

CHAPTER 1: Introduction

1.1.00 Purpose of Development Review Guidelines

The Development Review Guidelines (Guidelines) document is a reference handbook intended for use by ODOT staff and others developing proposals subject to ODOT review. The guidelines are intended to document and organize current best practices and to support consistency among the Regions in ODOT's relationships with local governments and with consultants. This is intended to be a living document, to be updated as needed. If any of the supporting materials, particularly the Appendices, appear dated, contact Transportation Development Division (TDD's) development review coordinator (the contact person listed above) to be sure the most current version is available to guidelines users.

The Development Review Guidelines are a compilation of information to help staff respond to local land use and development proposals that affect state transportation facilities. They are also included as Chapter 5 of the Access Management Manual, Volume 1. Chapter 4, Volume 1 of the Access Management Manual focuses on access management issues specifically related to approach permitting under OAR 734-051.

The Guidelines Help Staff:

- Understand the regulatory framework for ODOT's participation in local land use and development review.
- Participate effectively in the local land use process.
- Coordinate internally to formulate a recommendation to a local government.
- Apply the applicable ODOT practices consistently to local land use and development reviews.
- Assess operational, safety and other impacts of a local land use proposal on state transportation facilities.
- Understand the options and the legal bases for ODOT recommendations to local governments.

1.1.01 How to Use the Guidelines

The Guidelines are organized into four chapters.

- Chapter 1 provides an overview of ODOT's Development Review Program.
- Chapter 2 explains the local land use process and gives general tips on working effectively with local partners.

- Chapter 3 explains the technical and policy analysis necessary for ODOT to make a recommendation on a local land use proposal.
- Chapter 4 includes strategies and tips for participating in the local land use decision and building a strong record for a potential appeal.
- The Appendices include technical references and sample response letters to local governments.

1.1.02 Guideline Updates

The ODOT web version of the Guidelines will be updated periodically to keep them current.

It will be important for users of the Guidelines to assist with keeping information current. Please send your comments and updates to your Region development review planner or to the Transportation Development Division Planning Manager.

1.1.03 ODOT Development Review Organization

The Development Review program is administered through ODOT's five region offices throughout the state. ODOT staff responsibility for coordinating internal review of local land use and development proposals varies among regions. In some regions, the District Maintenance staff takes the lead whereas in other regions the Planning staff takes the lead in Development Review coordination with local governments. It is important to become familiar with ODOT's organizational structure for your particular region and to recognize where regional differences are appropriate and where statewide interests require consistent practices.

1.1.04 Why ODOT Participates in Local Land Use Review

The goals of development review are to protect the traveling public's safety and to enable the infrastructure to achieve its full design life. ODOT participates in local land use review to help protect the public investment in the state transportation system by working with local governments to mitigate the impacts of development.

By participating in the local land use and development review process, ODOT works to achieve a balance between the traffic generated by a proposed development and what the transportation system can accommodate.

The need to protect the state transportation system has become more pressing in recent years due to the rate of population growth, especially in the western part of the state, and growth in vehicle miles traveled. The funding for transportation investments has not kept pace with the state's travel demand. The growth in travel demand combined with the revenue shortfall has increased the

need to protect the existing state transportation system and to ensure that development mitigates for its proportional impact.

1.1.05 ODOT Development Review Program Objectives

The objectives of ODOT's Development Review Program are highlighted below:

- Build positive relationships with our local partners, developers, and citizens.
- Provide expertise on the applicable development-related ODOT standards and procedures to local government, property owners and developers.
- Provide professional review of potential transportation impacts of proposed local land use changes and development projects.
- Provide timely and consistent recommendations to local governments based on local criteria and ODOT policies, standards, state statutes and administrative rules.
- Work within the local land use process to obtain mitigation that is linked and proportional to the development's impacts.
- Work with developers and local government(s) to prevent or mitigate new stormwater discharges into state facilities to maintain compliance with ODOT's NPDES permit.
- Help make decisions that strengthen the connection between local land use and transportation, and that enhance community livability.

