# CHAPTER 3 – Section 2: Transportation Planning Rule (TPR) Reviews

## 3.2.00 Overview

In June, 2004, the Oregon Court of Appeals upheld a Land Use Board of Appeals (LUBA) decision in the case of *Jaqua v. City of Springfield*.[1] A major holding in that case was that a "significant effect" under OAR 660-012-0060 occurs if a proposed comprehensive plan or land use regulation amendment would result in an existing or planned transportation facility failing to meet adopted performance standards at any point during the planning period – typically extending 15-20 years into the future. If a significant effect occurred, the local jurisdiction could then, according to the court decision, rely only upon planned transportation facilities that have a funding commitment at the point the significant effect occurs.

In March 2005, in response to concerns over implications of the *Jaqua* decision, the Land Conservation and Development Commission (LCDC) amended OAR 660-012-0060. The amendments established the end of the transportation system plan planning period as the time used to measure whether the proposed amendment would result in a significant effect. LCDC also identified the planned transportation facilities, improvements and services that a local government could consider in determining whether a proposed amendment would significantly affect a transportation facility. Typically, these are projects authorized in the Transportation System Plan (TSP) for which a funding mechanism is in place or approved or for which funding is "reasonably likely" to be provided by the end of the planning period.

The following provides guidelines for implementing these 2005 amendments to OAR 660-012-0060. The guidelines specifically provide direction for the following:

- The types of planned transportation improvements that a local jurisdiction or applicant may rely upon during the Section 0060 analysis in determining whether a proposed amendment would significantly affect an existing or planned transportation facility;
- The process that is followed in making "reasonably likely" determinations for transportation improvements being available within the planning period;
- Determination of the applicable planning period for a transportation analysis; and
- The analysis associated with transportation facilities that are currently operating below adopted performance standards.

The guidelines also address other issues that may arise in applying Section 0060, such as the analysis associated with zone changes that are in conformance with comprehensive plan designations.

[1] Jaqua v. City of Springfield, 193 Or App 573 (2004).

These guidelines are intended to provide direction to ODOT on how to apply the provisions of Section 0060 of the Transportation Planning Rule (TPR) in response to applications before local governments to amend a comprehensive plan or land use regulation (e.g., zoning ordinance). While these guidelines were not specifically written to guide local governments through the Section 0060 plan amendment process local governments may find them instructive, especially as they relate to state highway facilities.

OAR 660-012-0060(1) is directed at maintaining balance between the land uses allowed under a comprehensive plan and zoning and the transportation system that supports those land uses. The rule provides that where a proposed comprehensive plan or land use regulation amendment would **"significantly affect"** an existing or planned transportation facility, then the local government must put in place measures to assure that the land uses allowed by the amendment are consistent with the identified function, capacity and performance standards of the affected facility. The rule states that an 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) As measured by the end of the planning period identified in the adopted transportation system plan [TSP]:
>
> (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) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
>
> (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

**The burden of determining whether an amendment would "significantly affect" a transportation facility lies with local governments, not with ODOT.**

In applying this rule to a proposed amendment, the first step for a local government is to determine whether or not the amendment would "significantly affect" one or more transportation facilities "as measured by the end of the planning period". This requires the local government first to determine what existing and planned state and local transportation facilities it can count on as being available by the end of the planning

period, and second to determine what the impact of the amendment would be on those facilities.

Where an amendment could impact a state highway facility, the local government should notify ODOT in a similar manner that it notifies service providers (e.g., sewer, water, local streets) of land use development applications. ODOT then needs to inform the local government as to what state transportation facilities and improvements the local government can rely on as being available for use by the end of the planning period, so that the local government can determine significant effect. As described in this document, in addition to existing state facilities, the planned state facilities and improvements local governments can rely on include:

- transportation facilities, improvements or services that are "funded for construction or implementation" in the Statewide Transportation Improvement Program (STIP), and
- Improvements to state highways that are "included as planned improvements in a regional or local TSP 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. (See Reasonably Likely Determination, Section 3.2.05, p. 12)

The rule contains provisions distinguishing proposed amendments located inside "interstate interchange areas" from those located outside such areas. Generally, these affect properties located either within one-half mile of an existing or planned interchange along Interstates 5, 82, 84, 105, 205 or 405 or within an interchange area as defined in an Interchange Area Management Plan (IAMP) adopted as an amendment to the Oregon Highway Plan. These provisions are described in more detail below, as are other relevant provisions in the rule.

The guidelines should be considered together with the specific review standards in OAR 660-012-0060. To facilitate that effort, two flow charts are provided. The first flow chart describes how a "significant effect determination" is made for proposed amendments located *inside* interstate interchange areas. The second flow chart describes this process for amendments located *outside* such areas.

The following Guidelines are provided:

3.2.01 Determining Significant Affect
3.2.02 Planned Improvements All Amendments Can Rely Upon Regardless of Location Inside or Outside of an Interstate Interchange Area
3.2.03 Additional Planned Improvements Amendments Located Outside of an Interstate Interchange Area Can Rely Upon
3.2.04 Additional Planned Improvements Amendments Located Inside of an Interstate Interchange Area Can Rely Upon
3.2.05 Assessing Whether Mitigation Measures are Sufficient to Avoid an Adverse Impact on the Interstate System

