance of the crossing and for payment by the applicant of any of the costs of complying with the provisions.

(c) With respect to private road crossings, the department may also require the applicant to furnish:

(A) Public liability and property damage insurance in a sum fixed by the department that indemnifies the officers, employees and agents of the department from any claim that might arise on account of the granting of the permit and the crossing of the highway by vehicles operating under the permit; and

(B) Indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in a sum fixed by the department that indemnifies the department for any damage to the highways that may be caused by the use of the crossing.

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

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

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

[(4)(a) As used in this subsection:]

[(A) "Peak hour" means the hour during which the highest volume of traffic enters and exits the property during a typical week.]

[(B) "Private approach" means an approach that serves one or more properties and that is not a public approach.]

[(C) "Public approach" means an existing or planned city street or county road connection that provides vehicular access to and from a highway.]

[(D) "Trip" means a one-way vehicular movement that consists of a motor vehicle entering or exiting a property.]

[(b) An approach permit is not required for a public approach.]

[(c) A new approach permit for a change of use of an approach is required for a private approach if:]

[(A)(i) The number of peak hour trips increases by 50 trips or more from that of the property's prior use; or]

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

[(B) The increase in subparagraph (A)(i) or (ii) of this paragraph represents a 20 percent or greater increase in the number of peak hour trips or the number of trips on a typical day from that of the property's prior use.]

[(d) A new approach permit for a change of use of an approach is required for a private approach if the daily use of a private approach increases by 10 or more vehicles with a gross vehicle weight rating of 26,000 pounds or greater.]

[(5) The department shall establish access management rules, mitigation measures and spacing and mobility standards that are less stringent for highway segments where the annual average amount of

daily traffic is 5,000 motor vehicles or fewer, than for highway segments where the annual average amount of daily traffic is greater than 5,000 motor vehicles.]

(4) The department's determination that the access is sufficient to allow the authorized uses for the property identified in the acknowledged local comprehensive plan under subsection (3)(a) of this section, or that the type, number, size and location of approaches is 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, under subsection (3)(b) of this section, shall be based on the economic development needs of the property abutting the highway for its authorized and planned uses, subject only to consideration of safety and highway operations. The department shall have the burden of establishing safety and highway operations concerns.

(5) An approach permit is not required for a public approach.

(6) The department may not charge any fee for issuance of a permit under this section for construction of an approach road.

SECTION 6. The amendments to ORS 374.310 by section 5 of this 2011 Act become operative January 1, 2012.

SECTION 7. Section 8 of this 2011 Act is added to and made a part of ORS 374.305 to 374.325.

SECTION 8. Local rules and regulations; permits. (1) The county court or board of county commissioners shall adopt reasonable rules and regulations and may issue permits, not inconsistent with law, for the use of the rights of way of county roads for the purposes described in ORS 374.305.

(2) Rules and regulations adopted and permits issued under subsection (1) of this section shall include provisions, terms and conditions that in the judgment of the granting authority are in the best interest of the public for the protection of the road and the traveling public and may include, but need not be limited to:

(a) Provisions for construction of culverts under approaches, requirements as to depth of fills over culverts and requirements for drainage facilities, curbs, islands and other facilities for traffic channelization as may be deemed necessary.

(b) With respect to private road crossings, additional provisions for the angle of intersection, crossing at grade or other than grade, sight distances, safety measures including flaggers, crossing signs and signals, reinforcement for protection of the road, maintenance of the crossing and for payment by the applicant of any of the costs of complying with the provisions.

(c) With respect to private road crossings, the granting authority may also require the applicant to furnish:

(A) Public liability and property damage insurance in a sum fixed by the granting authority that indemnifies the members, officers, employees and agents of the granting authority from any claim that might arise on account of the granting of the permit and the crossing of the road by vehicles operating under the permit; and

(B) Indemnity insurance, an indemnity bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in a sum fixed by the granting authority, indemnifying the granting authority for any damage to the roads that may be caused by the use of the crossing.

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

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

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

SECTION 9. ORS 374.315 is amended to read:

374.315. All construction under the permits issued under ORS 374.310 and section 8 of this 2011 Act shall be under the supervision of the granting authority and at the expense of the applicant. After completion of the construction of the particular approach road, facility, thing or appurtenance, they shall be maintained at the expense of the applicant and in accordance with the rules and regulations adopted pursuant to ORS 374.310 and section 8 of this 2011 Act.

SECTION 10. ORS 374.330 is amended to read:

374.330. (1) *[Nothing in]* ORS 374.305, 374.310 and 374.325, as *[such]* those sections were amended by chapter 323, Oregon Laws 1957, *[shall be deemed to]* and section 8 of this 2011 Act do not affect any approach road, structure, pipeline, ditch, cable or wire, or other facility, thing or appurtenance lawfully placed or constructed upon the right of way of any highway prior to August 20, 1957.

(2)(a) *[Nothing in]* ORS 374.305 *[or]* and 374.310, as *[such]* those sections *[are]* were amended by chapter 497, Oregon Laws 1967, *[shall be deemed to]* and section 8 of this 2011 Act do not affect any approach road, structure, pipeline, ditch, cable or wire, or other facility, thing or appurtenance lawfully placed or constructed upon the right of way of any state highway or county road prior to September 13, 1967.

(b) Except as provided in paragraph (a) of this subsection, private road crossings authorized by the Public Utility Commission under ORS 374.205 to 374.260 (1965 Replacement Part) are subject to ORS 374.305 to 374.330 after September 13, 1967.

SECTION 11. ORS 374.335 is amended to read:

374.335. Where any private road crosses or is crossed by a public highway the driving of a motor vehicle across the public highway or upon the public highway for a distance of not to exceed 1,200 feet in the use of the private road *[shall]* is not *[be]* subject to ORS 811.450, 815.155, 815.160, 815.170, 818.020, 818.060, 818.090, 818.110, 818.160, 818.300, 818.320, 818.340, 818.350, 818.400 and ORS chapter 825, provided such vehicle or vehicle use is:

(1) Subject to a permit issued pursuant to ORS 374.310 or section 8 of this 2011 Act or a person authorized by such permittee; or

(2) A farm tractor or implement of husbandry.

SECTION 12. ORS 374.990 is amended to read:

374.990. In addition to the liability for expenses under ORS 374.307 and 374.320, violation of ORS 374.305 or of any rule or regulation adopted under ORS 374.310 or section 8 of this 2011 Act is a misdemeanor.

SECTION 13. ORS 374.312 is amended to read:

374.312. *[(1) The Department of Transportation shall adopt rules governing the process of application for and issuance of permits for approach roads to highways by owners of property abutting the highways. Rules adopted by the department shall include, but need not be limited to:]*

[(a) The time within which a final decision, including resolution of all internal appeals, to grant or deny a permit must be made. The time may not be longer than 120 days unless the applicant and the department agree to an extension.]

[(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.]

[(c) Criteria for determining what constitutes reasonable access as specified in ORS 374.310 (3).]

[(d) Procedures governing an appeal of denial of a permit, including but not necessarily limited to notice, guarantee of an impartial tribunal, burden of proof and admission and weight of evidence.]

[(e) A rule that an engineer with relevant experience will review and respond to evidence from a qualified expert that is submitted by an applicant.]

[(2) A permit decision for an approach road must be made on the basis of standards and criteria in effect on the date that the application was filed.]

[(3) A permit decision for an approach road must be made on the record. The department shall adopt rules specifying the form of the record.]

(1) It is the intent of the Legislative Assembly to develop a highway access management system based on objective standards that will balance the economic development objectives of properties abutting state highways with the transportation safety and access management objectives of state highways, in a manner consistent with local transportation system plans and the land uses permitted in the local comprehensive plans acknowledged under ORS chapter 197. The Department of Transportation shall comply with the legislative directives, objective standards and procedures established in this section for the governance of the process for application by and the issuance of approach permits to owners of property abutting the highway and shall adopt rules consistent with this section.