1.1.06 ODOT Development Review Authority

Coordination with ODOT is required when the state transportation system is affected by a proposed local land use change or development. This includes land uses with and without direct access to a state transportation facility. Key elements of ODOT authority are listed below and Figure 1 illustrates applicable land use and transportation authority. Development review often focuses on impacts to state highways; however, all modes of the state transportation system and attendant facilities are included within the legal framework of ODOT review. This includes consideration of impacts to rail, bike/pedestrian, transit and aviation facilities, and the stormwater systems associated with those facilities.

Statewide Planning Goals and Guidelines

The Oregon Statewide Planning Goals and Guidelines consist of 19 state land use goals and constitute the framework for Oregon's planning program. Oregon's statewide goals are achieved through local comprehensive planning. State law requires each city and county to adopt a comprehensive plan that

complies with the statewide goals. Under Oregon's statewide planning process, transportation issues are addressed primarily under Transportation Goal 12.

To implement the Statewide Planning Goals and local comprehensive plans, local governments must have adopted and acknowledged land development ordinances. They have to make findings of compliance with those ordinances to support the approval of most land use decisions. Local ordinances assume, and Oregon case law has affirmed, that applicants for land use approval have the burden of proof to establish compliance with local regulations, which means that it is their responsibility to provide sufficient information to demonstrate that criteria are met.

Transportation Planning Rule (TPR) - OAR Chapter 660, Division 012

The Land Conservation and Development Commission adopted the Transportation Planning Rule (TPR) in 1991 to implement the Statewide Goal on Transportation. The TPR provides the regulatory framework to integrate land use and transportation planning. The TPR requires a hierarchy of transportation system plans (TSPs) to meet state, regional and local needs. The TPR also requires that local governments provide notice and coordinate with ODOT on potential land use changes that have a significant effect on transportation facilities. Subsection 0060(3) states: Determinations under subsections (1) and (2) of this section [OAR 660-012-0060] shall be coordinated with affected transportation facility and service providers and other affected local governments." The full text of the TPR is located in OAR 660-012-0000 – Transportation Planning.

State Agency Coordination Agreement

Oregon's planning laws not only require that cities and counties comply with statewide planning goals, but also specify that special districts and state agencies conform to the statewide goals. The laws further require that special districts and state agencies carry out their programs in accordance with acknowledged local plans. ODOT's State Agency Coordination Program outlines the legal and procedural interactions between land use and transportation programs to achieve coordination. For further reference see OAR 731-015-0005 – Coordination Rules, which states: "land use programs are carried out in compliance with the statewide planning goals and in a manner compatible with acknowledged comprehensive plans, as required by ORS 197.180 and OAR 660, Divisions 30 and 31". Also see OAR 731-015-0005 for the ODOT State Agency Coordination Rule (SAC).

Oregon Transportation Plan (OTP)

The Transportation Commission adopted the Oregon Transportation Plan (OTP) to guide and coordinate transportation activities and to ensure transportation

planning utilizes the potential of all modes of transportation. The OTP constitutes the statewide transportation system plan under Goal 12 and the TPR. The OTP includes a policy element and a system element.

Oregon Highway Plan (OHP)

In 1999 the Transportation Commission adopted the Oregon Highway Plan (OHP) as a critical element of the Oregon Transportation Plan. The Highway Plan will guide how state highways are developed and managed over the next 20 years.

The Highway Plan Land Use and Transportation Policy addresses the relationship between the highway and patterns of development both on and off the highway. Policy 1B provides for the designation of urban highway segments that meet certain standards as Special Transportation Areas (STAs), Urban Business Areas (UBAs) or Commercial Centers to support planning and management strategies that balance local highway management needs with highway operation standards.

The Highway Mobility Standards set standards for mobility based on volume-to-capacity ratios (v/c) that vary according to highway classification and urban and rural land use types. The v/c standards replace level of service (LOS) standards. Policies and standards in the Highway Plan provide an important context for ODOT review of local land use and development proposals. The major OHP policies pertaining to development review are shown on Table 1.