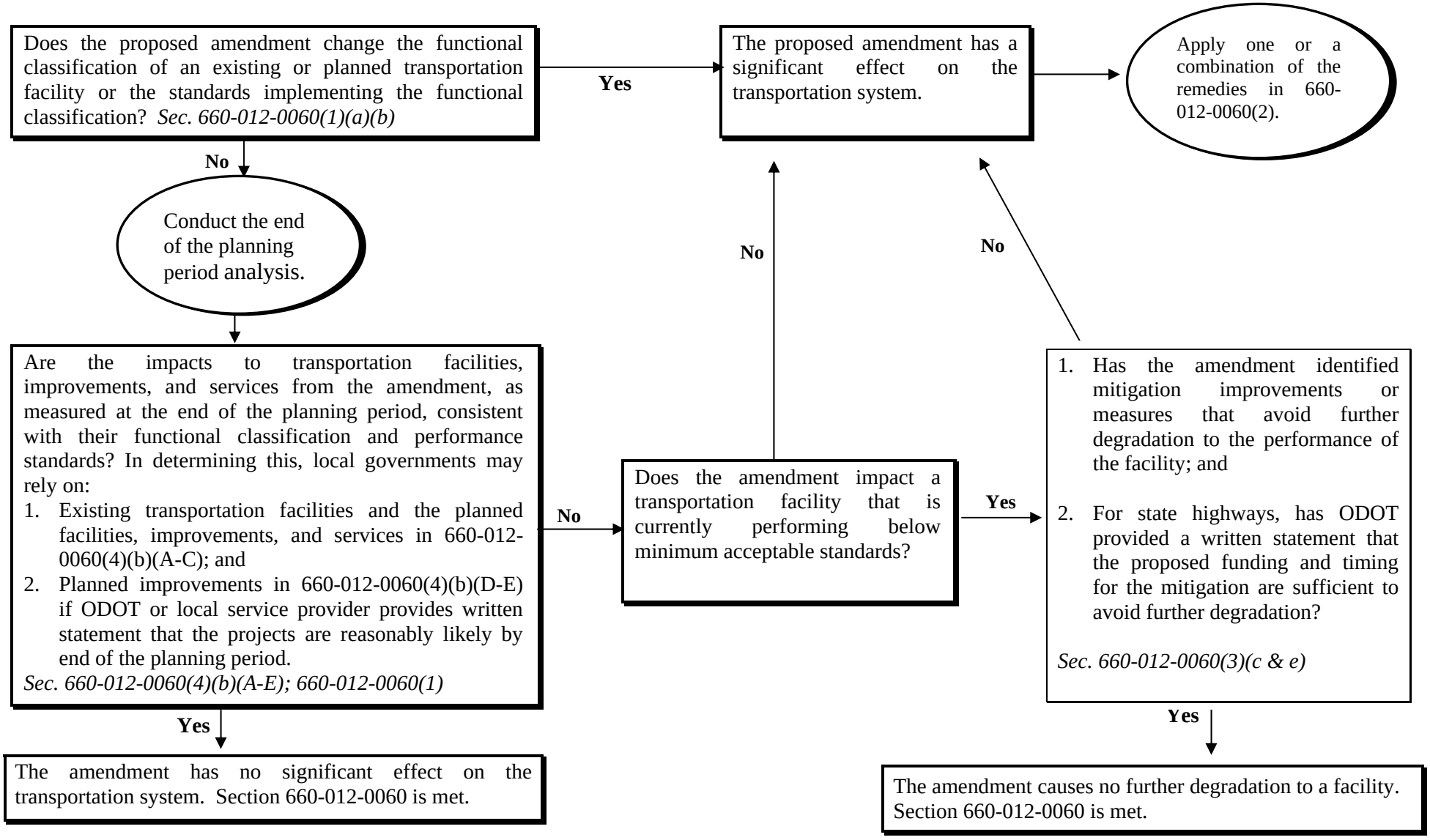
3.2.06 Reasonably Likely Determination
3.2.07 Factors to Consider in Reasonably Likely Determination
3.2.08 Reasonably Likely Determination – ODOT Written Statement
3.2.09 Precedential Effect of a Written Statement
3.2.10 Determination of the Applicable Planning Period
3.2.11 Transportation Facilities Currently Operating Below Performance Standards
3.2.12 Determination of Failure to Meet a Performance Standard
3.2.13 ODOT Written Statement on Adequacy of Mitigation Measures
3.2.14 Analysis for Zone Changes in Conformance with Comprehensive Plan Amendments
3.2.15 Need for a Traffic Study
3.2.16 Delegation of Signature for Reasonably Likely Determination
3.2.17 Mitigation to Avoid a Significant Effect
3.2.18 When Should ODOT Provide a Reasonably Likely Determination and who is Responsible for Requesting it?
3.2.19 Can ODOT Revoke a Reasonably Likely Determination?
3.2.20 Implementation of the Town Centers, Regional Centers and Station Areas in the Portland Metropolitan Area
3.2.21 State Facilities Included in System Development Charge
3.2.22 Sample Letter for Reasonably Likely Determination

The following figures are provided:

Figure 3.2.1 Determination of Significant Effect Outside Interstate Interchange Areas
Figure 3.2.2 Determination of Significant Effect Inside Interstate Interchange Areas

**Figure 3.2.2**

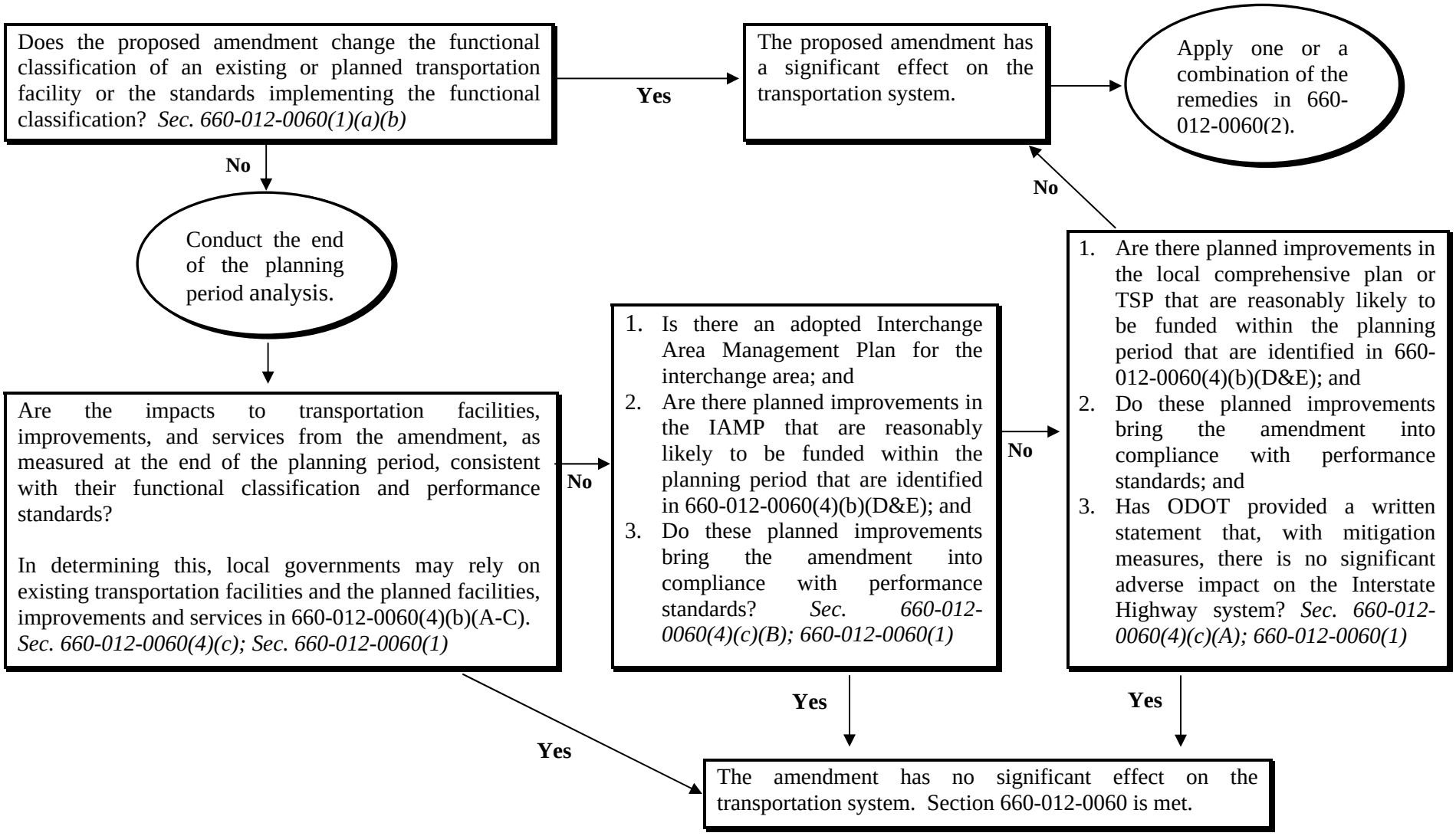
## Determination of Significant Effect Outside Interstate Interchange Areas [1] Section 660-012-0060




