



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

District 4 Office

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DATE

VIA CERTIFIED MAIL

ADDRESSEE

Subject: Removal of Unpermitted Approach Within Highway Project Limits
Independence Highway, (OR 51), No. 193 at Milepoint _____
Tax Lot Number _____

Dear Addressee:

The City of Independence with concurrence of the Oregon Department of Transportation (ODOT) is currently engaged in a highway improvement project known as OR51: Stryker Rd. – Polk St. This project will construct sidewalk and curb, install drainage, and install a center turn lane to improve vehicle and pedestrian safety through this section of the city.

You have a road approach located on the Independence Highway (OR 51) at milepoint _____ that accesses your property. **This approach is within the project limits.** The approach has been evaluated in the context of OAR 734-051-0285(5), (Project Delivery). The Region Manager has determined that **this approach shall be closed (removed).**

Application of Administrative Rules

OAR 734-051-0285(5) provides the following instructions regarding removal of approaches:

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

(a) Pursuant to either:

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

(B) An approved Access Management Strategy; and

(b) If necessary to meet the classification of highway or highway segment designation, mobility standards, spacing standards, or safety factors; and
(c) If a property with an approach to the highway has multiple approaches and if a property with an approach to the highway has alternate access in addition to the highway approach.

(d) The determination made under sections (a) through (c) above must conclude that the net result of the project including closures, modifications and mitigations will be that access will remain adequate to serve the volume and type of traffic

reasonably anticipated to enter and exit the property, based on the planned uses for the property.

OAR 734-051-0285(5) was applied to the project in the following manner: ODOT in partnership with City staff developed an Access Management Strategy to address access management issues within the project limits. The following Strategy was approved and was consistently applied throughout the project:

1. Maintain or modify existing driveways.
2. In areas where open frontage to property exists, define approaches by constructing the minimum necessary to service the property.
3. Issue permits for public road approaches that are non-permitted.
4. For properties that have reasonable alternate access that is adequate to serve the current use of the property, close private road approaches (driveways) that meet one or more of the following criteria:
 - a. Voluntary closure by the property owner.
 - b. Adjacent property owners voluntarily agree to a joint (shared) access.
 - c. Field accesses where reasonable alternate access exists.
 - d. Corner properties that have reasonable alternate access from a public side street.

Because your property is located on a corner and you have reasonable alternate access to the property from _____ Street, Strategy criteria number 4(d) was found to apply, which will result in the closure of your approach onto Oregon Highway 51.

A review of ODOT records revealed that the approach that is to be closed was never properly permitted with a valid road approach permit. According to Oregon Revised Statutes, ORS 374.305, no person, firm or corporation, may place, build or construct on any State highway right-of-way, any approach road, structure, pipeline, ditch, cable or wire, or any other facility, thing or appurtenance without first obtaining written permission from ODOT.

If you would like more information about the scope of this highway project, or if you have further questions, feel free to contact me at xxx-xxx-xxxx. If you have information that this approach has been in existence for the current use since 1949, you may have additional rights. Please contact me within two weeks from the date of this letter to discuss these rights or any questions you may have.

Thank you for your prompt attention to this matter.

Sincerely,

Don Jordon
District Manager
ODOT District 3

Cc Alan Fox, Region 2 Project Leader
David Warren, P.E., Region 2 Access Management Engineer
Ann Zeltmann, Hearing Appeals Coordinator, Access Management Program

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