(2) The department shall make its final decision, including resolution of all internal appeals, to grant or deny an approach permit within 120 days of the date the department deems an application for an approach permit complete, unless the applicant and the department agree to an extension.

(3) The department shall make its decision to grant or deny an approach permit based on the provisions of this section, the spacing, channelization and sight distance standards described in section 17 of this 2011 Act or the standards and criteria in effect on the date that the application was filed.

(4) A new approach permit for a change of use of an approach is required for a private approach if:

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

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

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

(b) The daily use of a private approach increases by 10 or more vehicles with a gross vehicle weight rating of 26,000 pounds or greater;

(c) The department demonstrates that safety or operational problems related to the approach are occurring on a highway as provided in subsection (10)(g) of this section. Any required mitigation measures shall be limited to addressing the identified safety or operational problems; or

(d) The approach does not meet the stopping sight distance standards of this section, as measured in feet, of 10 times the speed limit established in ORS 811.111 or the designated speed posted under ORS 810.180 for the highway as measured in miles per hour, or 10 times the 85th percentile speed of the highway where the 85th percentile speed is higher or lower than the speed limit established in ORS 811.111 or the designated speed posted under ORS 810.180. The permit holder may perform a study to determine if the 85th percentile speed is higher or lower than the speed limit established in ORS 811.111 or the designated speed posted under ORS 810.180. The sight distance measurement and the study to determine the 85th percentile speed shall be performed according to published department procedures by or under the supervision of an engineer registered in Oregon.

(5)(a) When a change of use of an approach permit is required under subsection (4) of this section, the department shall approve an application if the application proposes an approach that moves in the direction of conforming with the spacing, channelization and sight distance standards described in section 17 of this 2011 Act, subject to consideration of safety and highway operations.

(b) Whether the application moves in the direction of conforming with the spacing, channelization and sight distance standards described in section 17 of this 2011 Act, while not posing safety or highway operations concerns, shall be established by the department and

the applicant using a collaborative process, as established by department by rule, that is made available to the applicant within 30 days of the date the department determines an application to be complete.

(c) Applications that are deemed to be moving in the direction of conforming with the spacing, channelization and sight distance standards described in section 17 of this 2011 Act do not require separate deviations from those standards.

(d) For the purposes of this subsection, an approach moves in the direction of conforming with the spacing, channelization or sight distance standards described under section 17 of this 2011 Act if one or more changes are made to the approach that include, but are not limited to:

(A) Eliminating or combining existing approaches to the highway resulting in a net reduction in the number of approaches to the highway.

(B) Improving the distance between approaches.

(C) Improving the sight distance between approaches.

(D) Widening the existing driveways to accommodate truck turning radius requirements.

(E) Widening the existing driveways to accommodate additional exit lanes.

(F) Narrowing the existing driveways to provide the appropriate number of entry and exit lanes as required for the property.

(G) Developing a throat on the approach entrance to allow for more efficient movement of motorists from the highway.

(6) The department shall approve applications that meet the spacing, channelization or sight distance standards described in section 17 of this 2011 Act subject only to consideration of safety and highway operations concerns as provided in subsection (10)(g) of this section and the traffic impact analysis requirements described in section 18 of this 2011 Act.

(7) Applications that do not meet the spacing, channelization or sight distance standards described in section 17 of this 2011 Act may be approved with deviations from those standards as follows:

(a) A request for one or more deviations from the spacing, channelization or sight distance standards described in section 17 of this 2011 Act may be included in an application for one or more private approaches that do not meet the standards.

(b) Unless waived by the department, a request for a deviation must include a traffic impact analysis provided by the applicant that addresses a request for deviations from the spacing, channelization or sight distance standards described in section 17 of this 2011 Act for safety and highway operations.

(c) A request for a deviation may be approved based upon a determination by the engineer assigned by the department to analyze the request for a deviation that the approach adequately addresses the safety and highway operations concerns identified by the department as provided in subsection (10)(g) of this section.

(d) Where a speed study prepared by an applicant and agreed to by the department determines that the 85th percentile speed is lower than the current posted speed, the department may grant a deviation from sight distance standards based upon the lower speed determination.

(8) If a property has a right of access and there is no means of access to the property other than the state highway, an approach that does not meet the spacing, channelization or sight distance standards described in section 17 of this 2011 Act does not need a deviation from the standards if the department and the applicant agree on a location of the approach that optimizes safety, highway operations and site design.

(9) Except as otherwise provided in this section, the following procedures apply to all applications for an approach permit:

(a) The department shall determine whether an application for an approach permit is complete within 30 days of receipt of the application.

(b) The department shall approve an application, approve an application with conditions or deny an application:

(A) Within 30 days of the date that the department determines the application to be complete, for applications that meet spacing, channelization or sight distance standards described in section 17 of this 2011 Act; or

(B) Within 60 days of the date that the department determines the application to be complete for all other types of applications.

(c) The department may impose reasonable conditions to mitigate safety or highway operations concerns identified by the department in its review of the application, as provided in subsection (10)(g) of this section.

(d) When the department proposes to deny an approach permit application or approve an application with conditions, the department shall notify the applicant of its intent and offer the applicant a collaborative process established by the department by rule.

(e) If the offer of a collaborative process is declined, the department shall issue its decision in writing with sufficient specificity regarding any safety or highway operations concerns upon which the department's decision is based to allow the applicant to respond.

(f) The department's decision shall advise the applicant of the applicant's rights for dispute resolution processes to resolve issues relating to the department's decision as set forth in section 14 of this 2011 Act.

(10) The following directives apply to all applications for an approach permit:

(a) All applications are required to meet sight distance standards described in section 17 (6) of this 2011 Act except as otherwise provided in this section or unless a deviation is otherwise approved by the department.

(b) Except for highways classified as interstate highways and highways designated as expressways by the Oregon Transportation Commission, the department may not use the presence of alternate access to a property abutting a highway as a basis for denying an approach permit application, except in rural areas where the presence of alternative access is a consideration in determining whether to approve or deny a second or subsequent approach permit application.

(c) The department may not impose nontraversable medians as a mitigation measure for approach permit applications unless the department first establishes that no other mitigation measures are effective or available under the circumstances.

(d) Mobility standards, established by the department by rule, are not applicable to turning movements from private approaches during the department's review of approach permit applications, except when the ratio of volume to capacity on the proposed private approach is 1.0 or greater.

(e) The department may not require an applicant to submit a traffic impact analysis except as provided in section 18 of this 2011 Act.

(f) The department shall utilize an engineer with relevant experience to review and respond to evidence from a qualified expert that is submitted by the applicant.

(g) The department shall have the burden of proving any safety or highway operations concerns relied upon in the department's decision to approve an application with conditions or deny an application. Safety or highway operations concerns that may be applied to the department's permit decisions on applications submitted under this section are limited to one or more of the following unique safety and highway operations concerns:

(A) Regular queuing on the highway that impedes turning movements associated with the proposed approach.

(B) Offset approaches that may create the potential for overlapping left turn movements or competing use of a center turn lane.

(C) Insufficient distance for weave movements made by vehicles exiting an approach across multiple lanes in the vicinity of signalized intersections, roads classified by the Oregon Transportation Commission as collectors or arterials and on-ramps or off-ramps.

(D) Location of the proposed approach within a highway segment with a crash rate that is 20 percent higher than the statewide average for similar highways.

(E) Location of the proposed approach within a highway segment listed in the top five percent of locations identified by the safety priority index system developed by the department.

(F) Inadequate sight distance from an intersection to the nearest driveway on district highways and regional highways where the speed limit established in ORS 811.111 or the designated speed posted under ORS 810.180 is 50 miles per hour or higher.

(11) The department shall use the criteria for determining what constitutes reasonable access as specified in ORS 374.310.

(12) The department shall make its decision to grant or deny an approach permit on the record. When the department denies an application or approves an application with conditions, the department shall issue findings specifying the basis of the decision for the record. The department shall adopt rules specifying the form of the record.

