



Oregon

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TO: Land Conservation and Development Commission

FROM: Jim Rue, Acting Director
Matt Crall, Land Use & Transportation Planner

SUBJECT: **Agenda Item 10 – December 7-9, 2011 – LCDC Meeting**

**PUBLIC HEARING AND POSSIBLE ADOPTION
PROPOSED AMENDMENTS TO TRANSPORTATION PLANNING RULES
OAR 660-012-0060**

I. AGENDA ITEM SUMMARY

The commission will hold a public hearing on and may adopt proposed amendments to Transportation Planning Rules (Oregon Administrative Rule (OAR) chapter 660, division 12), especially OAR 660-012-0060 (hereafter “TPR 0060”), which includes requirements for considering the transportation effects of amendments to city and county comprehensive plans, development regulations and zoning maps. The proposed rule amendments are in response to the recommendations of a joint subcommittee of LCDC and the Oregon Transportation Commission (OTC), Senate Bill 795 (2011) and the work of a Rulemaking Advisory Committee (RAC).

For additional information contact Matt Crall, Land Use & Transportation Planner, at 503-373-0050 x272, or matthew.crall@state.or.us.

II. BACKGROUND

In the second half of 2010, the commission heard concerns that the combination of TPR 0060 and highway mobility standards contained in the Oregon Highway Plan (OHP) was having unintended consequences. At the same time, the Oregon Department of Transportation (ODOT) was working on rulemaking to implement House Bill 3379 (2009), which sought to give local governments additional options for complying with the OHP when rezoning to accommodate economic development projects. In recognition of the interrelated nature of the TPR and OHP, the commission appointed three members to serve on a joint-subcommittee with two commissioners from the OTC.

The joint-subcommittee held three meetings to gather information about the issues, including three hours of public testimony, and reviewed over 35 pieces of written testimony. From this testimony the joint-subcommittee concluded that the TPR and OHP lead to unintended consequences as local government try to balance multiple objectives. This was noted especially in two areas: economic development and compact urban development. The joint-subcommittee recommended five highest priority issues to be addressed in amendments to both the TPR and OHP, and recommended that the processes to address both be closely coordinated.

A. TPR Amendments

- A1. Exempt rezonings consistent with comprehensive plan map designations
- A2. Practical mitigation for economic development projects
- A3. Exempt upzonings in urban centers
- A4. Address traffic at time of urban growth boundary (UGB) expansion
- A5. Technical clarifications: transportation system plan (TSP) update and multiple planning periods

B. OHP Amendments

- B1. Exempt proposals with small increase in traffic
- B2. Use average trip generation, not reasonable worst case
- B3. Streamline alternate mobility standard development
- B4. Corridor or area mobility standards
- B5. Standardize a policy framework for considering measures other than volume to capacity ratios (v/c)

The full recommendation is available online at:

<http://www.oregon.gov/LCDC/docs/rulemaking/2009-11/TPR/Recommendation-Final.pdf>

The commission received the recommendation at its April 21, 2011 meeting and agreed to initiate rulemaking. The commission approved appointing the RAC (details in section IV, below) to develop draft rule amendments. OTC received the recommendation at its April 20, 2011 meeting and agreed to initiate an amendment to the OHP.

At the same time, concerns about TPR 0060 and OHP were being presented in the Oregon Legislature. After LCDC and OTC accepted the recommendations from the joint-subcommittee, Senate Bill 795 was enacted (summary in section V below, full text in attachment C). This bill directed LCDC and OTC to address the items listed in the recommendation, and to complete the amendments by January 1, 2012.

The RAC prepared proposed rule amendments (attachment A) that address items A1, A2 and A3 from the joint-subcommittee recommendation by adding three new sections to TPR 0060 and making several changes in existing sections.

The RAC discussed how transportation should be addressed in a UGB expansion (A4) and concluded that the existing rules are appropriate. Under current rules a city is required to complete general transportation analysis as part of evaluating alternative expansion areas, but may choose to defer detailed analysis of traffic congestion. The RAC determined that this flexibility was appropriate and no amendments were needed. The technical clarifications (A5) were not addressed due to the short time available and because they were a lower priority since they are not significant policy issues.

While the RAC was working on amendments to TPR 0060, ODOT was working to develop amendments to the OHP in response to the joint-subcommittee recommendation. ODOT reported regularly on the OHP work to the RAC, and RAC members provided feedback to ODOT. While the RAC was generally supportive of the work on the OHP, it did not participate in the details of drafting the OHP amendments and did not take formal action on the proposed amendments. OTC released a public review draft of the OHP amendments on September 21, and held a hearing November 16. DLCD staff testified in support. ODOT accepted written comments through November 21. A revised draft is anticipated in early December and the OTC will consider adoption of the amendments December 21.

Additional information about the OHP amendments is available online:
<http://www.oregon.gov/ODOT/TD/TP/OHP2011.shtml>

III. DESCRIPTION OF PROPOSED RULE LANGUAGE AND RECOMMENDATIONS

A. Overview of Amendments Proposed by the RAC

The RAC recommends adopting amendments to TPR 0060 that would add three new sections to TPR 0060, and would make significant policy amendments to three existing sections of the TPR. In some sections the RAC did not reach a consensus on a specific policy issue and thus the draft amendment includes options for consideration by LCDC. These issues are described in detail in the following section.

Existing section (1) contains the definition of “significant effect.” It would be amended to clarify that the effects of transportation demand management, or other requirements that reduce trips, are to be calculated before determining if the rezoning would have a significant effect.

Existing section (2) contains a list of potential remedies for a local government to consider when a proposed plan amendment would have a significant effect. A new subsection (e) would allow an improvement to one mode (e.g., improved sidewalk) to address a significant effect to another mode (e.g., motor vehicle congestion). It would also allow an improvement to remedy a significant effect at another location.

Existing section (3) addresses how an applicant for a plan amendment can address a significant effect at a facility that already fails to meet performance standards, and that is projected to continue to fail even without the effect of the proposed local amendment. In this case, the applicant must “avoid further degradation” to the functioning of the facility. Section (3) is proposed to be amended to remove the condition that the facility already be failing, resulting in the “avoid further degradation” standard being based on projected failure (with or without the proposed amendment) irrespective of whether it is failing at the time the amendment is proposed. The RAC agreed with the general intent of amending this section, but did not reach consensus on specific language.

The proposed section (9) clarifies that a rezoning does not have a significant effect if it is consistent with the acknowledged comprehensive plan. The RAC agreed with this general intent, but did not reach consensus on the specifics of how to define consistency with the comprehensive plan – whether it includes the TSP or just the plan map.

Section (10) is proposed as a new section to allow a local government to designate areas where congestion standards would not be applied when reviewing plan and zone amendments. This would make it easier to achieve compact, mixed-use, pedestrian-friendly urban development as encouraged by the overall state land use planning system. The RAC forwarded a consensus recommendation on this section.

Section (11) would be a new section to allow for partial mitigation of transportation effects for a proposed local amendment related to economic development. The RAC agreed with this general intent, but did not reach consensus on the specific definition of economic development.

B. Issues Without RAC Consensus

The RAC resolved most of the policy issues; however, there are four issues where the RAC did not come to a consensus on how TPR 0060 should be amended. These issues are indicated by boxes in the October 25 (Attachment A) draft with numbered options.

The October 25 draft provides some explanation for each option, and notes which option had more support on the RAC. The members of the RAC were chosen to represent a wide variety of interests, but the committee was not formulated to achieve proportional representation of the various interests, which affects the significance of whether the majority of the RAC supported a specific amendment. It will be important for LCDC to evaluate the options independently.

1. Section (3) – Requirements to use the “avoid further degradation” standard

The existing text in section (3) deals with difficulties that can occur when a proposed local amendment would affect a facility that fails to meet performance standards even without the effect of the amendment. The section has a two-part test to define “failing.” Subsection (a) requires that the facility be failing “on the date the amendment application is submitted.” Subsection (b) requires that the improvements that are planned and funded (at least reasonably likely to be funded) would not be adequate to meet performance standards by the end of the planning period. If both tests are met, then the proposal may be approved if it includes enough mitigation to “avoid further degradation...by the time of the development.”

This section is an important provision that prevents a private developer from being held responsible for fixing an existing problem that should be responsibility of the public entity that owns the facility. The RAC decided that this section should be open to a wider set of situations because it allows for proportional mitigation of the direct impacts of a private development. Two options were considered for the specific text to accomplish this, but neither option was supported by the entire RAC.