[1] Inside Interstate Interchange Area defined in 660-012-0060(4)(d)(B&C)

**Figure 3.2.2**

## Determination of Significant Effect Inside Interstate Interchange Areas [1] Section 660-012-0060




[1] Inside Interstate Interchange Area defined in 660-012-0060(4)(d)(B&C)

## 3.2.01 Determining Significant Affect

As noted in the introduction to these guidelines, the first step for a local government in addressing a proposed comprehensive plan or land use regulation amendment under OAR 660-012-0060 is to determine whether or not the amendment would **"significantly affect"** an existing or planned transportation facility. A significant effect will result when an amendment

- Allows 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 a transportation facility;
- Reduces the performance of a transportation facility below the minimum acceptable performance standard identified in a TSP or comprehensive plan; or
- Worsens the performance of a transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in a TSP or comprehensive plan.

Conversely, a proposed comprehensive plan of land use regulation that does not result in a greater impact on the transportation system (i.e. more trips than are allowed by the current plan and zoning designations) would not trigger a significant affect and, therefore, the provisions of Section 0060 would not apply to the amendment.

Because the analysis is measured "at the end of the planning period identified in the adopted transportation system plan" (see OAR 660-012-0060(1)(c)),[2] the local government first must determine which of the planned transportation improvements identified in its TSP or comprehensive plan will be provided (i.e., in place and available) as of that time. These, of course, would be considered in addition to existing transportation facilities and services.[3]

Section 660-012-0060(4) of the TPR specifies the planned facilities, improvements and services that a local government can rely on in determining whether a proposed amendment would significantly affect an existing or planned transportation facility. These improvements, which include both state and local transportation facilities, are described below and differ depending on whether the proposed amendment is located inside or outside an interstate interchange area.

[2] Section 0060 also regulates amendments that change the functional classification of an existing or planned transportation facility (e.g., amend the classification from a collector to an arterial) or change the standards implementing a functional classification system (e.g., change the lane width standards or the right-of-way requirements applied to a functional classification). When either circumstance occurs, the amendment is deemed to "significantly affect" a transportation system, and the local government must apply one or a combination of the remedies in OAR 660-012-0060(2). These guidelines do not address this situation.
[3] Services includes transit services and measures such as transportation demand management.

## 3.2.02 Planned Improvements All Amendments Can Rely Upon Regardless of Location Inside or Outside of an Interstate Interchange Area

The 2005 amendments to OAR 660-012-0060(4) established various levels of "certainty" for determining which planned transportation facilities, improvements and services a jurisdiction may rely on when conducting a "significant effect" analysis. The first level includes planned transportation facilities, improvements and services that can be assumed as being "in-place" or committed and available to provide transportation capacity. These include:

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

(See OAR 660-012-0060(4)(b)(A).)

(2) 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. (See OAR 660-012-0060(4)(b)(B)).

(3) 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. OAR 660-012-0060(4)(b)(C).

Because the above planned project types have some level of funding commitment associated with them, the rule provides that they can be considered as "in-place and available" by the end of the applicable planning period. This means the transportation capacity provided by these projects may be considered as available to accommodate a proposed amendment.

Under this provision, jurisdictions may rely upon the project lists that they used to establish a systems development charge (SDC) rate, even if it is likely that the SDC will not fully fund all improvements on the list.[4]

When responding to local government requests for review and comment on proposed plan amendments, ODOT will need to identify which state transportation facilities, improvements or services identified in the local TSP or comprehensive plan are "funded for construction or implementation." For ODOT projects, the following guidelines should be used:

- C-STIP Projects - Construction STIP; identifies project scheduling and funding for the state's transportation preservation and capital improvement program for a four-year construction period. This program meets the requirements of the Transportation Equity Act for the 21st Century (TEA-21).

  The C-STIP projects that a local government may rely on in making a significant effect determination will be those that are "*funded for construction or implementation*". These would include projects for which the construction costs are fully funded. They also include projects that may be under-funded, because the construction funding stream represents a commitment to build the project. However, they would not include projects where the funding is committed for something other than construction, *e.g.* planning, right of way purchase or environmental work.[5] The broader term "implementation" was included in the rule to cover transportation services and other measures, such as transportation demand management programs, that are provided in a manner that does not involve physical construction.

  As an example, assume that a state highway project is proposed to be built in three phases. Assume also that phase 1 is fully funded for construction, but that phases 2 and 3 have had funding approved only for right of way purchase. Under this scenario, only phase 1 may be considered "funded for construction or implementation." Note that this would be so as well even if phase 1 was funded for construction at a level somewhat below its full anticipated cost. Because phases 2 and 3 have been funded only for right of way purchase, ODOT would need to determine whether construction of either or both phases is reasonably likely within the planning period.

[4] Note that the rule distinguishes funding in the STIP from funding through local plans or mechanisms. As discussed in Section 3.2.19 below, inclusion of a state facility in a local funding plan or program does not eliminate avoid the need for a "reasonably likely" determination by ODOT for state facilities. The focus of OAR 660-004-0060(4)(b)(B) is regional and local transportation improvements, not state transportation improvements.

[5] While funding for environmental work might later lead to funding for construction, that is not always a certainty. Until there is funding for construction, reliance on the C-STIP project is not permitted.

- D-STIP Projects - Development STIP; includes projects that require more than 4 years to develop or for which construction funding needs to be obtained. Projects in the D-STIP are not yet "funded for construction or implementation." Accordingly, they will require a "reasonably likely" determination as described below.

- Projects not included in either the C-STIP or D-STIP – these projects are not "funded for construction or implementation" and will require a "reasonably likely" determination as described below.

## 3.2.03 Additional Planned Improvements That Amendments Located Outside of an Interstate Interchange Area Can Rely Upon

When the location of the proposed amendment is outside of an interstate interchange area as defined in OAR 660-012-0060(4)(d)(B&C) (i.e., beyond one-half mile of an existing or planned interchange along Interstates 5, 82, 84, 105, 205 or 405 or outside an interchange area as defined in an adopted Interchange Area Management Plan on one of these facilities, then in addition to the transportation facilities and improvements identified in Guideline 3.2.02 above, a local government also may rely upon:

- 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. OAR 660-012-0060(4)(b)(D).
- 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. OAR 660-012-0060(4)(b)(E).