[(4)] (13) The department and a local government may enter into an intergovernmental agreement setting provisions for and allowing the local government to issue [access permits] **approach permits** for regional and district state highways. The agreement must provide that permits issued by local governments will be consistent with the highway plan and administrative rules adopted by the department, with state statutes and with the local transportation system plan acknowledged under ORS chapter 197. The department shall adopt rules specifying the circumstances under which authority will be delegated to a local government.

[(5)] (14) The department shall develop a program that allows a person that might be affected by the issuance of the permit, but that is not the owner of the property subject to the permit, to express concerns to the department prior to the issuance of the permit. For purposes of this subsection, persons that might be affected by the issuance of the permit are the city or county in which the road is located and any person that owns property adjacent to the proposed access. Nothing in this subsection gives a city, county or other person that might be affected standing to appeal any decision of the department regarding granting of the permit.

SECTION 14. Appeals process for denial of approach permit and other appealable decisions. There is created a set of dispute resolution procedures governing an appeal of the Department of Transportation's decision regarding an approach permit or the removal or modification of an approach. The procedures described in this section include but are not necessarily limited to notice, guarantee of an impartial tribunal, burden of proof and admission and weight of evidence, as follows:

(1) Decisions by the department to deny an application, to deny a deviation or to approve an application with mitigation measures are appealable by the applicant or permit holder. An applicant or permit holder may request a hearing. A hearing conducted under this subsection shall be conducted as a contested case hearing in accordance with ORS chapter 183.

(2) In addition to requesting a hearing under subsection (1) of this section, an applicant or permit holder may request the following dispute resolution procedures to resolve issues relating to the department's decision:

(a) Collaborative discussion, as established by the department by rule;

(b) Review by an Access Management Dispute Review Board established under section 15 of this 2011 Act; or

(c) Both.

(3) The time required for a collaborative discussion or review by an Access Management Dispute Review Board process is in addition to the 120 days required for the department's final decision under ORS 374.312.

(4)(a) The department shall conduct a collaborative discussion within 45 days of the date the department receives a request from an applicant or permit holder for collaborative discussion unless the applicant or permit holder and the department agree to a longer amount of time.

(b) The department shall conduct a review by an Access Management Dispute Review Board within 45 days of the date the department receives a request for a review by an Access Management Dispute Review Board from an applicant or permit holder unless the applicant or permit holder and the department agree to a longer amount of time.

(5) A request for a dispute resolution procedure shall stay the time in which the department must issue a final decision for a concurrent contested case hearing.

(6) If an agreement between the parties is reached using collaborative discussion, the Director of Transportation shall issue the written decision. The written decision is a binding agreement for the department and for the applicant or permit holder.

(7) The decision pursuant to the collaborative discussion or the Access Management Dispute Review Board to approve, modify or reverse the department's decision to approve an application for an approach permit with conditions, to modify or require mitigation measures of an existing approach permit, to deny an approach permit or to remove or modify an approach is a settlement offer and is not a decision that may be appealed.

(8) The department may adopt rules for the dispute resolution procedures described under this section.

SECTION 15. Access Management Dispute Review Board. (1) If the applicant or permit holder of an approach permit requests a review by an Access Management Dispute Review Board under section 14 of this 2011 Act, the Department of Transportation shall appoint an Access Management Dispute Review Board by selecting members for a board consisting of any or all of following:

(a) The Director of Transportation or a designee of the director who is familiar with the location in which the disputed approach is located.

(b) A representative of the local jurisdiction in which the disputed approach is located.

(c) A traffic engineer who practices engineering in Oregon.

(d) A representative from the economic or business sector.

(2) The Access Management Dispute Review Board shall consider information presented by the parties and shall notify the applicant or permit holder and the director of its findings regarding the department's original decision.

(3) The director shall review the Access Management Dispute Review Board's findings and may approve, modify or reverse the department's original decision to approve an application for an approach permit with conditions, to modify or require mitigation measures for an existing approach permit, to deny the approach permit or to remove or modify an approach.

(4) The director shall notify the applicant or permit holder in writing of the department's determination following a review by an Access Management Dispute Review Board appointed under this section.

SECTION 16. Sections 17 to 20 of this 2011 Act are added to and made a part of ORS 374.305 to 374.330.

SECTION 17. Standards for approach permits. The objective standards for spacing, channelization and sight distance for decisions to approve, modify or deny an approach permit are as follows:

(1) When making a decision to approve or deny an application for an approach permit under ORS 374.312, the Department of Transportation shall apply, as one of the standards, the standards in Table 1 for spacing between approaches on highway segments where the annual average daily traffic is 5,000 or fewer motor vehicles:

TABLE 1

Regional
Highways

Statewide

Speed (miles per hour)	District Highways	Statewide Highways	Statewide Highways	Highways Unincorporated Communities
	Rural and Urban (distance in feet)	Rural Areas (distance in feet)	Urban Areas (distance in feet)	Rural Areas (distance in feet)
55 or higher	650	1,320	1,320	1,320
50	425	1,100	1,100	1,100
40 & 45	360	990	360	750
30 & 35	250	770	250	425
25 or lower	150	550	150	350

(a) For spacing between private approaches, the spacing standards described in Table 1 apply to the distance measured along the highway from the center of an existing or proposed private approach to the center of the nearest existing or proposed private approach on the same side of the highway in both directions. For spacing between a private and a public approach, the standard applies to the distance measured in both directions along the highway from the center of an existing or proposed private approach to the center of the nearest intersection of the highway with a public approach or another state highway.

(b) The spacing standards for approaches on one-way highways or highways with a raised or depressed nontraversable median where only a right-hand or left-hand turn into and from the approach is allowed are one-half the spacing standards for highways where the annual average daily traffic is more than 5,000 motor vehicles as described in Table 2.

(c) Special transportation areas, access management plans, corridor plans, interchange area management plans or interchange management areas, as designated by the Oregon Transportation Commission, may have spacing standards that take precedence over the spacing standards described in Table 1.

(d) For a signalized private approach, signal spacing standards established by the department by rule supersede the spacing standards described in Table 1.

(e) The spacing standards in Table 1 do not apply to approaches in existence prior to January 1, 2012, except when:

(A) A new or change of use of an approach permit is required under ORS 374.312.

(B) Infill development or infill redevelopment occurs and spacing or safety will be improved by moving in the direction of the spacing standards described in Table 1.

(C) A highway or interchange project occurs and spacing or safety will be improved by moving in the direction of the spacing standards described in Table 1.

(f) The spacing standards for a statewide highway, regional highway or district highway that is designated as an expressway by the commission where the annual average daily traffic is 5,000 or fewer motor vehicles are described in Tables 2 to 4.

(2) When making a decision to approve or deny an application for an approach permit, the department shall apply, as one of the standards, the standards in Table 2 for spacing between approaches on statewide highways where the annual average daily traffic is more than 5,000 motor vehicles:

TABLE 2

Speed (miles	Expressway	Expressway	Expressway	Expressway
	Rural Areas (distance	Urban Areas (distance	Rural Areas (distance	Urban Areas (distance

per hour)	in feet)	in feet)	in feet)	in feet)
55 or higher	5,280	2,640	1,320	1,320
50	5,280	2,640	1,100	1,100
40 & 45	5,280	2,640	990	800
30 & 35	-	-	770	500
25 & lower	-	-	550	350

(a) For spacing between private approaches, the spacing standards described in Table 2 apply to the distance measured along the highway from the center of an existing or proposed private approach to the center of the nearest existing or proposed private approach on the same side of the highway in both directions. For spacing between a private and a public approach, the standard applies to the distance measured in both directions along the highway from the center of an existing or proposed private approach to the center of the nearest intersection of the highway with a public approach or another state highway.

(b) The spacing standards for approaches on one-way highways or highways with a raised or depressed nontraversable median where only a right-hand or left-hand turn into and from the approach is allowed are one-half the spacing standards described in Table 2.

(c) Special transportation areas, access management plans, corridor plans, interchange area management plans or interchange management areas, as designated by the commission, may have spacing standards that take precedence over the spacing standards described in Table 2.