Option 1 would make two important changes. First, it would redefine “significant effect” so that if a proposed local amendment meets the requirements of section (3), then it would not be

considered to have a significant effect. The current rule allows for approval of the proposed local amendment, notwithstanding whether it would have a significant effect. This was preferred by some RAC members because it could eliminate some of the analysis and projections required to determine the extent of the significant effect.

The second change in Option 1 is to insert the word “or” between the two parts of the test for a failing facility (replacing an implied “and”), so that a proposed local amendment could use section (3) if the facility is failing now *or projected to fail*. Under the current two-part test an applicant seeking to use section (3) could be turned down because the facility has not yet failed. It seems inappropriate to tell an applicant to wait for the facility to fail and then allow section (3) to be used. Option 1 would fix this.

Option 2 does not change the definition of significant effect, but retains the ability of local governments to approve a proposed local amendment even though it has a significant effect. This was preferred by some RAC members because it seemed to be more consistent with the plain meaning of the term “significant effect.”

Option 2 eliminates the first part of the two-part test so that only projected future performance would be measured. This would also eliminate the odd situation of rejecting a proposal because the facility has not yet failed. The key difference would come in a case where the proposed local amendment would significantly affect a facility that is currently failing, but projected to meet performance standards at the end of the planning period because planned improvements are funded, or at least reasonably likely as per section (4). In this case, Option 2 would not allow section (3) to be used. The proposed local amendment could only be approved if it is accompanied by improvements sufficient to ensure that the facility meets the performance standards at the end of the planning period. This would be a proportional improvement since it would be bringing the facility back to the state it was projected to be without the proposed local amendment. The applicant would not be required to fix any pre-existing problems.

The joint-subcommittee recommended Option 2. The department agrees with this recommendation and supports Option 2.

2. *Section (4) – Interstate Interchanges or All Interchanges*

Section (4) defines which potential projects an advocate for a plan amendment may include in the assumptions for future conditions when determining whether the proposed amendment would have a significant effect. The determination of appropriate projects depends on whether project funding is identified or found to be reasonably likely. Subsection (b) provides the general standards, which allow considerable discretion for local governments to make these determinations. Subsection (c) sets special standards for areas near interchanges on interstate freeways that give ODOT additional authority to determine which projects are included in the assumptions.

The proposed new section (10) has a similar dichotomy that generally gives local governments discretion to designate a multimodal mixed-use area (MMA), and gives ODOT additional

authority near interchanges. The new section, however, does not restrict this authority to interstate interchanges, but simply refers to interchanges.

Towards the end of the RAC discussions this inconsistency was noted and some members of the RAC supported Option 1 to change subsection (4)(c) to widen the scope of interchanges where ODOT would exercise additional authority. Other members felt that increasing the scope of state authority over local decisions would be counter to the intent of the this rulemaking project and thus supported Option 2, which would not change the scope of subsection (4)(c). The October 25 draft erroneously labels these members as a majority. In fact, the members were not polled about their view on this issue. It was clear from the discussion that the RAC did not all agree, so the issue was left unresolved.

The joint-subcommittee recommended Option 2 for the same reason that many RAC members supported it. The department agrees with this recommendation and supports Option 2.

3. *Section (9) – Zone map amendments*

The proposed new section (9) responds to a prominent concern raised by local governments to the joint-subcommittee that TPR 0060 requires reanalysis of traffic impacts for proposed rezonings even when the proposal is consistent with the comprehensive plan map designation and the transportation system plan (TSP).

Option 1 addresses this issue with the shortest and most objective standards. It permits a local government to approve a zone change if the new zone is consistent with the comprehensive plan map designation and that the local government has an acknowledged TSP, even if the new zone allows more traffic-intensive uses. It does not require any inquiry into the effects of the zone change or the content of the TSP. This options was supported by many members of the RAC because it is very simple, relies on clear and objective criteria, and respects the status of an acknowledged plan map.

Some members of the RAC were concerned about several possible outcomes of Option 1, and multiple options to address these concerns were considered by the RAC at different meetings, receiving the support of some RAC members.

One significant concern with Option 1 is the situation where the area proposed for rezoning was previously part of an urban growth boundary (UGB) expansion. The rules governing UGB expansions (OAR 660-024-0020(1)(d)) explicitly permit a city to defer the detailed transportation analysis that TPR 0060 would require. To qualify for deferral, the local governments must maintain the prior county zoning or establish a holding zone that does not allow more intense development. The comprehensive plan designation, however, would reflect the purpose for which the land was brought into the UGB. If a city were to add land to the UGB without detailed transportation analysis, and then later rezone the land using the Option 1 version of section (9), transportation analysis would never occur and consideration of whether or how to address significant effects on the system would not take place.

Option 1A was developed to address this specific concern about an area brought into the UGB without transportation analysis. It was added to the draft after the final RAC meeting in response to some members of the RAC who, while supporting Option 1 in general, expressed support for a narrow exception to address the UGB expansion issue.

Beyond the concern about UGB expansion areas, there are other circumstances where the acknowledged comprehensive plan and TSP would not be adequate grounds for a zone change, and thus the broad exemption of Option 1 could cause problems. Many local governments apply a variety of zones (with a range of transportation impacts) within a single comprehensive plan map designation. For example, an “Industrial” comprehensive map designation could be implemented by a heavy industrial zone (low traffic generation), a light industrial zone (more traffic), a business park zone (high traffic) or a hybrid industrial-commercial zone that allows large format retail (very high traffic). Option 1 would allow rezoning between any of these zones without any transportation analysis, even when the traffic analysis in the TSP was based upon the lower level of traffic generation, and the rezoning would allow the highest level.

Another example could be an area that was outside the city limits when the TSP was prepared. The area might have been fully addressed in a TSP with assumptions for future development, in which case exemption by section (9) would be appropriate. On the other hand, development might not have been assumed if the city thought it was not likely to be annexed within the planning horizon. The TSP might not identify any facilities in the area and would not have analyzed the impacts of development. In this case the acknowledged TSP would not be an adequate basis for approving the rezoning.

Option 2 was drafted to address these concerns. Option 2 would include the same two requirements in Option 1 (subsections (a) and (b)), and would add subsection (c) to require that the new zone be consistent with the assumptions regarding traffic generation used when the TSP was developed. If the local government completed the transportation analysis assuming the zone change would take place during the planning period, reanalysis would not be required.

In discussions with the RAC, two major concerns were raised and various revisions of Option 2 attempted to address them. First, there was considerable concern that questioning the TSP is inappropriate because once a plan has been acknowledged, a local government is entitled to rely upon it. It is therefore inappropriate to second-guess what was decided in the TSP. A second concern was that Option 2 was not clear and objective and could lead to additional complication rather than streamlining.

Option 2A was drafted by members of the RAC after the final RAC meeting to address some of these concerns. It uses clear and objective criteria to define consistency. Option 2A gives less deference to the acknowledged plan than Option 2, however. Option 2A would test whether current circumstances match what was projected in the TSP. If they do not match, the local government would not be allowed to rely upon their TSP.

Option 2 does not undermine an acknowledged TSP, but rather supports it. If the TSP assumed that certain types of development would be permitted, then the land can be zoned to permit those

uses. If the TSP assumed some other type of development, then the analysis would need to be done to justify the rezoning. The TSP can be relied upon to justify whatever is in the TSP. The mere existence of a TSP, however, cannot be used to justify zoning contrary to the assumptions of the TSP.

The joint-subcommittee recommended Option 2 because it ensures consistency among plans without questioning the validity of previously acknowledged plans. The department agrees with this recommendation and supports Option 2. This is consistent with the direction of the joint-subcommittee when it forwarded this issue for consideration. The direction was to fix the problem of required reanalysis when the TSP already contained appropriate assumptions to justify the proposed rezone. Option 2 does that. Option 1, and to a lesser extent option 1A, goes farther and could create a different set of problems.

4. *Section (11) – Broader Definition of Economic Development for Smaller Cities*

The proposed new section (11) responds to the concern that the combination of TPR 0060 and mobility standards in the Oregon Highway Plan makes it difficult to rezone land for economic development. Section (11) defines economic development, and then allows “partial mitigation” of the transportation impact if a proposed local amendment meets the definition. The term “partial mitigation” is intentionally undefined because the appropriate level of mitigation would be determined in each situation by the affected levels of government (i.e., city, county and state).