In response to a local government request for review and comment on a proposed amendment, ODOT will need to identify those planned state highway improvements that it deems "reasonably likely" to be provided by the end of the planning period. How ODOT determines which improvements are "reasonably likely" is discussed below.

## 3.2.04 Additional Planned Improvements That Amendments Located Inside of an Interstate Interchange Area Can Rely Upon

Because interstate highways and their associated interchanges play a major role in moving people and goods between regions of the state and between Oregon and other states, and because these facilities represent a tremendous state investment in highway infrastructure that the state wishes to protect, the standards applicable to proposed amendments located inside interstate interchange areas are more stringent.[6] Generally, if the proposed amendment would be located inside of an interstate interchange area, a local government may consider only the planned facilities, improvements and services identified in Guideline 3.2.02 above in determining if the amendment would have a significant effect on an existing or planned transportation facility.

However, under certain circumstances, local governments may consider improvements to state highways and to regional and local roads, streets and other transportation facilities and services that are included as planned improvements in regional or local TSPs or comprehensive plans (OAR 660-012-0060(4)(b)(D&E)). This can occur only where:

- either (1) 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 caused by the proposed amendment; or (2) there is an adopted Interchange Area Management Plan (IAMP); *and*
- ODOT (for state transportation facilities) or the transportation service provider (for other transportation facilities) provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period. OAR 660-012-0060(4)(c).

Guideline 3.2.05 addresses how ODOT determines whether a proposed state highway improvement is “reasonably likely”.

As an example, assume that an applicant is proposing plan and zoning amendments from low density residential to commercial for a 10-acre parcel located within one-half mile of an interchange along I-5. Assume as well that the Oregon Transportation Commission and all local governments with jurisdiction within the interstate interchange area have adopted an Interchange Area Management Plan for the interchange area. Further, assume that improvements to state highways or regional or local roads and streets that are not identified in

[6] “Interstate interchange area” means (1) property within one-half mile of an existing or planned interchange on an Interstate Highway (i.e., Interstates 5, 82, 84. 105, 205 and 405) as measured from the center point of the interchange, or (2) the interchange area as it is defined in an Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.

Guideline 3.2.02 are included as planned improvements in the local government's TSP or comprehensive plan.

In this circumstance, if the proposed amendment is consistent with the IAMP, then the local government reviewing the application may be able to consider the additional planned state and local transportation improvements in determining whether the amendment would significantly affect a transportation facility. Specifically, the local government reviewing the amendments may also consider the planned state and local improvements identified in OAR 660-012-0060(4)(b)(D) and (E), but only if ODOT or the local government or transportation service provider, as relevant, provides a written statement that the state improvement or the regional/local improvement or service is reasonably likely to be provided by the end of the planning period.

As a second example, assume the same facts but without an adopted IAMP. In this instance, the local government may consider the planned improvements identified in OAR 660-012-0060(4)(b)(D) and (E) as part of its significant effect determination only where (1) the applicant proposes mitigation measures to avoid a significant adverse impact on the Interstate Highway system; (2) ODOT provides the local government with a written statement that the proposed measures are sufficient to achieve that result[7]; and (3) ODOT (for improvements to state highways) and the relevant local government or transportation service provider (for improvements regional and local roads, streets and other transportation facilities or services) also indicate that the planned improvements are reasonably likely by the end of the planning period.

In the second example, steps will need to be taken to ensure that the proposed improvements will be made by the time of development. For instance, the local government could adopt an additional plan policy when approving the plan amendment requiring that these measures be completed by the time of development, or ODOT and the parties could enter into a binding agreement that ensures that these measures would be implemented by the time of development. These measures would then be included as conditions of approval of the development at the time of development review.

## 3.2.05 Assessing whether mitigation measures are sufficient to avoid an adverse impact on the Interstate System

As noted above, 3.2.04 allows plan amendments and zone changes in interstate interchange areas where ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant

[7] To determine this, the applicant may need to submit a traffic impact statement or traffic impact analysist to ODOT. See Section 3.2.13.

adverse impact on the Interstate Highway system caused by the proposed amendment. This is a new and different standard for review for ODOT facilities.

This standard is somewhat broader and different than existing ODOT standards – such as v/c standards – because it involves an assessment of adverse impact to the "interstate highway *system*". This incorporation of a broader reference to the "system" was intentional to allow ODOT to consider the location of the proposed use and its impact on the interstate "system" in a broader fashion. In particular, the standard is intended to allow ODOT to consider whether development at the proposed location has less impact on the interstate system than if it were to be located in some other area where it is otherwise allowed and likely to occur. Consequently, in addition to considering specific mitigation and funding measures to reduce impacts from a proposed plan amendment, ODOT should assess whether locating the proposed development at the proposed site would have less impact on the interstate highway system than if the development were located at another site that is zoned to allow the proposed use and where the use would be likely to locate.

## 3.2.06 Reasonably Likely Determination

The TPR amendments that call for an assessment of whether planned improvements are "reasonably likely" to be provided by the end of the planning period is a significant new element in the TPR. This provision was added to reflect the fact that adopted transportation system plans include many more transportation projects and improvements than will be funded or constructed over a 20 years planning horizon. The basic intent of the 2005 TPR amendments to Section 0060 was that, in deciding whether or not a proposed plan amendment has a significant effect, local governments may count as "planned" only those improvements that are funded or reasonably likely to be funded during the planning period. Where funding is uncertain, a project or improvement that is included in the TSP may not be counted as a "planned improvement" for purposes of Section 0060 (i.e. for deciding whether or not planned transportation facilities and improvements are adequate to support planned land uses).

As noted in Guidelines 3.2.03 and 3.2.04, ODOT may need to comment at times on whether improvements to state highways that are included as planned improvements in a regional or local TSP or comprehensive plan are "reasonably likely to be provided by the end of the planning period." OAR 660-012-0060(4)(b)(D).[8]

A "reasonably likely" determination represents that ODOT has determined the following:

[8] OAR 660-012-0060(4)(b)(E) also directs local governments or transportation service providers to make "reasonably likely" determinations for planned improvements to regional and local roads.

- A state highway improvement is included as a planned improvement in a regional or local transportation system plan or comprehensive plan;
- The improvement is not included in the list of "Planned Projects All Amendments Can Rely Upon (Guideline 3.2.02); and
- In ODOT's opinion, it is reasonably likely that the state highway improvement will be provided "by the end of the planning period" (see Guideline 3.2.09).

OAR 660-012-0060(4)(b)(D) requires that ODOT provide its "reasonably likely" determination in the form of a **written statement**. When ODOT provides a written statement indicating that a planned state improvement is reasonably likely to be provided by the end of the planning period, that written statement is deemed conclusive (*i.e.*, not rebuttable) to that effect. Upon receiving such a written statement from ODOT, a local government then may consider the additional transportation capacity provided by the planned state improvement, as measured by the applicable performance standard, to determine whether a proposed amendment will significantly affect existing or planned transportation facilities.