(d) For a signalized private approach, signal spacing standards established by the department by rule supersede the spacing standards described in Table 2.

(e) The spacing standards in Table 2 do not apply to approaches in existence prior to January 1, 2012, except when:

(A) A new or change of use of an approach permit is required under ORS 374.312.

(B) Infill development or infill redevelopment occurs and spacing and safety will be improved by moving in the direction of the spacing standards described in Table 2.

(C) A highway or interchange project occurs and spacing and safety will be improved by moving in the direction of the spacing standards described in Table 2.

(f) The spacing standards described in Table 2 for a statewide highway that is designated as an expressway by the commission also apply to an expressway where the annual average daily traffic is 5,000 or fewer motor vehicles.

(3) When making a decision to approve or deny an application for an approach permit, the department shall apply, as one of the standards, the standards in Table 3 for the spacing between approaches on regional highways where the annual average daily traffic is more than 5,000 motor vehicles:

TABLE 3

Speed (miles per hour)	Expressway	Expressway	Rural Areas (distance in feet)	Urban Areas (distance in feet)
	Rural Areas (distance in feet)	Urban Areas (distance in feet)		
55 or higher	5,280	2,640	990	990
50	5,280	2,640	830	830
40 & 45	5,280	2,640	750	500
30 & 35	-	-	600	350

(a) For spacing between private approaches, the spacing standards described in Table 3 apply to the distance measured along the highway from the center of an existing or proposed private approach to the center of the nearest existing or proposed private approach on the same side of the highway in both directions. For spacing between a private and a public approach, the standard applies to the distance measured in both directions along the highway from the center of an existing or proposed private approach to the center of the nearest intersection of the highway with a public approach or another state highway.

(b) The spacing standards for approaches on one-way highways or highways with a raised or depressed nontraversable median where only a right-hand or left-hand turn into and from the approach is allowed are one-half the spacing standards described in Table 3.

(c) Special transportation areas, access management plans, corridor plans, interchange area management plans or interchange management areas, as designated by the commission, may have spacing standards that take precedence over the spacing standards described in Table 3.

(d) For a signalized private approach, signal spacing standards established by the department by rule supersede the spacing standards described in Table 3.

(e) The spacing standards in Table 3 do not apply to approaches in existence prior to January 1, 2012, except when:

(A) A new or change of use of an approach permit is required under ORS 374.312.

(B) Infill development or infill redevelopment occurs and spacing and safety will be improved by moving in the direction of the spacing standards described in Table 3.

(C) A highway or interchange project occurs and spacing and safety will be improved by moving in the direction of the spacing standards described in Table 3.

(f) The spacing standards described in Table 3 for a regional highway that is designated as an expressway by the commission also applies to an expressway where the annual average daily traffic is 5,000 or fewer motor vehicles.

(4) When making a decision to approve or deny an application for an approach permit, the department shall apply, as one of the standards, the standards in Table 4 for the spacing between approaches on district highways where the annual average daily traffic is more than 5,000 motor vehicles:

TABLE 4

Speed (miles per hour)	Expressway	Expressway	Rural Areas (distance in feet)	Urban Areas (distance in feet)
	Rural Areas (distance in feet)	Urban Areas (distance in feet)		
55 or higher	5,280	2,640	700	700
50	5,280	2,640	550	550
40 & 45	5,280	2,640	500	500
30 & 35	-	-	400	350
25 & lower	-	-	400	250

(a) For spacing between private approaches, the spacing standards described in Table 4 apply to the distance measured along the highway from the center of an existing or proposed private approach to the center of the nearest existing or proposed private approach on the

same side of the highway in both directions. For spacing between a private and a public approach, the standard applies to the distance measured in both directions along the highway from the center of an existing or proposed private approach to the center of the nearest intersection of the highway with a public approach or another state highway.

(b) The spacing standards for approaches on one-way highways or highways with a raised or depressed nontraversable median where only a right-hand or left-hand turn into and from the approach is allowed are one-half the spacing standards described in Table 4.

(c) Special transportation areas, access management plans, corridor plans, interchange area management plans or interchange management areas, as designated by the commission, may have spacing standards that take precedence over the spacing standards described in Table 4.

(d) For a signalized private approach, signal spacing standards established by the department by rule supersede the spacing standards described in Table 4.

(e) The spacing standards in Table 4 do not apply to approaches in existence prior to January 1, 2012, except when:

(A) A new or change of use of an approach permit is required under ORS 374.312.

(B) Infill development or infill redevelopment occurs and spacing and safety will be improved by moving in the direction of the spacing standards described in Table 4.

(C) A highway or interchange project occurs and spacing and safety will be improved by moving in the direction of the spacing standards described in Table 4.

(f) The spacing standards described in Table 4 for a district highway that is designated as an expressway by the commission also apply to an expressway where the annual average daily traffic is 5,000 or fewer motor vehicles.

(5)(a) The department may require channelization on the highway as a condition for the approval of an approach permit if any of the following conditions exist:

(A) The number of average daily trips at the property exceeds 400 when the property is located on a two-lane highway with an annual average daily traffic of 5,000 or more motor vehicles.

(B) The number of average daily trips at the property exceeds 400 when the property is located on a four-lane highway with an annual average daily traffic of 10,000 or more motor vehicles.

(C) The product of the number of average daily trips at the property multiplied by the annual average daily traffic on the highway is equal to or greater than the products listed in the table below:

TABLE 5

Product of Property's Average Daily Trips Multiplied by the Abutting Highway's Annual Average Daily Traffic (Millions)

Number of highway lanes	Speed 25 mph or lower	Speed 30-35 mph	Speed 40-45 mph	Speed 50 mph or higher
2 lanes	5.1	3.9	1.8	1.3
4 lanes	10.2	7.8	3.6	2.6

(b) The number of average daily trips at a property may be determined by a traffic impact analysis or from national standards, as determined by the department. A vehicle that enters and exits a property has made two trips.

(c) The annual average daily traffic for a state highway may be determined from the most recent edition of the transportation volume tables published annually by the department. The department shall post the transportation volume tables on the department's website.

(6) The department may adopt by rule a standard for sight distance based on nationally accepted standards.

(7) As used in this section:

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

(b) "Infill redevelopment" means changing an existing development including replacement, remodeling or reuse of existing structures to accommodate new development that is consistent with current zoning. Redevelopment occurs in urban areas. It may also occur in rural areas on commercially or industrially zoned land where the land has been developed into an urban block pattern including a local street network and where the highway speed is 45 miles per hour or less.

(c) "Rural" means the area outside an urban growth boundary, the area outside a special transportation area in an unincorporated community or the area outside an urban unincorporated community.

(d) "Speed" means the speed limit established in ORS 811.111 or the designated speed posted under ORS 810.180.

(e) "Urban" means the area within an urban growth boundary, the area within a special transportation area of an unincorporated community or the area within an urban unincorporated community.

SECTION 18. Traffic impact analysis. (1) Except as provided in subsection (2) of this section, the Department of Transportation may require a person applying for an approach permit under ORS 374.312 to submit a traffic impact analysis in conjunction with the application for an approach permit.

(2) The department may not require a person applying for an approach permit to submit a traffic impact analysis when:

(a) The average daily volume of trips at the property is 400 or fewer trips.

(b) The average daily volume of trips at the property is more than 400 but fewer than 1,001 trips if:

(A) The highway is a two-lane highway with fewer than 5,000 motor vehicles in annual average daily traffic;

(B) The highway is a three-lane highway with fewer than 15,000 motor vehicles in annual average daily traffic;

(C) The highway is a four-lane highway with fewer than 10,000 motor vehicles in annual average daily traffic; or

(D) The highway is a five-lane highway with fewer than 25,000 motor vehicles in annual average daily traffic.

(3) The average daily trips at a property may be determined using nationally recognized standards, as adopted by the department by rule.

(4) The number of motor vehicles in annual average daily traffic for a state highway may be determined from the most recent edition of the transportation volume tables published annually by the department. The department shall post the transportation volume tables on the department's website.