The RAC spent considerable time discussing what should qualify as economic development. The first draft used the phrase “primary jobs” which was defined as “manufacturing, production, warehousing, distribution, or others that create new wealth for the Oregon economy.” This was seen as too restrictive by the RAC, so a later draft used the phrase “traded-sector jobs,” which is defined in ORS 285A.010 as “industries in which member firms sell their goods or services into markets for which national or international competition exists.”

Members of the RAC were concerned that traded-sector industries were unlikely to locate in smaller communities or rural areas, and thus section (11) would be not be effective in much of the state. Thus the word “industrial” was added to be even broader and to be consistent with Senate Bill (SB) 766, which uses the phrase “industrial or traded-sector jobs.” The definition of industrial from SB 766 was added to the draft:

...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.

Some members of the RAC continued to be concerned that this was too narrow and proposed that a broader definition apply in smaller cities. The RAC did not reach a consensus on whether to add this, and thus it is presented as Option 1 in the draft. This option is limited to cities (not counties) below 10,000 in population that are not within a Metropolitan Planning Organization (MPO).

Option 1 would allow two additional categories: “Other Employment Use” and “Prime Industrial Land.” Both of these terms would have the definition from OAR 660-009-0005, which is

included in the Explanations column of the October 25 draft (Attachment A). One of the key additional elements is “widest range of retail... service.” One of the reasons that some members of the RAC supported this option is that providing retail in a smaller city can provide needed jobs and reduce the number of shopping trips to the next larger city.

Option 2 applies the same definition of “industrial or traded sector” to all areas of the state.

The joint-subcommittee discussed the two options, but chose not to make a recommendation. Option 1 was of interest to the joint-subcommittee because one of the key reasons for these amendments was to increase economic development opportunities for smaller cities. At the same time the joint-subcommittee was concerned that development to add retail or service jobs in one city is generally at the expense of jobs in another city, and does not add new jobs to the state. The joint-subcommittee noted that while it is quite reasonable for an individual city to pursue retail or service jobs as a local economic development strategy, it is inappropriate for the state to support the interests of one city over another. The joint-subcommittee also considered that while retail development in smaller cities can reduce highway traffic by reducing the need to travel to nearby larger cities, the reverse can also happen when retailers locate in smaller cities intending to attract shoppers from nearby larger cities.

The joint-subcommittee also considered how these concerns could be mitigated by the coordination requirements in subsection (c) and the concurrence requirement in subsection (b) that give the state the discretion to not apply section (11) to proposed local amendments that do not create a net economic benefit. However, the joint-subcommittee was concerned that including Option 1 in the rule could create false hope in situations that do not ultimately qualify for partial mitigation.

Given the lack of consensus on the RAC and joint-subcommittee, the department suggests a compromise approach to include the broader definition of Option 1 with a sunset clause so that it would be in effect for five years and then be repealed.

C. Revisions after the RAC draft

1. Disclaimer of Additional Funding

ODOT proposes adding a statement to put local governments on notice that they should not expect ODOT to provide additional funding to reduce congestion that could result when a local government uses the new provisions to permit greater development without mitigating the traffic impacts. This disclaimer was not included in the RAC draft only because specific text was not available in time to be discussed at a RAC meeting. The RAC discussed the general concept, and no objections were raised. The joint-subcommittee also supported including a disclaimer, but did not attempt to draft the specific language. A revised draft of with specific disclaimer text prepare by department staff will be available prior to or at the hearing.

2. Corrections and Technical Revisions

The October 25 draft is undergoing legal review and additional staff review. A revised draft with corrections and minor technical revisions will be available prior to or at the hearing.

IV. PROCESS AND PARTICIPATION

The draft amendments to the TPR were prepared by a Rulemaking Advisory Committee (RAC).

Members included:

Nick Arnis, City of Bend	Greg Macpherson (Chair), LCDC
Senator Lee Beyer	Mike Montero, Montero & Associates
John Boyd, Douglas County	Bob Russell, Oregon Trucking Association
Kathryn Brotherton, City of Eugene	Phil Selinger, Willamette Pedestrian Coalition
Marc Butorac, Kittelson & Associates Inc.	Nick Snead, City of Madras
Judith Gray, City of Tigard	Gary VanHuffel, Business Oregon
Heidi Guenin, Upstream Public Health	Mark Whitlow, Retail Task Force
Rob Hallyburton, DLCD	Kevin Young, City of Corvallis
Erik Havig, ODOT	Pat Zimmerman, Citizen Involvement Advisory Committee
Representative John Huffman	
Chad Jacobs, League of Oregon Cities	
Tom Kloster, Metro	
Charlotte Lehan, Clackamas County & LOAC	

The RAC met five times in person from June 1 through September 26 and once by telephone. A subcommittee focused on the multimodal mixed-use areas met once by telephone. After the final meeting members reviewed one more draft to ensure that it captured their decisions and explanations before the public review draft was published on October 25.

While the RAC was the primary method for gathering input on draft rules and distributing information out to interested groups, department staff also attended other meetings to present the work in progress or the public review draft and to listen to feedback. These meetings included:

- July 29 – Metro Transportation Policy Alternatives Committee (TPAC)
- September 12 – Association of Oregon Counties, Community Development & Transportation Steering Committees
- September 15 – Oregon Planning Institute (OPI)
- September 20 – Transportation and Growth Management (TGM) Team Meeting
- September 23 – Metro Transportation Policy Alternatives Committee (TPAC)
- October 14 – Metropolitan Planning Organizations (MPO) & Transit Districts quarterly meeting
- October 19 – Joint meeting of Metro Technical Advisory Committee (MTAC) and Transportation Policy Alternatives Committee (TPAC)
- October 19 – 120-Day Club
- October 25 – Clackamas County Transportation Advisory Committee
- October 28 – Cascades West Area Commission on Transportation (CWACT) Technical Advisory Committee and Corvallis Area MPO Technical Advisory Committee
- November 4 – Oregon MPO Consortium

November 7 – Local Officials Advisory Committee (LOAC)
November 10 – Rogue Valley Area Commission on Transportation (RVACT) *by phone*
November 10 - Workshop on TPR & OHP in Redmond
November 10 – Central Oregon Area Commission on Transportation (COACT)
November 17 – Business Oregon, Business Development Section meeting

In addition ODOT staff presented the proposed OHP amendments along with general information about the proposed TPR amendments at eight additional area commissions on transportation around the state.

V. DECISION MAKING CRITERIA AND PROCEDURES

The criteria for making a decision on the proposed rule amendments include Senate Bill 795 (2011), ORS 197.004, and Goal 12. Brief excerpts are included below and the full documents are attached.

A. Senate Bill 795

SECTION 1. (1) The Legislative Assembly finds that the growth and economic development of this state requires an appropriate balance between economic development and transportation planning....

SECTION 2. (1) The Oregon Transportation Commission and the Land Conservation and Development Commission shall jointly review the administrative rules, plans and associated guidance documents to better balance economic development and the efficiency of urban development with consideration of development of the transportation infrastructure in consultation with local governments and transportation and economic development stakeholders.

B. ORS 197.040 Duties of commission; rules

(1) The Land Conservation and Development Commission shall:

* * *

(b) In accordance with the provisions of ORS 183.310 to 183.550, adopt rules that it considers necessary to carry out ORS chapters 195, 196 and 197. Except as provided in subsection (3) of this section, in designing its administrative requirements, the commission shall:

- (A) Allow for the diverse administrative and planning capabilities of local governments;
- (B) Assess what economic and property interests will be, or are likely to be, affected by the proposed rule;
- (C) Assess the likely degree of economic impact on identified property and economic interests; and
- (D) Assess whether alternative actions are available that would achieve the underlying lawful governmental objective and would have a lesser economic impact.

The procedures for rulemaking by the commission are specified in ORS Chapter 183 and OAR 660-001-0000. The commission must hold a public hearing and provide an opportunity for interested parties to testify on the proposed rule. The commission must deliberate in public and a decision to adopt any or all of the proposals must be affirmed by a majority of the commission.

VI. COMMISSION OPTIONS

The commission will need to make decisions or selections on the following issues:

- Section (3) – Option 1 or 2
- Section (4) – Option 1 or 2
- Section (9) – Option 1, 1A, 2, or 2A
- Section (11) – Option 1 or 2
- Proposed ODOT disclaimer of funding
- Any other revisions suggested in written or oral testimony

After deciding how to handle the issues above, the commission will need to decide whether to adopt the amendment. The department recommends that the commission adopt amendments.