If ODOT does not provide a written statement stating that a state highway improvement is reasonably likely to be provided by the end of the planning period, or if ODOT submits a written statement that such improvement is not reasonably likely, then the local government may *not* rely on that improvement when determining if the proposed amendment will have a significant effect. OAR 660-012-0060(4)(e)(A).

See Appendix A for a sample letter addressing a reasonably likely determination.

## 3.2.07 Factors to Consider in Reasonably Likely Determination

The reasonably likely written statement is intended to be analogous to a service provider letter provided during review of development applications in many local jurisdictions. That is, it is intended to answer the question: "Is it reasonably likely to expect that the transportation capacity provided by the planned improvement will be available (*i.e.*, in place and available) by the end of the planning period and, therefore, can be relied upon when conducting the traffic analysis that accompanies a proposed amendment?" In developing the written statement, ODOT (or a local jurisdiction for local improvements) could consider the following factors (not an exclusive list):

- The cost of the planned improvement and its relative priority for ODOT funding considering other needs in the region and expected funding levels.
- Has there been a history of securing construction funding for the type of planned improvement?

- Is the planned improvement located in an area that anticipates high growth and, therefore, may be a high priority area for targeting future transportation revenues?
- Is the planned improvement located in an area targeted for special land use consideration, such as a town center, a main street or an industrial area and, therefore, likely to receive a higher priority for future transportation funding?
- Is there demonstrated community and/or political support for the planned improvement or similar improvements that would likely result in securing funding by the end of the planning period?
- Is the planned improvement located on a priority type of facility, such as an arterial, a statewide highway, or a key freight connection, that would be reasonably likely to receive future funding before a lesser classified facility?
- Would the planned improvement provide a critical transportation connection or complete a key transportation link to the extent that it would have system-wide benefits and, therefore, likely be a priority for funding by the end of the planning period.
- Are there unique funding sources potentially available to support the planned improvement, such as tax increment financing, special assessments, or private contributions?
- For local facilities, has the local jurisdiction identified a reasonably likely project list as a subset of its overall TSP project list to be used during the review of proposed amendments, and if so, is the planned improvement included on this list?
- Does the local government have land use or subdivision regulations that would require the development to make the planned transportation improvement prior to or at the time of development?

For state highway improvements ODOT may find that reasonably likely determination are more problematic for large-scale projects (e.g. projects of statewide significance that have multi-million-dollar price tags). While many of the above factors could go into the determination for these types of projects, perhaps the most important factor would relate to the level of community/political support for a project of this type. In this circumstance ODOT may wish to consider these additional factors:

- Is there broad, multi-jurisdictional support (community, business, and political) for the planned improvement?
- Have any project development steps been taken towards providing the planned improvement (e.g. preliminary design work or purchase of right-of-way)?
- Are there any apparent “fatal flaws” that could obstruct moving forward with the planned improvement?
- What is the cost of the planned improvement and how important is it in relation to other projects within the Region?

## 3.2.08 Reasonably Likely Determination – ODOT Written Statement

When a reasonably likely written statement is required from ODOT, the written statement will be provided by the Region Manager in which the affected facility is located. The Region Manager shall consult with region staff to consider the factors noted above (or other relevant factors identified by the region) and provide a written statement to the local jurisdiction that is considering the proposed amendment.[9] It is recognized that the application of the factors noted above and other relevant factors will require the Region Manager to exercise judgment when making a reasonably likely determination.

The written statement to the local jurisdiction shall consist of the following determinations/statements:

- The state highway improvement is included as a planned improvement in a regional or local transportation system plan or comprehensive plan;
- The state highway improvement is not included in state projects covered in **Projects All Amendments Can Rely Upon** (Guideline 3.2.02); and
- In the opinion of the ODOT Region Manager, it is reasonably likely that the state highway improvement will be provided by the end of the planning period.

The factors used by the Region Manager in making a reasonably likely determination shall be stated in the written statement. *Copies of the written statement shall be sent to ODOT's Director and its Transportation Development Division Administrator, and to the Director of DLCD*.

## 3.2.09 Precedential Effect of a Written Statement

A reasonably likely written statement provided by ODOT applies only to the specific proposed amendment for which the written statement is requested and submitted. That written statement is not applicable to any future amendment that might rely on the same planned state highway improvement for purposes of determining significant effect. In short, ODOT must issue a reasonably likely determination for each proposed plan amendment where an applicant or local government intend to rely upon a improvement to the state highway as "reasonably likely."

The purpose of individualized statements is to allow ODOT staff to reassess whether or not the circumstances that led to a reasonably likely determination have changed since a previous statement was issued. For example, a reasonably likely determination may be issued for a proposed plan amendment

[9] As discussed in Section 3.2.14, the Region Manager should not delegate signing the written statement to a region planner or other ODOT employee.

where the applicant or local government commit to support funding of needed improvements. If the planned development or supporting funding does not occur as expected, then it may change ODOT's assessment of whether the project continues to be reasonably likely in the future.

ODOT should note that the reasonably likely determination merely indicates to the local government whether a planned state highway improvement is reasonably likely to be provided by the end of the planning period, in order to enable the local government to determine whether the proposed amendment will significantly affect transportation facilities.

## 3.2.10 Determination of the Applicable Planning Period

The 2005 amendments to the Transportation Planning Rule established "the end of the planning period in the adopted transportation system plan" as the period for the transportation analysis to determine whether a proposed amendment would significantly affect an existing or proposed transportation facility. In some instances, a regional or local TSP may have a planning period of 20 years or longer. In other instances the planning period may be less than the traditional 20 years. If the planning period in the adopted TSP is less than 15 to 20 years, what time period should ODOT use to determine whether a transportation improvement is "reasonably likely" to be provided?

When considering impacts to regional and local (non-state) roadways , the time period to be used to determine significant effects is the time period identified in the local TSP. However, when considering impacts to state highways, this is not necessarily so.

Although state highway improvements may be included in local TSPs, the relevant TSP for state highway facilities is the Oregon Highway Plan. Oregon Highway Plan Action 1F.2 provides*:*

> *"…When evaluating highway mobility impacts for amendments to transportation system plans, acknowledged comprehensive plans and land use regulations, use the planning horizons in adopted local and regional transportation system plans or a planning horizon of 15 years from the proposed date of amendment adoption, whichever is greater"*.

Hence, if a local TSP has a planning horizon that is 18 years out, ODOT would use that 18-year planning horizon as the timeframe for determining whether a planned state highway improvement is reasonably likely to be provided. However, if the local TSP has a planning horizon that is just 8 years out, ODOT would use a 15 year planning horizon as the timeframe for its "reasonably likely" determination, while local transportation service providers would use an 8 year

planning horizon for the facilities they provide. This is because the relevant TSP for non-state facilities is the local TSP, not the Oregon Highway Plan.