SECTION 19. Collaboration with highway users. (1) The Department of Transportation shall work collaboratively with highway users on all proposals to install a raised or depressed barrier on two-lane segments of state highways.

(2) As used in this section "highway users" includes representatives of the freight industry and automobile users and may include representatives of local government and other transportation stakeholders, as appropriate.

SECTION 20. Highway classification. The Oregon Transportation Commission shall periodically review, not less often than every six years, the classification of state highways, including the designation of highway segments as expressways, as a part of its comprehensive, long-range transportation plan developed pursuant to ORS 184.618 to ensure that the classifications for the highways and designations of expressways are appropriate to their uses.

SECTION 21. ORS 373.015 is amended to read:

373.015. (1) Except as provided in section 23 of this 2011 Act, before the Department of Transportation acquires within any incorporated city any new rights of way, or relocates or abandons any existing state highway within any incorporated city, the department shall *[by letter]* notify the mayor of *[such]* the city **by letter** of the action contemplated by the department.*[and,]*

(2) If the department receives from the mayor or city council any remonstrances or objections *[thereto are made by the mayor or the council of such city]* within 10 days after *[receipt of such letter,]* the mayor received the letter under subsection (1) of this section, the department, or its designated representative, shall hold a public hearing at the city hall in *[such]* the city.*[after having first given written notice thereof to the mayor]*

(3) The department shall provide written notice to the mayor at least 10 days prior *[thereto]* to the public hearing, and~~[,]~~ at *[such]* the public hearing~~[,]~~ persons who favor or oppose the contemplated action shall be given an opportunity to be heard.

SECTION 22. Section 23 of this 2011 Act is added to and made a part of ORS 374.305 to 374.330.

SECTION 23. (1) When it is determined by the Department of Transportation and a city that it is in the best interest of highway users to abandon a segment of the state highway, the department and the city may enter into an agreement to transfer jurisdiction and ownership of the segment of state highway to the city.

(2) In addition to funds provided to the city under ORS 366.800, the department may agree to provide funds annually to the city for the continued construction, repair, maintenance and improvement of the abandoned state highway from the State Highway Fund.

(3) The agreement between the department and the city accepting jurisdiction must contain provisions to ensure that freight movement on the highway will not be restricted beyond the limits set in the agreement, unless the Oregon Transportation Commission, in consultation with the freight industry and the city, concludes that the restriction is necessary for the safety of the highway users. Nothing in this section prevents a city from taking emergency action to protect safety or place weight restrictions on a structure that is failing or otherwise damaged.

SECTION 24. ORS 366.290 is amended to read:

366.290. (1) The Department of Transportation may select, locate, establish, designate, improve and maintain out of the highway fund a system of state highways, and for that purpose may, by mutual agreement with several counties, select county roads or public roads. By an appropriate order entered in its records the department may designate and adopt such roads as state highways. Thereafter the construction, improvement, maintenance and repair of such roads shall be under the jurisdiction of the department.

(2) In the selection of highways or roads to *[comprise]* **be included in** the state highway system the department shall give consideration to and shall select such county roads or public roads as will contribute to and best promote the completion of an adequate system of state highways.

(3)(a) With the written *[consent]* **agreement** of the county in which a particular highway or part thereof is located, the department may, when in its opinion the interests of *[the state]* **highway users** will be best served, eliminate from the state highway system any road, *[or highway or part thereof. Thereafter]* **highway, road segment or highway segment**. The road, *[or]* highway or *[part thereof eliminated shall become]* **segment becomes** a county road or highway, and the construction,

repair, maintenance or improvement, and jurisdiction over [*such highway shall*] the road or highway will be exclusively under the county in which [*such highway or road*] the road or highway is located.

(b) In addition to the funds provided under ORS 366.762 to the county, the department may annually provide funds out of the State Highway Fund to address the additional costs to the county for the construction, repair, maintenance or improvement of the road or highway over which the county accepts jurisdiction.

(c) The agreement between the department and the county accepting jurisdiction must contain provisions to ensure that freight movement on the highway will not be restricted beyond the limits set in the agreement, unless the Oregon Transportation Commission, in consultation with the freight industry and the county, concludes that the restriction is necessary for the safety of the highway users. Nothing in this section prevents a county from taking emergency action to protect safety or place weight restrictions on a structure that is failing or otherwise damaged.

(4) The construction, maintenance and repair of state highways shall be carried on at the sole expense of the state or at the expense of the state and the county by mutual agreement between the department and the county in which any particular state highway is located.

SECTION 25. ORS 811.430 is amended to read:

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

(2) For purposes of this section, a "dividing space" includes pavement markings of solid double yellow lines with yellow cross-hatching between the double yellow lines.

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

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

[(3)] (4) The offense described in this section, driving on a highway divider, is a Class B traffic violation.

SECTION 26. Section 2, chapter 31, Oregon Laws 2010, is amended to read:

Sec. 2. [(1)] The Department of Transportation, in cooperation with stakeholders, shall develop proposed legislation to codify, clarify and bring consistency to issuance of [*access*] **approach** permits based on objective standards.

[(2)] *The department shall provide a report to the Legislative Assembly prior to January 2011. The report must include a description of the proposed legislation developed under subsection (1) of this section.*

SECTION 27. Access Management Oversight Task Force. (1) The Access Management Oversight Task Force is established, consisting of 11 members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate.

(b) The Speaker of the House of Representatives shall appoint three members from among members of the House of Representatives.

(c) The Governor shall appoint six members as follows:

- (A) One member who is the Director of Transportation or the director's designee;
- (B) One member who is a representative of the development community;
- (C) Two members who are representatives of local governments; and
- (D) Two members who represent highway users.

(2) In selecting the legislative members of the task force, the Senate President and the Speaker of the House of Representatives shall work together to ensure that each of the five geographic regions of the Department of Transportation, as described in section 10, chapter 865, Oregon Laws 2009, are represented.

- (3) The task force shall provide oversight and monitor the department's:
- (a) Ongoing progress in proposing legislation to codify, clarify and bring consistency to issuance of approach permits based on objective standards as required under section 2, chapter 31, Oregon Laws 2010, and in adopting consistent administrative rules.
 - (b) Implementation of this section and sections 2, 14 to 20 and 23 of this 2011 Act and the amendments to ORS 366.290, 373.015, 374.305, 374.312 and 811.430 by sections 3, 13, 21, 24 and 25 of this 2011 Act.
- (4) The task force may recommend legislation to the Legislative Assembly as necessary.
- (5) A majority of the members of the task force constitutes a quorum for the transaction of business.
- (6) Official action by the task force requires the approval of a majority of the members of the task force.
- (7) The task force shall elect one of its members to serve as chairperson.
- (8) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.
- (9) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.
- (10) The task force may adopt rules necessary for the operation of the task force.
- (11) The department shall provide staff support to the task force.
- (12) Notwithstanding ORS 171.072, members of the task force who are members of the Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volunteers on the task force. Other members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.
- (13) The task force shall report its findings and recommendations on access management to the interim committees related to transportation each year in the manner provided by ORS 192.245 no later than December 1.

SECTION 28. Section 2, chapter 31, Oregon Laws 2010, as amended by section 26 of this 2011 Act, and section 27 of this 2011 Act are repealed on January 2, 2016.

SECTION 29. Sections 1, 2, 14 to 20, 22, 23 and 27 of this 2011 Act and the amendments to ORS 366.290, 373.015, 374.305, 374.312 and 811.430 and section 2, chapter 31, Oregon Laws 2010, by sections 3, 13, 21 and 24 to 26 of this 2011 Act become operative on January 1, 2012.

SECTION 30. The section captions used in this 2011 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2011 Act.

SECTION 31. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by Senate May 12, 2011

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 2, 2011

.....
Bruce Hanna, Speaker of House

.....
Arnie Roblan, Speaker of House

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

.....
Kate Brown, Secretary of State

OLD BUSINESS

Amendments to TPR 0060

~~Adopted by the LCDC, December 9, 2011~~

~~Preliminary Version – Not Official Until Filed with the Secretary of State~~

Additions are underlined and deletions are ~~struck through~~.