VII. ATTACHMENTS

- Attachment A - Amendments to TPR 0060 – Public Review Draft – October 25, 2011
- Attachment B - Public comments received by November 22, 2011
- Attachment C - Senate Bill 795 (2011)
- Attachment D - Rulemaking Notices

Draft Amendments to TPR 0060

- Public Review Draft - October 24, 2011 -

Within existing sections (1) through (8) additions are underlined and deletions are ~~struck through~~.

Sections 9, 10 and 11 are completely new and thus changes are not shown.

Additional information at www.oregon.gov/LCD/Rulemaking_TPR_2011.shtml

Proposed Rule Text

Explanations

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.

This definition is used in (1)(c).

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:

Clarified that a zoning map is part of land use regulations. Identified exceptions that are described more fully later in the rule.

Moved the description of how to address a significant effect to section (2), which lists corrective actions.

- (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). As part of evaluating projected conditions, the amount of traffic that is 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;

The definition of “significant effect” is clarified so that anything which reduces traffic generation (as opposed to mitigation that adds capacity) may be considered when determining if there is a significant effect. A common approach to reduce or limit traffic generation is known as a “trip cap.” This method typically limits development, rather than directly limiting trips. At the time of rezoning, trips are allocated for each

- (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 at the end of the planning period identified in the adopted TSP 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) 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.~~
- ~~(c)~~Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
- ~~(d)~~ 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.

parcel. At the time of development, size and intensity are limited based on the allocation and projected traffic generation per square-foot.

Some performance standards are met by staying below the threshold, so the language was changed to be neutral about the direction.

The consistency list was moved from section (1) since it deals with how to correct a significant effect, not the definition of a significant effect.

Clarification added to say that corrective action is measured at the end of the planning period (same as significant effect) to allow for phased mitigation. New text added to enable section (11).

Altering designation densities or design requirements and demand management were removed from (2) because they are included in (1)(c) when determining whether there is a significant effect. They can also be used as part of the corrective action for an amendment that has a significant effect, in which case they would reduce the magnitude of the effect and thus reduce the extent of mitigation required in (2).

Proposed Rule Text

Explanations

(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.

Added to allow more flexibility in corrective actions, but only with the approval of the provider (e.g. ODOT if a state highway is affected). For example, an amendment that would cause motor vehicle congestion could be balanced by constructing a sidewalk, adding a bicycle lane to the street, building a parallel connection or improving another intersection on the street.

(3)

The RAC reached a consensus that section (3) should be amended to make it easier to qualify for the reduced mitigation described in (3)(c) of the existing rule (which would be (3)(b) in the amended rule). The RAC did not reach a consensus on how to best accomplish this goal.

Option #1

Notwithstanding sections (1) and (2) of this rule, a local government may ~~find that approve~~ an amendment ~~that~~ would not 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, or;
- ~~(b) 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;

A few members of the RAC preferred Option #1, which would make two changes. The current rule allows approval of a local plan or regulation amendments if it qualifies under (a) through (d), even though it would have a significant effect as defined in (1). Option #2 would redefine significant effect so that a qualifying amendment would not be labeled as a significant effect. The second change would be to replace the implied “and” between (a) and (b) with an explicit “or” so that (3) could be used if either condition were met.

Option #2

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

A broad majority of the RAC preferred Option #2 for two reasons. First, the redefinition of the “significant effect” seemed to be contrary to the

Proposed Rule Text

Explanations

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;~~

~~(a)(b)~~ 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;

ordinary usage of the word effect. If an amendment adds trips and adds capacity, it would seem to have an effect, even if the effect is balanced on net and thus eligible to be approved under this section. Second Option #1 would permit (3) to be used on a facility that is failing now, but will be fixed with funded projects. The rezoning could interfere with those plans to correct the current failing. Option #2 broadens the scope of amendments that would qualify for the provisions of (3) by focusing the qualifications on the projected future conditions (rather than current conditions), which is consistent with planning focus of the TPR. The requirement for mitigation by the time of development would not change.

~~(b)~~ 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;

~~(c)~~ The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and

~~(d)~~ 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.

Only minor changes proposed in (4) for consistency.

Proposed Rule Text

Explanations

- (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

Option #1
This existing section applies a higher level of scrutiny to **interstate** interchanges; whereas, the new section (10) includes all interchanges for special treatment in that section. Some member of the RAC proposed amending this existing text to be consistent with the new (11). This option would remove the highlighted words throughout (4).

Option #2
A majority of the RAC did not support amending (4) to include all interchanges because this would increase the level of state regulation, which would be counter to the overall intent.

Proposed Rule Text

Explanations

- 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 exit off-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) [Transportation facility not a basis for an exception on rural lands]
- 6** In determining whether proposed land uses would affect or be consistent with planned transportation facilities as provided in 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 (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

Changed to be consistent with new text in (10)(b)(E).

No changes proposed in (5).

No changes proposed in (6).
Included here for context.

Proposed Rule Text

Explanations

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 (a);
- (c) Where a local government assumes or estimates lower vehicle trip generation as provided in (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 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 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 (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) [Special provisions for cities without a TSP amending to affect 2 acres of commercial land]

No changes proposed in (7).

(8) A "mixed-use, pedestrian-friendly center or neighborhood" for the purposes of this rule, means:

No changes proposed in (8).
Included here for context.

(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

Proposed Rule Text

Explanations

- 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 (a) 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.

New section added to exempt zone map amendments consistent with comprehensive plan map designation.

Option #1:

- (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.

A broad majority of the RAC supported Option 1 as a “bright line” test that does not evaluate the specifics of an acknowledged TSP.

Option #1A:

- (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.
- (c) The area subject to the amendment was not exempted from this rule at the time of an urban growth boundary amendment as

This variation on option 1 was drafted following the final RAC meeting based on suggestions during the discussion. It would carve out a narrow situation where this exemption cannot be used. The UGB rules in

Proposed Rule Text

Explanations

<p>permitted in OAR 660-024-0020(1)(d).</p>	<p>Division 24 allow an area to be brought into the UGB without detailed transportation analysis because the analysis would be required by TPR 0060 at the time of rezoning. In this situation, subsection (c) would not allow this exemption to be used to completely avoid transportation analysis.</p> <p>OAR 660-024-0020(1)(d): “The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary;”</p>
<p><i>Option #2:</i> (c) The proposed zoning is consistent with the TSP assumptions about development of the area of the proposed amendment. The proposed zoning is not consistent with the TSP if the TSP is based upon an assumption that the current zone would continue or an assumption that the area would remain undeveloped throughout the planning horizon, or if the area was brought into the urban growth boundary without applying this rule as permitted in OAR 660-024-0020(1)(d). A TSP need not include a detailed traffic impact analysis for the specific area of the amendment to be consistent with the proposed zoning.</p>	<p>A few members of the RAC supported including additional provisions to determine whether the proposed amendment is consistent with prior planning in the TSP. Subsections (a) and (b) would be the same as Option #1.</p>
<p><i>Option #2A:</i> (c) The proposed zoning is consistent with the TSP assumptions about development of the area of the proposed amendment. Consistency means: (A) forecast annual daily traffic (ADT) in the acknowledged TSP is within twenty percent of current ADT in the impact area; and (B) the most recent acknowledged population forecast is within twenty percent of actual population of the jurisdiction. (d) The proposed zoning is not consistent with the TSP if: (A) the TSP assumed continuation of the current zone; (B) the TSP assumed the area would remain undeveloped throughout the planning horizon; or</p>	<p>This option was proposed by members of the RAC that supported option 2 following the RAC meeting.</p>

Proposed Rule Text

Explanations

(C) the urban growth boundary was expanded without applying this rule 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.

New section to designate multimodal, mixed-use areas that are exempt from congestion performance standards. Using this exemption would be a two-step process, although the two steps could be combined into a single process and approved at the same meeting.

The first step is to designate an area where this exemption will apply. The requirements for what kind of area qualifies are in (b) and (c). The process to designate the area is in (d), or (e) if zoning changes are needed to qualify.

The second step is to evaluate a proposed upzoning without regard to congestion standards. If the rezoning meets other approval criteria and meets the requirements in (a), then it is approved.

- (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;

Typically an upzoning would be consistent with the definition and function of an MMA. A rezone to reduce the intensity of uses would not be consistent.