The determination of the applicable planning period is a decision made by the local government in its review of the proposed plan amendment. If there is uncertainty about what the applicable planning period of the local TSP is (i.e. if it is not clear from the text of the adopted plan) local governments are generally given discretion to interpret how the plan applies. However, as noted above, the OHP is an applicable TSP, with a minimum planning horizon of 15 years from the date of the amendment for state highways.

## 3.2.11 Transportation Facilities Currently Operating Below Performance Standards

Section 660-012-0060(3) is an entirely new provision in the TPR. It is intended to allow for plan amendments and zone changes in areas where transportation performance standards are currently being exceeded and the proposed development would include mitigating measures that, basically, prevent things from getting worse. The underlying concept is that plan amendments and zone changes that do not measurably worsen an existing congestion problem should be allowed to move forward.

Specifically, Section 660-012-0060(3) added a new analysis standard and methodology for circumstances where:

- an existing transportation facility is already performing below the minimum acceptable performance standard identified in the TSP or comprehensive plan at the time the amendment application is submitted, and
- absent the amendment, planned transportation facilities, improvements and services would not be sufficient to enable the facility to achieve consistency with its minimum acceptable performance standard by the end of the TSP planning period.

There are several significant qualifications that should be considered in applying 0060(3):

- First, it applies only in the specific circumstances noted in the bullets above. Hence, it would not apply if the existing facility currently is performing at or above its identified performance standard, even if the facility is expected to perform below its performance standard by the end of the planning period.

- Second, the provisions of Section 660-012-0060(3) are <u>discretionary</u>, not mandatory. Section 660-012-0060(3) indicates *"Not withstanding section (1) and (2) of this rule, a local government <u>may</u> approve an amendment…"*

(underline added). This means the application of this section is at the option of the local government. There may be times when this provision will benefit ODOT by limiting the impact of a proposed development on state highway facilities. However, there may be times when this provision would provide little overall benefit to ODOT. In such circumstances, ODOT may want to recommend against its use by local government.

- Third, like Section 0060(4), Section 0060(3) includes a provision authorizing ODOT to submit a written statement concurring with the adequacy of any needed mitigation measures. However, should ODOT fail to provide a written statement, the consequences under Section 0060(3) are very different than they are under Section 0060(4): if ODOT does not submit a written statement, local governments may make their own determination about the adequacy of mitigation. Consequently, ODOT should pay close attention to procedures for applying this section of the rule which are described below in 3.2.11.

- Fourth, unlike Section 0060(4) where the written statement focuses on whether planned state highway improvements are reasonably likely to be provided by the end of the planning period, Section 0060(3) focuses on whether proposed funding and timing for identified mitigation measures "are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway."

## 3.2.12 Determination of Failure to Meet a Performance Standard

As an example, assume that a state highway is currently performing at a volume to capacity (v/c) ratio of 0.95. Assume also that the minimum acceptable performance standard for this facility is v/c 0.90 and that, by the end of the planning period with the planned improvements identified in the TSP, the highway would perform at a v/c of 1.05. In this circumstance, the facility currently and in the future (i.e., end of TSP planning period) does not meet the minimum acceptable performance standard of 0.90. Section 660-012-0060(3) may be applied in this circumstance.

In this circumstance a local government might be able to 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 if it determines the following:

- 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; and

- In the absence of the amendment (i.e under existing plan and zoning designations), planned transportation facilities, improvements and services 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.

If these two factors are present, then the local government may approve the amendment when the following conditions are met:

- The 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;
- The amendment does not involve property located in an interchange area as defined in OAR 660-012-0060 (4)(d)(C); and
- 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.

## 3.2.13 ODOT Written Statement on Adequacy of Mitigation Measures

Note particularly the requirement that ODOT provide a written statement. In OAR 660-012-0060(3)(e), 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 (d) of this section. In this regard, Section 0060(3)(e) differs significantly from Section 0060(4)(b)(D). Under Section 0060(4)(b)(D), if ODOT fails to provide a written statement, then the local government **may not** consider planned improvements under OAR 660-012-0060(4)(b)(D and E) in determining whether a proposed amendment will significantly affect an existing or planned transportation facility.

In terms of implementation, a question arises as to the performance standard beyond which an applicant must assure that there is no further degradation to the facility. The TPR amendments provide that in this circumstance, *"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."* (underline added) See OAR 660-012-0060(3)(c).

In the above example, if the existing highway performance is v/c 0.95 at the time of the amendment application and the projected "end of the planning period" performance is v/c 1.05 – does an applicant need to mitigate to 0.95 or 1.05 or at some other level? Since mitigation is tied to "the time of the development", as opposed to "the time of the amendment application", whether or not v/c 0.95 or some higher v/c level applies will depend on whether the development application is submitted concurrently with the amendment application or at some future date. If a development application is filed at the same time as the amendment application, or if it is filed shortly after the amendment and relied upon the traffic analysis submitted with the amendment application, then the applicant would provide mitigation to avoid further degradation to the transportation system based on the 0.95. However, if development is not expected to occur until a year or two later, when the traffic analysis projects that v/c will be 0.97, then the applicant would need to provide mitigation to avoid further degradation to the transportation system based on a v/c of 0.97. Please note that this language is unclear in its application to a phased development. In that instance, "the time of the development" should be considered as the time of the first phase of the development when determining the level of required mitigation.

### 3.2.14 Analysis for Zone Changes in Conformance with Comprehensive Plan Amendments

Under OAR 660-012-0060(1), local governments must review changes to land use regulations, including zone changes as well as comprehensive plan amendments to determine if they would significantly affect existing or planned transportation facilities. A question that has been raised with some frequency is whether this provision applies in all instances. For example, some local governments have argued that zone changes that are consistent with or implement the underlying plan designation do not require review under Section 0060. They tend to assert that the comprehensive plan has already established a particular use is allowed, and that the zone change does not require further review. This is partially correct.

All zone changes need to be reviewed for compliance with Section 0060. Individual zone changes – and other land use regulation amendments - may or may not trigger a "significant effect" on the transportation system. In most cases a zone change or land use regulation amendment results in a "significant effect" if the result of the change is to allow more traffic generation than is allowed under current zoning[10]. For instance, if the Comprehensive Plan designation is Medium Density Residential and the current zoning is R-12 (12 units/acre), does the

[10] Conversely, a zone change or land use regulation amendment that does not have the effect of allowing more traffic than is allowed by the existing zoning or land use regulations is generally considered not to result in a significant affect.

provision apply to a zone change to R-20 (20 units/acre) where the R-20 zoning district also implements the Medium Density Residential plan designation?

The requirement to assess whether a zone change significantly affects a transportation facility applies to all zone changes, whether or not they are consistent with the comprehensive plan. In all instances, findings must be made determining whether there is a significant effect. Because zone changes in conformance with comprehensive plan designations have the potential to increase trip generation over existing zoning, there is no blanket exemption for this kind of zone change.