Department of Transportation, Control of Access – (ORS Chapter 374) and Access Management Rule (OAR Chapter 734, Division 051)

The statute and administrative rule define ODOT standards and procedures to manage access to state highway facilities to the degree necessary to maintain functional use, highway safety, and the preservation of public investment consistent with the 1999 Oregon Highway Plan and adopted local comprehensive plans. Access management issues and procedures are specifically addressed in Chapter 4, Volume 1 of the Access Management Manual.

ODOT NPDES Permit

The NPDES (National Pollutant Discharge Elimination System) permit program is a requirement of the United States Clean Water Act to regulate the discharge of pollutant contaminated water to U.S. waters. As a transportation agency, ODOT is required to obtain MS4 permit coverage for the discharge of polluted stormwater runoff generated from roadways, sidewalks, parking lots, etc. The statewide permit includes all river basins in Oregon. The stormwater management program is designed to reduce or manage the discharge of ODOT

stormwater pollutants to the greatest extent practicable to meet NPDES requirements.

ODOT is responsible for the quantity and quality of stormwater discharged from its facilities. This is relevant to Development Review because local development may contribute to both volumes and pollution loads in the ODOT stormwater facility. ODOT's permit does not cover stormwater from outside of the state right of way, so preventing or mitigating flows from other sources is needed, and should be a part of development review. For examples of outreach materials regarding developers' responsibilities for stormwater management, see Appendix 1, NPDES Outreach Letters. General information on related subjects is available on the ODOT Geo-Environmental Section intranet site.

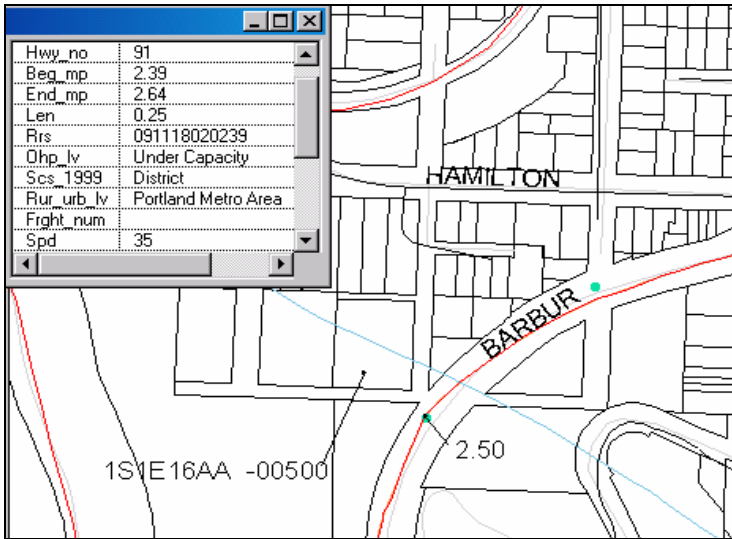
Railroad-Highway Crossing Safety Rules and Regulations of the Rail Division

The relevant statutes and administrative rule define ODOT Rail Division standards and procedures to manage the safety of rail facilities and rail crossings to the degree necessary to maintain functional use, crossing safety, and the preservation of public investment consistent with the 2001 Oregon Rail Plan. Relevant statutes and rule are ORS 823/824 and OAR 741 Divisions 100, 105, 110, 115, 120, 125 and 200. This authority requires a public road authority or railroad to file an application for a Crossing Order with the ODOT Rail Division for permission to construct a new separated or at-grade crossing, make alterations to an existing public crossing, or to close an existing public crossing. The ODOT Rail Division is in agreement with the Federal Railroad Administration in its efforts to close crossings wherever possible. The Division is required by statute to eliminate crossings at grade wherever possible. The Crossing Safety Section is the Rail section that interacts most directly with the development review program.