(A) through (C) in (8)(b) list the types uses expected in MMA, but obviously each development, and each rezoning will not include all of these uses. (D) through (H) list development standards that would apply to each development within an MMA.

Proposed Rule Text

Explanations

- (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 interchange exit ramp terminal intersection;
 - (ii) within the area of an adopted Interchange Area Management Plan (IAMP) and consistent with the IAMP; or
 - (iii) within one-quarter mile from any interchange ramp terminal intersection 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 near an interchange, 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 bring a vehicle to a full stop from posted mainline speeds.
 - (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

Within an MMA people would not be completely reliant on automobiles; therefore development regulations that mandate parking can be relaxed.

This section addresses interchanges, along with (c) below. Interchanges are the most expensive part of the network, thus the balance of competing objectives shifts somewhat near interchanges. The goal is to ensure safe operation of the interchange throughout the planning horizon because it is unlikely that an interchanges will be rebuilt to accommodate additional traffic.

One-quarter mile from the intersection is consistent with ODOT access management regulations near interchanges (Division 51). Freeway to freeway interchanges do not have terminal intersections and thus would not be included in this requirement, which is appropriate since nearby development would not have any way to affect the freeway.

An agreement could include, trigger points for actions such as adjusting signal timing, access management, extending off ramps, variable speed control, and other traffic system management and operation actions.

This section is intended to prevent a “catch-22” where an

Proposed Rule Text

Explanations

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.

area cannot be designated because it does not have mixed-use zoning, and cannot be rezoned because that would have a significant effect under existing congestion standards.

(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.

New section added to allow balancing economic development benefits with transportation effects. While a majority of the RAC supported this, some RAC members did not want to allow *partial* mitigation. They preferred the *proportional* mitigation in the proposed amendments to (3) and the mitigation options in the proposed new subsection (2)(e).

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

The phrase “industrial or traded sector” and the definition of “industrial” come from SB 766.

(i) For the purposes of this rule, “industrial use” 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.

ORS 285A.010 defines “Traded sector” as industries in which member firms sell their goods or services into markets for which national or international competition exists.

(ii) For the purposes of this rule, “traded-sector” has the meaning given in ORS 285A.010.

(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.

Option #1

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

A majority of the TAC supported a broader definition of economic development for smaller communities. One reason for a broader definition is that smaller communities may be unable to attract traded-sector jobs. Another reason is that an employment use (e.g. retail) could in some cases benefit the transportation system by reducing trips to

(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 within a county where the annual average unemployment rate is greater than the

Proposed Rule Text

Explanations

annual average unemployment rate of the State of Oregon.

nearby larger cities.
OAR 660-009-0005:
(6) "Other Employment Use" means all non-industrial employment activities including the widest range of retail, wholesale, service, non-profit, business headquarters, administrative and governmental employment activities that are accommodated in retail, office and flexible building types. Other employment uses also include employment activities of an entity or organization that serves the medical, educational, social service, recreation and security needs of the community typically in large buildings or multi-building campuses.

...

(8) "Prime Industrial Land" means land suited for traded-sector industries as well as other industrial uses providing support to traded-sector industries. Prime industrial lands possess site characteristics that are difficult or impossible to replicate in the planning area or region. Prime industrial lands have necessary access to transportation and freight infrastructure, including, but not limited to, rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes. Traded-sector has the meaning provided in ORS 285B.280

Option #2 – Consistent definition for all communities, thus no additional subsection for smaller communities.

Other members did not support a different definition for smaller communities because partial mitigation imposes costs to the rest of the state (either in congestion or state funds

Proposed Rule Text

Explanations

	<p>needed to make up the difference) and thus should only be available when there was a net benefit to the state. They felt that some development (e.g. retail) moves jobs from one area to another and thus should not qualify for what amounts to a subsidy from the state.</p>
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(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.

This subsection describes what is different for amendments that meet the definition in (a). The RAC decided it was important to require concurrence from ODOT and the county if their facilities would be affected. Because ODOT is not the state agency responsible for evaluating economic development benefits, there is a requirement to coordinate with Business Oregon.

(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 all affected transportation providers 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 coordination is encouraged throughout the process starting with pre-application meetings. Formal coordination must include notice at least forty-five days before the first evidentiary hearing. Notice must include the following:

- i. Proposed amendment.
- ii. Proposed mitigating actions from section (2) of this rule.
- iii. 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.
- iv. Findings showing how the proposed amendment meets the requirements of subsection (a) of this section.
- v. Findings showing that the benefits of the proposed amendment outweigh the negative effects on transportation facilities.

Land Conservation and Development Commission

Public Comment Received as of November 22, 2011

December 7-9, 2011

From: Elizabeth Graser-Lindsey <egraserlindsey@gmail.com>
Sent: Tuesday, November 15, 2011 10:06 AM
To: casaria.r.tuttle@state.or.us
Subject: Transportation Planning Rule Draft

Dear LCDC Chair and members:

I feel concerned that the draft rule changes are being made in the interest of making it easier to add more daily vehicle trips to roads that existing measures (of flow, of capacity, of accidents, etc) show are failing in the interest of keeping developers developing and in the interest of keeping transportation planners planning. The interest of the general public do not seem to be being served by this effort. In study and survey after study and survey the public says they want liveability which includes good functioning transportation as much as any other factor. We all know that system-wide SDCs are not sufficient to prevent off-site road deterioration or these rule changes would not even be under consideration. These changes are being made without the general awareness of the public or the public's involvement.

This past month I shared my concerns with my county's transportation system planner and he basically told me the public's concerns are not the one's he is directed to deal with or respond to. This isn't right. The big wigs shouldn't be calling all the shots in a democracy leaving the public with clogged up roads when insufficient funds are available to handle capacity increases.

This process seems to be about redefining the meaning of "road failure" so that failing roads will no longer be called failing roads.

A good process would be to ensure the transportation system works properly.

Sincerely,
Elizabeth Graser-Lindsey

From: BARRY Celia <Celia.BARRY@CO.Lane.OR.US>
Sent: Monday, November 21, 2011 4:09 PM
To: 'casaria.r.tuttle@state.or.us'
Cc: 'matthew.crall@state.or.us'; MILLER Marsha A
Subject: TPR update

Please forward these comments to the Chair and Members of the LCDC. Thank you.

Dear LCDC Chair and Other Members of the LCDC,

Please consider these minor comments in your review and consideration of Transportation Planning Rule proposed amendments, on which you will hold a public hearing on December 8, 2011.

Section 9, Option #2A (page 9)

(A) and (B) seem to state that a proposed development is consistent with TSP assumptions if information within the TSP is more or less consistent with current conditions. There is no language connecting the rezone proposal to the TSP references or population references or current conditions, so it needs clarification if this option is chosen. Also, consider whether “consistency” needs to be defined or whether a local jurisdiction can be relied upon to make this determination on their own.

That said, our preference is Option #1 or #1A; there is more clarity in those options.

Section 11(a)(C) (page 12)

Option #1, (C)(iii) states one of the measures of compliance with subsection (a) is that the amendment is located within a county where the average unemployment rate is greater than the statewide rate. I'm unsure what this accomplishes. What if the county has 19% unemployment and the state has 20%; would we want to discourage an amendment (and subsequent development) based upon a requirement that has no clear nexus to whether the development is appropriate? I suggest eliminating this language.

Thank you for considering these comments.

Celia Barry
Manager, Transportation Planning & Traffic
3040 N. Delta Hwy.
Eugene, OR 97408
541-682-6935



Denny Doyle, Mayor

November 15, 2011

Land Conservation and Development
635 Capitol Street NE
Salem OR 97301-2532

Commission Oregon Transportation Commission
1158 Chemeketa Street NE
Salem OR 97301

Dear Commission Members:

Thank you for the opportunity to comment on the Transportation Planning Rule (TPR) and Oregon Highway Plan (OHP) amendments that are proposed for action. The City of Beaverton has participated in the amendment process most recently through Metro and Washington County cities representation on the rulemaking advisory committee.

The City of Beaverton supports Metro's letter of comment and the direction for more flexibility in the Metro region that allows us to better implement the 2040 Growth Concept, the Regional Transportation Functional Plan, and our own acknowledged 2035 Transportation Plan and adopted Civic Plan.