660-012-0005 – Definitions

(7) "Demand Management" means actions which are designed to change travel behavior in order to improve performance of transportation facilities and to reduce need for additional road capacity. Methods may include, but are not limited to, the use of alternative modes, ride-sharing and vanpool programs, ~~and trip-reduction ordinances,~~ shifting to off-peak periods, and reduced or paid parking.

660-012-0060 – Plan and Land Use Regulation Amendments

(1) ~~Where~~If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must ~~shall~~ put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions As measured at the end of the planning period identified in the adopted ~~transportation system plan-TSP.~~ TSP. As part of evaluating

projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

- (A) ~~Allow land uses or levels of development that would result in~~ Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
- (B) ~~Degrade~~Reduce the performance of an existing or planned transportation facility such that it would not meet the below the minimum acceptable performance standards identified in the TSP or comprehensive plan; or
- (C) ~~Degrade~~Worsen the performance of an existing or planned transportation facility that is otherwise projected to not meet the perform below the minimum acceptable performance standards identified in the TSP or comprehensive plan.

(2) ~~Where~~If a local government determines that there would be a significant effect, ~~compliance with section (1) shall be accomplished~~ then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the adopted TSP through one or a combination of remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this

section or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (2)(e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.

- (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
- (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.
- ~~(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.~~
- ~~(cd)~~ Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
- ~~(de)~~ Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures, ~~demand management~~ or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.
- (e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if the provider of the significantly affected facility

provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards.

- (3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:
 - ~~(a) The facility is already performing below the minimum acceptable performance standard identified in the TSP or comprehensive plan on the date the amendment application is submitted;~~
 - ~~(ab)~~ In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;
 - ~~(be)~~ Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;
 - ~~(cd)~~ The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and
 - ~~(de)~~ For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that

provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (c) of this section.

(4) Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.

(a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.

(b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:

(A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.

(B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of

approval to fund the improvement have been adopted.

(C) Transportation facilities, improvements or services in a metropolitan planning organization (MPO) area that are part of the area's federally-approved, financially constrained regional transportation system plan.

(D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.

(E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.

(c) Within interstate interchange areas, the improvements included in (b)(A)-(C) are considered planned facilities, improvements and services, except where:

(A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or

(B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.

(d) As used in this section and section (3):

(A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;

(B) Interstate highway means Interstates 5, 82, 84, 105, 205 and 405; and

(C) Interstate interchange area means:

(i) Property within one-quarter ~~one-half~~ mile of the ramp terminal intersection of an existing or planned interchange on an Interstate Highway ~~as measured from the center point of the interchange;~~ or

(ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.

(e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)-(C) to determine whether there is a significant effect that requires application of the remedies in section (2).

(5) The presence of a transportation facility or improvement shall not be a basis for an exception to allow residential, commercial, institutional or industrial development on rural lands under this division or OAR 660-004-0022 and 660-004-0028.

(6) In determining whether proposed land uses would affect or be consistent with planned transportation facilities as provided in sections ~~0060~~(1) and (2), local governments shall give full credit for potential reduction in vehicle trips

for uses located in mixed-use, pedestrian-friendly centers, and neighborhoods as provided in subsections (a)-(d) below;

(a) Absent adopted local standards or detailed information about the vehicle trip reduction benefits of mixed-use, pedestrian-friendly development, local governments shall assume that uses located within a mixed-use, pedestrian-friendly center, or neighborhood, will generate 10% fewer daily and peak hour trips than are specified in available published estimates, such as those provided by the Institute of Transportation Engineers (ITE) Trip Generation Manual that do not specifically account for the effects of mixed-use, pedestrian-friendly development. The 10% reduction allowed for by this section shall be available only if uses which rely solely on auto trips, such as gas stations, car washes, storage facilities, and motels are prohibited;

(b) Local governments shall use detailed or local information about the trip reduction benefits of mixed-use, pedestrian-friendly development where such information is available and presented to the local government. Local governments may, based on such information, allow reductions greater than the 10% reduction required in subsection (a) above;

(c) Where a local government assumes or estimates lower vehicle trip generation as provided in subsection (a) or (b) above, it shall assure through conditions of approval, site plans, or approval standards that subsequent development approvals support the development of a mixed-use, pedestrian-friendly center or neighborhood and provide for on-site bike and pedestrian connectivity and access to transit as provided for in OAR 660-012-0045(3) and (4). The provision of on-site bike and pedestrian connectivity and access to transit may be accomplished through application of acknowledged ordinance provisions which comply with OAR 660-012-0045(3) and (4) or through conditions of approval or findings adopted with the plan amendment that assure

compliance with these rule requirements at the time of development approval; and

- (d) The purpose of this section is to provide an incentive for the designation and implementation of pedestrian-friendly, mixed-use centers and neighborhoods by lowering the regulatory barriers to plan amendments which accomplish this type of development. The actual trip reduction benefits of mixed-use, pedestrian-friendly development will vary from case to case and may be somewhat higher or lower than presumed pursuant to subsection (a) above. The Commission concludes that this assumption is warranted given general information about the expected effects of mixed-use, pedestrian-friendly development and its intent to encourage changes to plans and development patterns. Nothing in this section is intended to affect the application of provisions in local plans or ordinances which provide for the calculation or assessment of systems development charges or in preparing conformity determinations required under the federal Clean Air Act.

(7) Amendments to acknowledged comprehensive plans and land use regulations which meet all of the criteria listed in subsections (a)-(c) below shall include an amendment to the comprehensive plan, transportation system plan the adoption of a local street plan, access management plan, future street plan or other binding local transportation plan to provide for on-site alignment of streets or accessways with existing and planned arterial, collector, and local streets surrounding the site as necessary to implement the requirements in ~~Section OAR 660-012-0020(2)(b) and Section 660-012-0045(3) of this division:~~

- (a) The plan or land use regulation amendment results in designation of two or more acres of land for commercial use;
- (b) The local government has not adopted a TSP or local street plan which complies with ~~Section OAR 660-012-0020(2)(b)~~ or, in the Portland Metropolitan Area, has not

complied with Metro's requirement for street connectivity as contained in Title 6, Section 3 of the Urban Growth Management Functional Plan; and

- (c) The proposed amendment would significantly affect a transportation facility as provided in section 0060(1).
- (8) A "mixed-use, pedestrian-friendly center or neighborhood" for the purposes of this rule, means:
- (a) Any one of the following:
- (A) An existing central business district or downtown;
 - (B) An area designated as a central city, regional center, town center or main street in the Portland Metro 2040 Regional Growth Concept;
 - (C) An area designated in an acknowledged comprehensive plan as a transit oriented development or a pedestrian district; or
 - (D) An area designated as a special transportation area as provided for in the Oregon Highway Plan.
- (b) An area other than those listed in subsection (a) above which includes or is planned to include the following characteristics:
- (A) A concentration of a variety of land uses in a well-defined area, including the following:
 - (i) Medium to high density residential development (12 or more units per acre);
 - (ii) Offices or office buildings;
 - (iii) Retail stores and services;
 - (iv) Restaurants; and
 - (v) Public open space or private open space which is available for public use, such as a park or plaza.
 - (B) Generally include civic or cultural uses;
 - (C) A core commercial area where multi-story buildings are permitted;
 - (D) Buildings and building entrances oriented to streets;

- (E) Street connections and crossings that make the center safe and conveniently accessible from adjacent areas;
- (F) A network of streets and, where appropriate, accessways and major driveways that make it attractive and highly convenient for people to walk between uses within the center or neighborhood, including streets and major driveways within the center with wide sidewalks and other features, including pedestrian-oriented street crossings, street trees, pedestrian-scale lighting and on-street parking;
- (G) One or more transit stops (in urban areas with fixed route transit service); and
- (H) Limit or do not allow low-intensity or land extensive uses, such as most industrial uses, automobile sales and services, and drive-through services.

(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

- (a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;
- (b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and
- (c) The area subject to the amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d).