1.1.07 Geographic Information Systems (GIS): Creating Efficiencies in Development Review

ODOT staff has access to GIS data and mapping resources that are continuously improving and can be used to respond to a development notice and prepare a comment letter faster, with greater accuracy of findings. GIS software creates maps by putting layers of images together at one tax lot, then producing a table of data that show OHP access and level of service standards at a given point. It also can be used to locate milepoints, crash data, STIP projects, speed limits, nearby rail lines, and local zoning districts, and distances can be measured in feet, for example from a property line to an interchange.

Figure 1.1.1 Example: GIS Map Showing Data Table

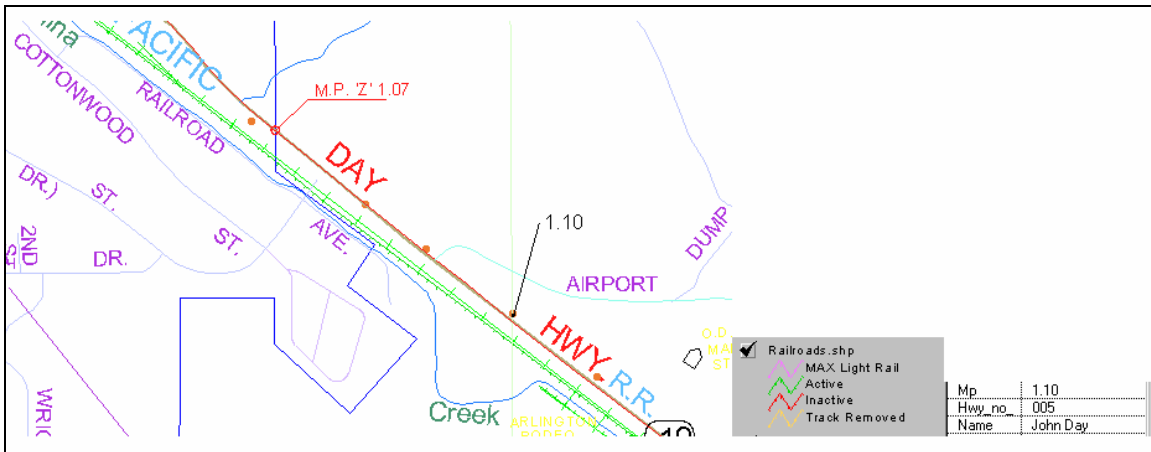


Several systems are in use in 2005, some based on local web sites, desktop databases, and the developing ODOT intranet tools. Region 1 staff use a combination of local taxlot and street data to verify the location of a proposed land use. ODOT data is then overlain for OHP and milepoints.

GIS technology has proven to be a time-saver in Region 1. Frequent updates of the data by local governments and ODOT staff have increased confidence in the data's accuracy.

The technology is evolving, so you should check with ODOT GIS staff before setting up a system for your local office. Region 1 staff expect to continue to refine and upgrade their systems, and will help other Regions identify needs and methods to set up their own systems.

Figure 1.1.2 Example: GIS Map Railroad Layer



Where ODOT intranet is available, see the ODOT GIS Home Page.

1.1.08 ODOT Traffic Manual

For a general overview of ODOT Traffic Engineering practices see the ODOT Traffic Manual. This document is bookmarked alphabetically and cites to the legal authorities for various practices. It is intended for use as a reference document by new ODOT employees and others unfamiliar with ODOT and the relationships among statutes, rules, policies and engineering practices.

1.1.09 Land Use Reference Guide

A helpful resource for understanding Oregon's land use program and local practices from a legal perspective is the Oregon State Bar Continuing Legal Education: Land Use publication available through the Oregon State Library in Salem at 503-378-4198, extension 247. Written primarily for attorneys practicing land use law, the complete 94 volume handbook or just the most recent supplement can be ordered through the OSB Order Desk: 503-684-7413 or 1-800-425-8260, extension 413. This information is current as of September 2004.