Transportation Planning Rule Amendment Comments

Specifically, we strongly support exempting zone changes that are consistent with an adopted comprehensive plan. This allowance addresses our concerns noted in our February 11, 2011, testimony. We also support that the definition of mixed-use pedestrian-friendly center or neighborhood accepts Metro regional designations because the City has over a decade of planning efforts aimed at implementing these designations. The new provisions will specifically assist rather than hinder its Regional Center downtown development most recently refined in its adopted Civic Plan.

The City of Beaverton also strongly supports the following:

- Establishment of MMAs in interchange areas and designation of the ODOT Region 1 manager as the person best suited to provide written concurrence when interchanges are included in an MMA. The Region 1 manager is most familiar with the challenges and constraints of the highway system, Metro's and cities' transportation plans, and those recent studies that prescribe solutions and fund improvements to better manage the highways.

- 660-012-0060(3) Public Review Draft October 25, 2011: The City prefers Option 2 text as it more consistent with the planning focus of the Rule; projected future conditions rather than current.
- 660-012-0060(9) The City prefers Option 1 that currently states: (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.
- The City will seek to participate in the work that will detail the provisions, procedures, and public notice requirements of MMAs and hopes to incorporate the extensive planning effort already expended on the City's Transportation Plan and Civic Plan where we have already enacted what we believe are functional equivalents of many of the elements of an MMA.
- The City also strongly supports reconciliation and potential consolidation of MMAs and Special Transportation Areas so that jurisdictions may take advantage of such implementation strategies in a comprehensive and effective manner.

Oregon Highway Plan (OHP) Amendment Comments

The City of Beaverton strongly supports the OHP amendments. Specifically, changing Table 7 standards to targets consistent with Metro's Regional Functional Plan Mobility Policy will allow the City to move forward in implementing its Regional Centers and mixed use areas. We agree that mobility needs to be balanced with safety and alternative transportation modes. The City continues to struggle with the impacts of three congested state highways in its downtown Regional Center. With the adoption of our 2035 Transportation Plan based on a multimodal corridor concept, we were able to refine our approach to mitigation to emphasize access management, systems management, and pedestrian, bicycle, and transit solutions. It also allowed us to refine these solutions in our Civic Plan.

The City also strongly supports the following:

- Modify Table 7 **targets** to reflect Metro Code Chapter 3.08 Regional Transportation Functional Plan Table 3.08-2 Interim Regional Mobility Policy, not including the mid-day information. This includes deleting both Areas of Special Concern and the Notes under Table 7 except for new OHP Note A and additional necessary notes from Table 3.08-2 that explain the analysis hours and corridor plans. There should be no mention of maximum v/c ratios as these are now targets.

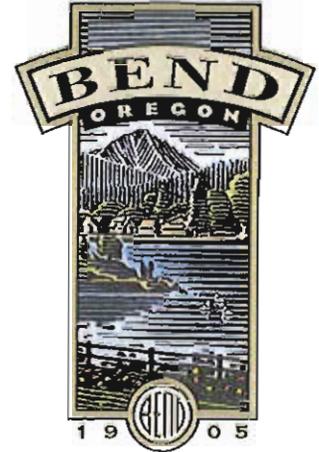
- Adoption of these targets should trigger an organizational change. Changes to the Oregon Highway Design Manual and ODOT procedures, to name a few of the affected areas, should be included in a work program to begin immediately.
- The reconciliation and potential consolidation of MMAs and Special Transportation Areas should be included in this work program.
- Finally, we suggest that the draft revisions to OAR 660—12—60(1)c) would be more clear if re-ordered to read as follows:
“c) Result in any of the following effects based on projected conditions measured at the end of the planning period identified in the adopted transportation system plan (TSP):
 - A) Types of travel.....
 - B) Degraded performance of an existing or planned.....
 - C) Degraded performance of an existing or planned.....As part of evaluating projected conditions.....”

Thank you for this opportunity to comment. We look forward to working with staff to implement these critical provisions in the near future.

Sincerely,



Denny Doyle
Mayor



November 18, 2011

Land Conservation and Development Commission
(LCDC)
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Salem OR 97301-2532

Oregon Transportation Commission (OTC)
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Salem, OR 97301

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Dear Commission Members:

JEFF EAGER
Mayor

Thank you for the opportunity to comment on the Oregon Highway Plan (OHP) Policy 1F and the Transportation Planning Rule (TPR) 060 proposed changes. I would like to thank the Commissions for their open and inclusive process and for inviting City staff to participate on the TPR committee.

JODIE BARRAM
Mayor Pro Tem

OHP Policy 1F Comments

TOM GREENE
City Councilor

The City supports the change from mobility “standards” to “targets”. Targets will allow other factors such as local land use and economic development plans and goals to be better considered when evaluating highway system performance. This change will also open opportunities for a broader range of design and safety solutions for the highways in our region and throughout Oregon.

KATHIE ECKMAN
City Councilor

JIM CLINTON
City Councilor

MARK CAPELL
City Councilor

Exempting land use proposals that will have small increases in traffic is supported by the City. Bend relies on the vitality of our small business which greatly supports the local economy. Minimizing the demands to those types of businesses will improve the local and statewide economies.

SCOTT RAMSAY
City Councilor

ERIC KING
City Manager

Central Oregon will be embarking on the TRIP 97 planning process over the next year. This process will explore innovative ideas and solutions concerning highway performance measures that include mobility standards. We fully anticipate that area and/or corridor mobility targets will be a key outcome of that process. The proposed revisions to the OHP will help facilitate implementation of those alternate targets.

The City also supports the new technical latitude for ODOT in evaluating impacts of plan amendments proportionate to existing conditions. The change will allow facility providers the needed flexibility to support land use

changes that advance local plans, goals and policies and reach practical design solutions for meeting transportation system needs.

There are three areas the City would recommend further analysis and discussion, which is similar to the Bend MPO comments.

1) Page 8, lines 12-13 – Action 1F.1

The draft currently references “mainline speed”. We believe that language should be amended to read “prevailing speeds during peak periods.” Forecasts show heavy traffic volumes on the highways in Bend. Those volumes will result in prevailing speeds being lower than posted speeds. Changing the wording as listed above will ensure that traffic analyses use actual conditions.

2) There is concern that reduced mobility targets may be used to rationalize not planning for, or providing, needed long-term transportation system improvements. This is especially true today when there are significant constraints on the short-term availability of funding. Financial constraints may make it difficult to implement projects in the short-term that are needed to meet long-term land use and economic development goals. We understand and accept this reality. The following language could be inserted in the OHP to address this issue:

Where financial constraints make achieving targets difficult in a limited planning horizon, having a plan horizon beyond 20 years may be needed if its helps achieve long-term economic, land use, and environmental plans, goals and objectives.

3) Please consider and further analyze the apparent lack of consistency between the OHP and the Highway Design Manual. The proposed OHP revisions will exacerbate the differences between the OHP and the Highway Design Manual (HDM) and possibly other ODOT policies. While not necessary for inclusion in the OHP, we would like the OTC to commit to a process to revise the HDM and other implementing documents to ensure better alignment with the OHP.

Transportation Planning Rule Comments

The City is supportive of the process to find ways to improve the 060 TPR sections. The City recognizes and appreciates the time and level of effort that went into the current draft amendments by the ODOT and DLCD staff and the participants on the stakeholder committee. The following are specific comments from City of Bend Transportation and Planning staff concerning Sections 9, 10 and 11.

Section (9)

The City strongly supports the broad majority of the stakeholder committee recommendation for Option #1 concerning the consistency between the comprehensive plan and the zone map. This one change is significant and would greatly clear up the issues about zone changes and transportation impacts. The City encourages the Commissions to simplify the TPR zone change process with this straightforward recommendation.

Section (10)

The proposed new section (10) is an improved option for establishment of urban mixed-use areas rather than going through a TPR analysis under the current rule, which allows for a 10% reduction (and perhaps more in some instances) in projected trips, but still requires the determination of whether there is a significant effect. The City suggests improving the section regarding timing and procedures. The text sets up a two-step process, where the boundary of an MMA is established and acknowledged in advance of an amendment that rezones the MMA, which occurs through a separate, subsequent process. One reading would have the initial step, establishment of the acknowledged MMA, subject to sections (1) and (2) of the TPR; only subsequent plan amendments, after acknowledgement, would be exempt --- this is likely not the intent of this change.

Practically, a local jurisdiction will wrap all needed amendments to a comprehensive plan and its functional components and run them through the public adoption process at the same time. For example, an MMA would be created by adopting comprehensive plan policy and map amendments at the same time as the zoning code text and map amendments that create and apply MMA zoning districts, with appropriate development standards insuring consistency with the definition of an MMA.