Still, in certain instances, the required findings for zone changes may be less detailed and extensive. The Land Use Board of Appeals has held that zone changes do not trigger a significant effect under Section 660-012-0060 if they either:

- do not have the effect of allowing more trip generation than the existing planning and zoning; or
- are supported by adequately planned transportation facilities.[11] Where these circumstances exist, a detailed significant effects analysis is not required.

In either case, local governments must make findings that the proposed zone change falls within one of these categories and supported by substantial evidence.

Hence, if a zone change is proposed to reduce the maximum permitted residential density in an area from an existing 20 units/acre to12 units/acre, and if both zones implemented a medium density residential comprehensive plan designation, the local government could find that the zone change reduced trip generation and thus would not significantly effect transportation facilities.

Likewise, if the zone change was to increase the maximum permitted residential density from an existing 12 units/acre to 20 units/acre, but it can be demonstrated that the TSP (1) assumed that the property could be rezoned to any of the zoning districts implementing the medium density residential plan designation, and (2) was developed to accommodate the most intensive level of development permitted under any of the zoning districts implementing that plan designation (including the 20 unit/acre zoning district), the local government could find that the zone change would not affect the assumptions that underlie the TSP and thus not result in a significant effect.

[11] See, e.g., *Mason v. City of Corvallis*, 49 Or LUBA 199 (LUBA No. 2004-152) and *Just v. City of Lebanon*, 49 Or LUBA 180 (LUBA No. 2003-106).

However, if the TSP, when developed, did not assume and plan to accommodate the most intensive uses permitted by any zoning category implementing a specific comprehensive plan designation, then the potential for a significant effect exists and a detailed significant effect analysis must be made. Under OAR 660-012-0060, the analysis must focus on *allowed* land uses rather than *proposed* land uses. Because many TSPs were not developed in this way, local governments often will still need to apply the more detailed analysis to zone changes that conform with the comprehensive plan.

## 3.2.15 Need for a Traffic Study

Issue: Can ODOT require a traffic study when the applicant has failed to prepare one?

Response: ODOT probably cannot require a traffic study, but it can ask for one and tailor its response on whether it receives a study and the sufficiency of the information included in the study. If the information provided in the amendment application is insufficient to allow ODOT to make a reasonably likely determination, it can request that additional information be provided. If no or inadequate information is provided, ODOT should submit a written statement stating that the application does not contain sufficient information to allow ODOT to determine that improvements would be reasonably likely during the planning period. If the application involves OAR 660-012-0060(3), ODOT should submit a written statement saying that the application does not contain sufficient information to allow ODOT to determine that the identified mitigation improvements or measures are sufficient to avoid further degradation to the performance of affected state highways.

Because the preparation of traffic studies takes time, ODOT should request additional time, as needed, to allow for full review and comment of a study.[12]

[12] The 120-day rule, requiring local governments to decide land use applications within or outside urban growth boundaries within 120 or 150 days respectively of the application being deemed complete, *does not* apply to applications for comprehensive plan and land use regulation amendments, but it *does* apply to zone change applications. ORS 227.178(1), 215.427(1). In zone change matters, if ODOT cannot receive needed traffic information in a manner that still allows for timely decision-making, and if the applicant does not agree to extend the 120-day or 150-day rule to provide ODOT with adequate time for review, then ODOT should submit a written statement indicating that because inadequate information has been provided, ODOT cannot conclude that the transportation improvement is reasonably likely during the planning period.

## 3.2.16 Delegation of Signature for Reasonably Likely Determination

Issue: Can the ODOT Region Manager delegate signing an ODOT reasonably likely determination to an ODOT region planner or other ODOT employee?

Response: No. While a region planner will likely have input as to whether a planned state highway improvement is "reasonably likely to be provided by the end of the planning period", the letter providing ODOT's "reasonably likely" determination should be signed by the Region Manager. Because of the nature of the reasonably likely letter and the potential factors that could go into making the determination, the Region Manager may have policy or political knowledge that may influence the content of the letter. As well, having the Region Manager sign each reasonably likely letter will provide a level of continuity and consistency as to how the determination is made and what factors are considered in making a determination, and it will assure greater accountability in the process.

## 3.2.17 Mitigation to Avoid a Significant Effect

Issue: Where transportation improvements are not reasonably likely to occur by the end of the planning period, may an applicant rely on mitigation to avoid a finding of significant effect?

Response: No. As the rule is written, mitigation is used to remedy a significant effect, not to avoid a finding of significant effect. This is clearly indicated by OAR 660-012-0060(1). Under 660-012-0060(1)(c), a local government considers the transportation impacts of the proposed amendment without any added mitigation. If it finds that there is a significant effect, then it considers mitigation under 660-012-0060(2), which requires the local government to "put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity and performance standards *** of the facility."

It is likely that mitigation will exist to remedy a significant effect in many if not most instances. This may lead one to conclude, for that very reason, that the amendment would not have a significant effect. However, that interpretation places the cart before the horse. Under the rule, the correct approach is to first determine that a significant effect exists, and then determine the appropriate mitigation.

## 3.2.18 When Should ODOT provide a Reasonably Likely Determination and who is Responsible for Requesting it?

Issue: Who is responsible for obtaining a reasonably likely determination – the applicant, the local government or ODOT? When is it appropriate for ODOT to prepare and submit a reasonably likely determination?

Response: In many but not all plan or land use regulation amendment or zone change proceedings, an applicant would attend a pre-application conference with the local planning staff to identify the relevant review standards and the information needed to support the application. In matters involving OAR 660-012-0060, this should typically lead the applicant to contact ODOT with a request for a reasonably likely determination. However, in some jurisdictions the local government itself might be the entity contacting ODOT, or it could happen that no one contacts ODOT.

ODOT should respond to a request for a reasonably likely determination only after receiving such a request from an applicant or local government. If the request comes from the applicant, the response should be sent to both the applicant and the local government. If the request comes from the local government, the response should be sent to the local government. If no one contacts ODOT on the matter, ODOT should take no action.[13]

Upon receiving a request for a reasonably likely determination, ODOT should determine whether or not the application would fall under OAR 660-012-0060(3). If it does not, there is no potential harm to ODOT if it fails to respond to the request. However, if it does, ODOT is advised to respond in a timely manner, since a failure to do so could result in adverse consequences to the agency. See Guideline 3.2.10.

## 3.2.19 Can ODOT Rescind a Reasonably Likely Determination?

Issue: Suppose ODOT issues a letter stating that a planned highway improvement is reasonably likely to be provided by the end of the planning period. Can ODOT subsequently rescind that letter?

[13] Under OAR 660-012-00604 (4)(b)(D) and (4)(c)(A), while there is no notice requirement, failure to provide notice to ODOT would work against the applicant's best interests. While ODOT need not respond to an amendment or zone change proposal without first receiving notice, it should monitor the application to make sure that no action is taken contrary to the requirements of the rule.