(10) Notwithstanding sections (1) and (2) of this rule, a local government may amend a functional plan, a comprehensive plan or a land use regulation without applying performance standards related to motor vehicle traffic congestion (e.g. volume to capacity ratio or V/C), delay or travel time if the amendment meets the requirements of subsection (a) of this section. This section does not exempt a proposed amendment from other transportation performance standards or policies that may

apply including, but not limited to, safety for all modes, network connectivity for all modes (e.g. sidewalks, bicycle lanes) and accessibility for freight vehicles of a size and frequency required by the development.

- (a) A proposed amendment qualifies for this section if it:
 - (A) is a map or text amendment affecting only land entirely within a multimodal mixed-use area (MMA); and
 - (B) is consistent with the definition of an MMA and consistent with the function of the MMA as described in the findings designating the MMA.
- (b) For the purpose of this rule, “multimodal mixed-use area” or “MMA” means an area:
 - (A) with a boundary adopted by a local government as provided in subsection (d) or (e) of this section and that has been acknowledged;
 - (B) entirely within an urban growth boundary;
 - (C) with adopted plans and development regulations that allow the uses listed in paragraphs (8)(b)(A) through (C) of this rule and that require new development to be consistent with the characteristics listed in paragraphs (8)(b)(D) through (H) of this rule;
 - (D) with land use regulations that do not require the provision of off-street parking, or regulations that require lower levels of off-street parking than required in other areas and allow flexibility to meet the parking requirements (e.g. count on-street parking, allow long-term leases, allow shared parking); and
- (E) located in one or more of the categories below:
 - (i) at least one-quarter mile from any ramp terminal intersection of existing or planned interchanges;
 - (ii) within the area of an adopted Interchange Area Management Plan (IAMP) and consistent with the IAMP; or

(iii) within one-quarter mile of a ramp terminal intersection of an existing or planned interchange if the mainline facility provider has provided written concurrence with the MMA designation as provided in subsection (c) of this section.

(c) When a mainline facility provider reviews an MMA designation as provided in subparagraph (b)(E)(iii) of this section, the provider must consider the factors listed in paragraph (A) of this subsection.

(A) The potential for operational or safety effects to the interchange area and the mainline highway, specifically considering:

(i) whether the interchange area has a crash rate that is higher than the statewide crash rate for similar facilities;

(ii) whether the interchange area is in the top ten percent of locations identified by the safety priority index system (SPIS) developed by ODOT; and

(iii) whether existing or potential future traffic queues on the interchange exit ramps extend onto the mainline highway or the portion of the ramp needed to safely accommodate deceleration.

(B) If there are operational or safety effects as described in paragraph (A) of this subsection, the effects may be addressed by an agreement between the local government and the facility provider regarding traffic management plans favoring traffic movements away from the interchange, particularly those facilitating clearing traffic queues on the interchange exit ramps.

(d) A local government may designate an MMA by adopting an amendment to the comprehensive plan or land use regulations to delineate the boundary following an existing zone, multiple existing zones, an urban renewal area, other existing boundary, or establishing a new boundary. The designation must be accompanied by findings showing how the area meets the

definition of an MMA. Designation of an MMA is not subject to the requirements in sections (1) and (2) of this rule.

(e) A local government may designate an MMA on an area where comprehensive plan map designations or land use regulations do not meet the definition, if all of the other elements meet the definition, by concurrently adopting comprehensive plan or land use regulation amendments necessary to meet the definition. Such amendments are not subject to performance standards related to motor vehicle traffic congestion, delay or travel time.

(11) A local government may approve an amendment with partial mitigation as provided in section (2) of this rule if the amendment complies with subsection (a) of this section, the amendment meets the balancing test in subsection (b) of this section, and the local government coordinates as provided in subsection (c) of this section.

(a) The amendment must meet paragraphs (A) and (B) of this subsection or meet paragraph (D) of this subsection.

(A) Create direct benefits in terms of industrial or traded-sector jobs created or retained by limiting uses to industrial or traded-sector industries.

(B) Not allow retail uses, except limited retail incidental to industrial or traded sector development, not to exceed five percent of the net developable area.

(C) For the purpose of this section:

(i) "industrial" means employment activities generating income from the production, handling or distribution of goods including, but not limited to, manufacturing, assembly, fabrication, processing, storage, logistics, warehousing, importation, distribution and transshipment and research and development.

(ii) "traded-sector" means industries in which member firms sell their goods or services into markets for which

national or international competition exists.

(D) Notwithstanding paragraphs (A) and (B) of this subsection, an amendment complies with subsection (a) if all of the following conditions are met:

(i) The amendment is within a city with a population less than 10,000 and outside of a Metropolitan Planning Organization.

(ii) The amendment would provide land for "Other Employment Use" or "Prime Industrial Land" as those terms are defined in OAR 660-009-0005.

(iii) The amendment is located outside of the Willamette Valley as defined in ORS 215.010.

(E) The provisions of paragraph (D) of this subsection are repealed on January 1, 2017.

(b) A local government may accept partial mitigation only if the local government determines that the benefits outweigh the negative effects on local transportation facilities and the local government receives from the provider of any transportation facility that would be significantly affected written concurrence that the benefits outweigh the negative effects on their transportation facilities. If the amendment significantly affects a state highway, then ODOT must coordinate with the Oregon Business Development Department regarding the economic and job creation benefits of the proposed amendment as defined in subsection (a) of this section. The requirement to obtain concurrence from a provider is satisfied if the local government provides notice as required by subsection (c)

of this section and the provider does not respond in writing (either concurring or non-concurring) within forty-five days.

(c) A local government that proposes to use this section must coordinate with Oregon Business Development Department, Department of Land Conservation and Development, area commission on transportation, metropolitan planning organization, and transportation providers and local governments directly impacted by the proposal to allow opportunities for comments on whether the proposed amendment meets the definition of economic development, how it would affect transportation facilities and the adequacy of proposed mitigation. Informal consultation is encouraged throughout the process starting with pre-application meetings. Coordination has the meaning given in ORS 197.015 and Goal 2 and must include notice at least 45 days before the first evidentiary hearing. Notice must include the following:

(A) Proposed amendment.

(B) Proposed mitigating actions from section (2) of this rule.

(C) Analysis and projections of the extent to which the proposed amendment in combination with proposed mitigating actions would fall short of being consistent with the function, capacity, and performance standards of transportation facilities.

(D) Findings showing how the proposed amendment meets the requirements of subsection (a) of this section.

(E) Findings showing that the benefits of the proposed amendment outweigh the negative effects on transportation facilities.

PLANNING ACTION/DISCUSSION

January 2012 Update

LAND USE APPLICATIONS

<u>Project</u>	<u>Status</u>
Building Permits	
Sign Permits	<ul style="list-style-type: none"> Request to Mayor has been submitted that legal counsel discuss prohibition of "off-premise" signage under 16.44
Manufactured Home Permit	
Land Use Applications	<ul style="list-style-type: none"> Planning staff is working with legal counsel and Mayor on next steps for water connections outside city limits due to Health Hazard notifications

ADDITIONAL PLANNING

<u>Project</u>	<u>Status</u>
Transportation System Plan	<ul style="list-style-type: none"> Adoption of a street tree ordinance. Request has been submitted to City Attorney to draft an ordinance adopting the City of Aurora Street Tree List to meet AMC 16.34.030.U. (attached)
ODOT 99E Corridor Study	<ul style="list-style-type: none"> No meetings have been scheduled. No new information has been released.
Urban Renewal District Feasibility Study	
Development Code/HRB updates	<ul style="list-style-type: none"> See 12/22 email from ODA regarding compliance with Airport Planning Rule and 12/28 response (attached)
Water Master Plan	
Newsletter/Community Updates	
Misc.	

16.34.030

or concrete, not less than four inches deep or two inches of asphalt on four inches of three-fourths-inch minus gravel, or other hard durable and dustless surfaces such as cobblestone, unit masonry, scored and colored concrete, grasscrete, or combinations of the above. Driveway width shall be 12' minimum and 24' maximum for two-car garages and up to 36' for three-car garages, unless otherwise approved by the City.