A one-step process makes more sense because interested parties, the service providers with jurisdiction over surrounding transportation facilities, the appointed and elected review bodies and DLCDD will likely want to see the plan policies and zoning regulations at the same time as determining the boundaries of the MMA. The proposed text allows this approach in subsection (e), but since the one-step process is more likely, the rule should be written in anticipation of this upfront. Please see City recommended text edits below.

Other comments relate to the standards in the first paragraph of section (10) regarding safety, network connectivity and freight accessibility --- it is uncertain how these would be evaluated at the time that an MMA is established. They are site development or public improvement standards that will be evaluated at the time of development. In the recommended edits below these standards are moved to subsection (E) under the definition of an MMA which will require that

the MMA regulations take these factors into account and apply appropriate measures at the time of development.

Finally, subsection (c) gives a "mainline" provider substantial discretion with only direction as to what to "consider." There is an option for an agreement between the provider and the local government if issues are encountered but doesn't give clear guidance on what must occur to make sure an agreement can be reached. Better guidance and incentives to encourage agreement from the provider would be an improvement to this section.

Suggested edits to Section 10 in strikeout/replace format on the October 25, 2011 Public Review Draft

(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 adopted 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 is consistent with the definition of an MMA as described below; and or
 - (B) is a map or text amendment creating an MMA and is consistent with the definition of an MMA as described below. ~~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 or will be submitted to DLCD for acknowledgement;
 - (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 alternately, 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) that has development regulations that ensure 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; and

(F) (E) located in one or more of the categories below:

- (i) at least one-quarter mile from any interchange exit ramp terminal intersection;
 - (ii) within the area of an adopted Interchange Area Management Plan (IAMP) and consistent with the IAMP; or
 - (iii) within one-quarter mile from any interchange ramp terminal intersection 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 near an interchange, 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 bring a vehicle to a full stop from posted mainline speeds.
- (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 amendments to the comprehensive plan and/or land use regulations to delineate the boundary of the MMA and to put in place policies and regulations necessary for the amendments to meet the definition of an MMA following an existing zone, multiple existing zones, an urban renewal area, other, or establishing a new boundary. The designation amendments 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.~~

Section (11)

The following comments pertain to the proposed additions found in 660-012-0060 (11). An overarching comment is to provide more specific, objective, and measurable definitions of new terms utilized in proposed language. Subjective terms will become the basis for legal appeals, thus reducing or eliminating the benefits that are desired. The City realizes this was a difficult section for the stakeholder committee to create and review. The following is intended to help the discussion.

For example, terms such as “create direct benefits,” “net developable area,” should be further defined. Please consider that “Direct benefits” may be worth defining or striking since it is an operative term. “Net developable area” should be further defined to include the area of the site or building, and what qualifies as being removed from gross acreage or building area to arrive at the net developable area.

The exclusions in sub-section (C) are well meaning, but may contribute to additional congestion along corridors in large and small communities, and thus, may negatively impact regional mobility as a whole. One way to address this would be to decrease the size of the population to 5,000 so that fewer communities qualify for the exception. Another way to mitigate this potential consequence is to limit the number of exceptions granted under sub-section (C) within a region or county. Yet another mitigation measure may be to require some percentage of the employment to be “industrial” or “traded sector” as in sub-section (A). If this sub-section is preserved as is, we recommend further defining the number of years the annual average unemployment rate must be calculated. For example, is it only one year, or multiple years to meet this requirement? We suggest adding a requirement to (iii) so that the annual average unemployment rate in the county is greater than the state average for two or three years. It may also be advisable to cite the required data source for such a calculation such as the Oregon Employment Department’s publications containing unemployment rates.

Language in (b) is could be tied up in litigation, and may be difficult to implement for time sensitive economic development projects. The Commissions and staff should review carefully the requirement that the “local government determines that the benefits outweigh the negative effects on local transportation facilities” for precision and objectivity. For instance, specify what this benefit cost analysis contains such as objective measures of benefits (estimated value of improvements) or numbers of employees, demonstrated average wages, or construction costs to demonstrate “benefits.” Likewise, objective measures for transportation improvements could be established like the construction of multi-modal improvements such as sidewalks, trails, bike lanes, transit stops, or projects that improve a defined system

performance. The need for flexibility is certainly warranted however without some objective measures there could be costly and subjective benefits/cost analysis, and this could enable opponents of projects to object to the analysis, conclusions, and create a basis for appeal.

Similarly, "coordination" as used in (b) and (c) is not well defined and vague. Necessitating coordination with such a large number of state agencies also invites conflict and creates grounds for appeal. Coordination with DLCD and ODOT is already allowed in the land use application process, and is redundant. Using terms such as "all transportation providers" is overly broad and difficult to recognize what and who are transportation providers. In any controversial project, it is likely that each entity mentioned in (c) will have different positions and desired outcomes, and that resolving differences of opinion regarding whether proposed amendments meet the definition of "economic development" and "how it would affect transportation facilities and the adequacy of proposed mitigation" would be practically impossible. We recommend striking all of (c) for these reasons. If the language is preserved, we recommend making a clear statement that "Agreement is not required as a result of coordination."

Thank you for the opportunity to comment and look forward to the further discussion and hearings on the topics.

Sincerely,



Eric King, City Manager



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November 21, 2011

Chair and Members of the Land Conservation and Development Commission
c/o Casaria Tuttle
635 Capitol St NE, Suite 150
Salem OR 97301-2540

Dear Chair and Members of the Land Conversation and Development Commission,

I am the Assistant City Attorney for the City of Eugene and a member of the TPR Rules Advisory Committee (RAC).

Thank you for allowing me to serve as a RAC member; it was pleasure working with the other members of the RAC, as well as with DLCD and ODOT staff. Many hours and a great deal of thought were put into the TPR amendments that you will be discussing on December 8. Please consider my comments regarding the proposed amendments as you deliberate over the changes.

Generally, I support the package of TPR amendments recommended by the RAC. Had I been the sole author of the amendments, I would have written some of the proposed revisions differently and I would have made some different policy choices. That said, as a whole, the RAC's recommended TPR amendments are a good step forward in addressing some of the concerns that a wide variety of individuals and local governments have with the current TPR.

As you can see by the options provided in the October 25, 2011, Public Review Draft of the TPR amendments ("October 25 Draft"), there were some issues on which the RAC members could not reach unanimous agreement. Notably, for every issue where there was a divergence of opinion, a clear majority position emerged. The October 25 Draft identifies the options that have the support of the RAC majority. For those amendments where options are provided, **I strongly urge this Commission to adopt the proposed TPR amendments that are supported by a majority of the RAC members.**

- OAR 0060-012-0060(9) – Zone Changes Consistent with Existing Comprehensive Plan Map Designations

The vast majority of RAC members, including me, recommend that the TPR be amended to allow local governments to conclude that changes to a property's zoning does not significantly affect an existing or planned transportation facility if the proposed zone change is consistent with an existing comprehensive plan map designations and if the local government has an acknowledged TSP. This recommended amendment is identified as **Option #1** in the October 25

Draft. (See Attachment A to this Letter, Pages 8-9 of October 25 Draft.) Option #1 (and even Option #1A) is preferable over Option #2 or Option #2A for a number of reasons, including Options #1's clarity, simplicity and recognition that local governments' have the necessary knowledge of their own comprehensive plans and transportation system plans.

Both Options #2 and #2A are flawed to such an extent that adoption of either option would likely render this proposed new section useless. Significantly, demonstrating compliance with Option #2 is far too dependent on subjective conclusions; these subjective conclusions make any decision under Option #2 vulnerable to legal challenge, potentially tying up a local government's decision, and a landowner's ability to use the land, in the courts for years. Option #2A is difficult to decipher, this option was not discussed at the RAC and the intent of the option is unclear. As proposed, consistency between a proposed zone and an adopted TSP hinges on the TSP's forecasted ADT *and* the population forecast for the jurisdiction. Thus, adoption of Option #2A could result in a local government having to conclude that a proposed zone is "inconsistent with the TSP" even if the zone is anticipated (and accommodated) by an acknowledged TSP.