Response: While it may be highly improbable that circumstances would change in the time that an application is before a local government, it is not impossible. For instance, conditions may occur such that needed federal funding that seemed probable when the letter was written no longer seems probable a month later. For this reason, every letter submitted to local governments should include boilerplate language stating that if circumstances change, ODOT reserves the right to withdraw its reasonably likely determination.

Timing of ODOT's decision to rescind is important. ODOT's reasonably likely letter would typically be part of the written record before the local government as it considers a plan or land use regulation amendment. Once the record is closed, ODOT may not be able to rescind its letter.

## 3.2.20 Implementation of the Town Centers, Regional Centers and Station Areas in the Portland Metropolitan Area

Issue: Local governments in the Portland metropolitan area are undertaking plan amendments and zone changes that implement Metro's 2040 plan to upzone lands in designated town centers, region centers and station areas. Are there additional considerations that apply in these areas?

Response: Metro area staff and local officials expressed concern that new provisions in Section 0060 would be used to block or delay upzoning and plan amendments to implement the 2040 plan as it applies to town centers, region centers and station areas. While the TPR does not include any specific provisions addressing this concern, ODOT staff and OTC Chair Foster committed to support and facilitate plan amendments and zone changes that implement 2040 in these areas. In particular, ODOT and the Commission committed to monitor implementing plan amendments and zone changes to resolve problems and facilitate implementation of 2040. ODOT region staff should be knowledgeable about this commitment and communicate with ODOT TDD staff about any issues that arise so that they can be promptly resolved.

## 3.2.21 State Facilities Included in Systems Development Charge

Issue: Does ODOT need to make a reasonably likely determination where a local government has a funding plan or mechanism in place or approved that applies not only to regional and local roads and other transportation facilities, but also to state highways authorized in a local transportation system plan or comprehensive plan?

Response: For state highways, the determination of whether improvements are reasonably likely to be provided by the end of the planning period is for ODOT rather than a local government to make. A local government cannot avoid this by providing, for example, that some portion of its systems development charge go towards paying the cost of a state highway improvement. Certainly, ODOT can consider the local contribution in determining whether an improvement is reasonably likely to be provided during the planning period. However, the mere fact that the local government will provide some level of funding to a state facility is not controlling on ODOT.

## 3.2.22 SAMPLE LETTER FOR REASONABLY LIKELY DETERMINATION

DATE _____, 2005

Name
Community Development Director
City of Y, Oregon

RE: Plan Amendment from Residential to Commercial

The City of Y is considering proposed amendments that would redesignate and rezone 10 acres of land from residential to commercial. The proposed amendment is located at the intersection of Oak Street, a state highway, and Main Avenue, a local arterial. Pursuant to OAR 660-012-0060(4)(b), the City has written the Oregon Department of Transportation (ODOT) requesting a determination as to whether planned state highway improvements to Oak Street that are included in the City's TSP are:

- Funded for construction or implementation in the Statewide Transportation Improvement Program (STIP);
- Part of the region's federally approved, financially constrained regional transportation system plan *[if City Y is located within an MPO area];* or
- If neither of the above, are reasonably likely to be provided by the end of the TSP planning period.

ODOT offers the following comments in response:

1. Oak St. is a state highway facility and is classified in the Oregon Highway Plan as a Regional Highway and as a Freight Route.
2. The following improvements to Oak St. are included as planned improvements in the City of Y's TSP, which the City adopted using a 2018 planning period:
   - Widening Oak Street from 2 to 4 travel lanes.
   - Channelization improvements (turn lanes) at Oak Street and Main Avenue.
   - Provision of a traffic signal at the intersection of Oak St. and Main Ave.
3. The identified improvements to Oak St. are not included for construction funding in ODOT's Statewide Transportation Improvement Program (C-STIP).

4. The identified improvements to Oak St. are not included in the region's federally-approved, financially constrained regional transportation system plan *[identify the region].*
5. The identified improvements to Oak St. do not have a funding plan or mechanism in place or approved.

Because of this, ODOT offers the following written statement as to whether the identified Oak Street improvements are reasonably likely to be provided (i.e. in place and available) by the end of the planning period. Because the Oregon Highway Plan uses a minimum 15 year planning horizon for state transportation facilities and improvements, and the City's planning horizon local transportation improvements is less than 15 years, ODOT is using a 15-year(2020) planning period in making this determination.

The reasonably likely written statement is intended to be analogous to a service provider letter provided during the review of development actions in many local jurisdictions. That is, it is intended to answer the question: *"Is it reasonably likely to expect that the transportation capacity provided by the planned improvement will be in place and available by the end of the planning period and, therefore, can be relied upon when conducting the traffic analysis that accompanies a proposed amendment application?"*

Based on ODOT's review of the circumstances associated with future improvements to Oak St. it is our opinion that the necessary improvements (identified above) <u>are reasonably likely to occur by the end of the planning period</u> – in this case, by 2020. Region # has evaluated the circumstances and reached this conclusion based on the following factors:

1. The planned improvements are located on a priority type of facility (in this case a key freight connection) that the Region believes would be reasonably likely to receive future funding because of the access it provides to existing and future employment.
2. The planned improvements are located in an area that anticipates high growth and, therefore, may be a high priority area for targeting future transportation revenues.
3. The City of Y has land use regulations that allow the City to impose conditions on future development if such conditions are needed to avoid or remedy a significant effect. ODOT will provide further comments should this amendment result in a specific development request.
4. [Other]

Please note that under OAR 660-012-0060(4)(e), this reasonably likely determination is conclusive (e.g. not rebuttable). As such, the City may consider the planned improvements to Oak St. in determining whether the amendment would significantly affect existing or planned transportation facilities.

This reasonably likely determination does not constitute a commitment on the part of ODOT to fund the planned improvements on Oak St. Further, this written statement applies only to the subject property and only to this specific proposed amendment. It does not apply to any future amendments that may rely upon the same project to avoid a significant effect. Instead, future proposed amendments will require a new written statement from ODOT. This is necessary because circumstances may have shifted from the factors that ODOT considered for this application in making this reasonably likely determination for the planned improvements to Oak Street.

ODOT appreciates the opportunity to provide you with this written statement. ODOT also looks forward to an opportunity to review and comment on the significant effect determination that the City will be making and on the applicant's final traffic impact report once it is prepared and submitted to the City. Please keep us informed on these matters and provide us with the traffic report and staff report when they become available.

While it is unlikely that ODOT would need to do so, ODOT recognizes that conditions could change, and for that reason, ODOT reserves the right to withdraw this reasonably likely determination during the time that the record of this proceeding remains open.

If you have any questions regarding this determination, please call the Region Planner at xxx-xxx-xxxx.

s/Region # Manager

cc. ODOT Director
TDD Administrator
DLCD Director