Q. Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments shall be established or re-established, protected and recorded.

R. The developer shall install all street signs, relative to traffic control and street names, as specified by the Public Works Director for any development. The cost of signs shall be the responsibility of the developer.

S. The location of traffic signals shall be noted on approved street plans, and where a proposed street intersection will result in an immediate need for a traffic signal, a city-approved signal shall be installed. The cost shall be included as a condition of development.

T. Street lights shall be installed in accordance with the City's public works design standards and shall be consistent with AASHTO standards. Street lights shall be served from an underground source of supply. Street lighting shall be subject to review and approval of the Oregon Department of Transportation and Marion County as to location and style, where applicable.

U. Within 6 months of developing frontage improvements, two (2) inch caliper trees shall be installed in planting strips in accordance with the City of Aurora's street tree list. Prior to adoption of a street tree list, the City of Aurora's City Engineer will approve the street tree selection.

V. (1) Access spacing standards for streets and driveways are:

Spacing Requirements for Accesses on State, County, and City Roadways

Functional Classification	Distance ⁽¹⁾
Principal Arterial (State)	⁽²⁾
Principal Arterial (County)	400 from any intersection with Oregon 99E or Airport Road
	300 feet from any other intersection of private access
Minor Arterial (County)	400 feet from the intersection with Ehlen Road
	300 feet from any other intersection of private access
Collector	75 feet
Local Residential	16 feet

Notes:

(1) Distances are measured from inside edge of roadways and driveways, excluding driveway aprons.

(2) For access spacing requirements on Oregon 99E, consult Oregon Administrative Rules 734-051

Where spacing standards cannot be satisfied, joint and cross access and shared driveways are encouraged pursuant to 16.34.030(V) (2) & (3).

CITY OF AURORA STREET TREE LIST

- A. Spacing.** The spacing of street trees shall be in accordance with the species, size, classes listed in the official tree list of this chapter, and trees shall be planted not less than one tree per twenty-five (25) feet of street frontage.
- B. Recommended Street Trees.** The following tree species are recommended for use as street and parking lot trees:

Four (4) to six (6) foot planting strip- With or without overhead lines

Species Name	Common Name	Minimum Planter Width	Permitted Under Wires?	Mature Height/Width
Acer griseum	Paperbark Maple	4	Yes	25/20
Lagerstroemia cultivars	Crape Myrtle	4	Yes	20/20
Malus 'Prairifire'	Prairifire Crabapple	4	Yes	20/20
Parrotia persica	Persian Parrotia	4	Yes	35/20
Stryax japonicas	Japanese Snowbell	4	Yes	25/25
Stryax obassia	Bigleaf Snowbell Tree	4	Yes	35/25

Four (4) to six (6) foot planting strip- With overhead lines

Species Name	Common Name	Minimum Planter Width	Permitted Under Wires?	Mature Height/Width
Acer griseum	Paperbark Maple	4	Yes	25/20
Cornus controversa 'June Snow'	June Snow Giant Dogwood	4	No	40/30
Fragus sylvatica 'Purpurea Tricolor'	Tricolor Beech	4	No	35/25
Lagerstroemia cultivars	Crape Myrtle	4	Yes	
Ginkgo biloba 'Saratoga'	Saratoga Ginkgo	4	No	35/30
Magnolia gradiflora 'Edith Bogue'	Edith Bogue Magnolia	4	No	30/15
Malus 'Prairifire'	Prairifire Crabapple	4	Yes	20/20
Parrotia persica	Persian Parrotia	4	No	35/20

Great than six (6) foot minimum planting strip- With or without overhead lines

Species Name	Common Name	Minimum Planter Width	Permitted Under Wires?	Mature Height/ Width
Acer griseum	Paperbark Maple	6	Yes	25/20
Lagerstroemia cultivars	Crape Myrtle	6	Yes	20/20
Magnolia gradiflora 'Edith Bogue'	Edith Bogue Magnolia	6	Yes	30/15
Ginkgo biloba 'Saratoga'	Saratoga Ginkgo	6	Yes	35/30

Greater than six (6) foot minimum planting strip- Without overhead lines

Species Name	Common Name	Minimum Planter Width	Permitted Under Wires?	Mature Height/ Width
Acer X freemanii 'Autumn Blaze'	Autumn Blaze Maple	6	No	60/45
Acer X freemanii 'Celzam'	Celebration Maple	6	No	45/25
Acer rubrum 'Franksred'	Red Sunset Maple	6	No	45/35
Carpinus betulus	European Hornbeam	6	No	50/35
Ostrya virginiana	American Hophornbeam	6	No	35/35
Tilia cordata	Littleleaf Linden	6	No	50/30
Zelkova serrata 'Green Vase'	Green Vase Zelkova	6	No	50/40
Zelkova serrata 'Village Green'	Village Green Zelkova	6	No	40/38

Prohibited Street Trees

All other trees are prohibited from installation within public rights-of-way as they cause one or more of the following problems: (1) Their roots damage sewer lines or pavement; (2) They are particularly subject to disease or insects; (3) They cause visibility problems along streets or intersections; (4) They create messy sidewalks and pavements, usually due to fruit drop.

Wakeley, Renata

From: Wakeley, Renata
Sent: Thursday, December 29, 2011 10:20 AM
To: 'sandra.larsen@state.or.us'
Subject: FW: Airport Planning Rule compliance for City of Aurora

Hi Sandra,

Aurora Municipal Code (AMC) section 16.24.030.A requires that "Notice shall be provided to the Department of Aviation when the property or a portion thereof that is being developed is located within five thousand (5,000) feet of the sides or the ends of a runway except where the following criteria are satisfied:

1. All proposed structures are thirty five (35) feet or less in height;
2. The proposal does not involve industrial uses, mining or similar uses that emit smoke, dust or steam;
3. The proposal does not involve sanitary land fills or water impoundments individually or cumulatively one quarter acre or greater in size; and
4. The proposal does not involve radio, radio telephone, television or similar transmission facilities or above ground electrical transmission lines".

It appears to me that the AMC already meets ORS 836.535 Hazards to air navigation prohibited and OAR 738-070-0060 and I am unclear on how the code should be amended. It does not appear to me that the ORS or OAR's require that any development within the city limits is required to provide notice to ODA.

Please provide additional clarification.

Renata Wakeley, Planner
Mid-Willamette Valley Council of Governments
105 High Street SE, Salem OR 97301
p: 503 540 1618
f: 503 588 6094

From: LARSEN Sandra [<mailto:sandra.larsen@aviation.state.or.us>]
Sent: Thursday, December 22, 2011 9:22 AM
To: Wakeley, Renata
Subject: RE: Airport Planning Rule compliance

Ms. Wakeley,

I have reviewed your airport overlay code and it mostly looks okay. ORS 836.535 and OAR 738-070-0060 require notice to ODA of proposed construction or alterations. We request you add this requirement to your Section 16.24.060, Procedures for approval.

If you have any questions please contact me.

Wishing you a happy holiday season,

Sandra Larsen
Aviation Planning Analyst

Oregon Department of Aviation
503-378-2894

From: Wakeley, Renata [<mailto:renatac@mwvcog.org>]
Sent: Tuesday, November 22, 2011 2:30 PM
To: LARSEN Sandra; PECK Heather
Subject: Airport Planning Rule compliance

Dear Ms. Larsen,

In response to your October 2011 letter to Council and City Planners regarding the Airport Planning Rule, the Aurora Planning Commission has requested that I submit a copy of the Aurora Development Code to determine if ODA believes the City of Aurora to be in compliance with the Airport Planning Rule. Specifically, Chapter 16.24 Airport Overlay.

If you need additional documentation, please do not hesitate to contact me. Otherwise, I look forward to receiving comments from you regarding potential revisions to the development code, if any.

Regards,

Renata Wakeley, Planner
Mid-Willamette Valley Council of Governments
105 High Street SE, Salem OR 97301
p: 503 540 1618
f: 503 588 6094