Unlike Options #2 and #2A, Option #1 allows a local government to eliminate a *third*, unnecessary, layer of review. Local governments should have the authority to remove the TPR as an impediment to a zone change that is consistent with the local government's adopted and acknowledged comprehensive plan designation and TSP; the comprehensive plan and TSP having gone through a rigorous adoption and acknowledgment process. Additionally, OAR 660-012-0015(4), requiring that local governments adopt regional and local TSPs as part of their comprehensive plan seemingly negates any need for the additional requirements proposed in Options #2 and #2A. As part of a local government's comprehensive plan, the TSP must be consistent with all elements of the comprehensive plan, including the plan map designations. Acknowledgment of a local government's TSP should be the only proof needed for a local government to exercise its discretion and find that a proposed zone change that is consistent with the comprehensive plan does not significantly affect any transportation facilities.

It is my understanding that, at the urging of staff, the OTC-LCDC Joint Subcommittee is recommending adoption of Option #2. Option #2 was rejected by a majority of the RAC and for the reasons set forth above, **I urge the Commission to adopt Option #1.**

- "Disclaimer" Language Proposed by ODOT Staff after the RAC Meetings Ended

The RAC's last meeting was held on September 26, 2011. On October 14, 2011, RAC member and ODOT staff Erik Havig sent an e-mail to the RAC members proposing an additional revision to OAR 660-012-0060(1). (See Attachment B to this letter, 10/14/11 E-Mail from E. Havig). I raised concerns with the proposed revision, stating in an October 19, 2011, e-mail:

All,

I wanted to comment on the proposed addition to 0060(1). While I may be supportive of some language added to Section (11) that addresses transportation impacts that may go unmitigated if the Section (11) is used, for a number of reasons, I'm not supportive of adding the proposed language to 0060(1) that cautions use of (9), (10) and (11).

As I recall the discussions at the RAC, most of the concern around transferring transportation improvement responsibility to others was raised during discussions of Section (11). While Section (11), which would allow for partial mitigation in certain circumstances, could be seen “as a trade-off to better achieving other objectives,” I don’t view Sections (9) and (10) as being based on comparable “trade-off” premises. Among other important reasons for Sections (9) and (10), I see proposed Section (9) as recognizing the legal status of an acknowledged comprehensive plan and acknowledged TSP and I see proposed Section (10) as recognizing that mixed-use development within identified multi-modal areas could/will result in fewer vehicular trips, increased use of other transportation modes and an overall benefit to the transportation system (as compared to other types of development).

My concern is that adding a blanket “caution” to 0060(1) would undermine the varying reasons that the RAC members have for proposing Sections (9) and (10).

It is my understanding that at the November 16, 2011, joint OTC-LCDC subcommittee meeting, ODOT distributed to the subcommittee its proposed revision to OAR 660-0120-0060(1), as well as an **additional** proposed revision to OAR 666-012-0060(10)(c) and 11(b). It is also my understanding that the joint subcommittee was generally supportive of these proposed revisions. I strongly urge this Commission to not revise the TPR in the manner proposed by ODOT. In addition to the concerns that I set forth in my October 19 e-mail, ODOT’s proposed “disclaimers” are unnecessary commentary that do not belong in the TPR.

In summary, I urge the Commission to adopt revisions to the following TPR provisions as set forth in the October 25, 2011, Public Review Draft of the TPR Amendments:

OAR 660-012-0005
OAR 660-012-0060(1)
OAR 660-012-0060(2)
OAR 660-012-0060(3) – Option #2
OAR 660-012-0060(4) – Option #2
OAR 660-012-0060(9) – Option #1
OAR 660-012-0060(10)
OAR 660-012-0060(11) – Option #1

Thank you very much for your consideration.

Sincerely,



Kathryn P. Brotherton
Assistant City Attorney, City of Eugene

<i>Proposed Rule Text</i>	<i>Explanations</i>
<p>as a transit oriented development or a pedestrian district; or</p> <p>(D) An area designated as a special transportation area as provided for in the Oregon Highway Plan.</p> <p>(b) An area other than those listed in (a) which includes or is planned to include the following characteristics:</p> <p>(A) A concentration of a variety of land uses in a well-defined area, including the following:</p> <p>(i) Medium to high density residential development (12 or more units per acre);</p> <p>(ii) Offices or office buildings;</p> <p>(iii) Retail stores and services;</p> <p>(iv) Restaurants; and</p> <p>(v) Public open space or private open space which is available for public use, such as a park or plaza.</p> <p>(B) Generally include civic or cultural uses;</p> <p>(C) A core commercial area where multi-story buildings are permitted;</p> <p>(D) Buildings and building entrances oriented to streets;</p> <p>(E) Street connections and crossings that make the center safe and conveniently accessible from adjacent areas;</p> <p>(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;</p> <p>(G) One or more transit stops (in urban areas with fixed route transit service); and</p> <p>(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.</p>	
<p>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.</p>	<p>New section added to exempt zone map amendments consistent with comprehensive plan map designation.</p>
<p><i>Option #1:</i></p> <p>(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map.</p> <p>(b) The local government has an acknowledged TSP.</p>	<p>A broad majority of the RAC supported Option 1 as a “bright line” test that does not evaluate the specifics of an acknowledged TSP.</p>
<p><i>Option #1A:</i></p> <p>(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map.</p> <p>(b) The local government has an acknowledged TSP.</p> <p>(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).</p>	<p>This variation on option 1 was drafted following the final RAC meeting based on suggestions during the discussion. It would carve out a narrow situation where this exemption cannot be used. The UGB rules in Division 24 allow an area to be brought into the UGB without</p>

Proposed Rule Text

Explanations

	<p>detailed transportation analysis because the analysis would be required by TPR 0060 at the time of rezoning. In this situation, subsection (c) would not allow this exemption to be used to completely avoid transportation analysis.</p> <p>OAR 660-024-0020(1)(d): “The transportation planning rule requirements under OAR 660-012-0060 need not be applied to a UGB amendment if the land added to the UGB is zoned as urbanizable land, either by retaining the zoning that was assigned prior to inclusion in the boundary or by assigning interim zoning that does not allow development that would generate more vehicle trips than development allowed by the zoning assigned prior to inclusion in the boundary;”</p>
<p><i>Option #2:</i></p> <p>(c) The proposed zoning is consistent with the TSP assumptions about development of the area of the proposed amendment. The proposed zoning is not consistent with the TSP if the TSP is based upon an assumption that the current zone would continue or an assumption that the area would remain undeveloped throughout the planning horizon, or if the area was brought into the urban growth boundary without applying this rule as permitted in OAR 660-024-0020(1)(d). A TSP need not include a detailed traffic impact analysis for the specific area of the amendment to be consistent with the proposed zoning.</p>	<p>A few members of the RAC supported including additional provisions to determine whether the proposed amendment is consistent with prior planning in the TSP. Subsections (a) and (b) would be the same as Option #1.</p>
<p><i>Option #2A:</i></p> <p>(c) The proposed zoning is consistent with the TSP assumptions about development of the area of the proposed amendment. Consistency means:</p> <ul style="list-style-type: none">(A) forecast annual daily traffic (ADT) in the acknowledged TSP is within twenty percent of current ADT in the impact area; and(B) the most recent acknowledged population forecast is within twenty percent of actual population of the jurisdiction. <p>(d) The proposed zoning is not consistent with the TSP if:</p> <ul style="list-style-type: none">(A) the TSP assumed continuation of the current zone;(B) the TSP assumed the area would remain undeveloped throughout the planning horizon; or(C) the urban growth boundary was expanded without applying this rule as permitted in OAR 660-024-0020(1)(d).	<p>This option was proposed by members of the RAC that supported option 2 following the RAC meeting.</p>

From: HAVIG Erik M <Erik.M.HAVIG@odot.state.or.us>
Sent: Friday, October 14, 2011 5:31 PM
To: CRALL Matthew; PLAMBECK Andrew * GOV; HOUCK Angela; HOLMSTROM Bill; cbrehmer@kittelton.com; cjacobs@orcities.org; clehan@co.clackamas.or.us; CStephens@ci.bend.or.us; HORMANN Dale; dono@ci.hillsboro.or.us; FISH Gary; gary.vanhuffel@biz.state.or.us; ghmacpherson@stoel.com; heidi@upstreampublichealth.org; BOHARD Jerri L; RUE Jim; jjboyd@co.douglas.or.us; joshua.namore@oregonmetro.gov; judith@tigard-or.gov; BROTHERTON Kathryn; kevin.young@ci.corvallis.or.us; lludwig@orcities.org; PETERSON Lynn * GOV; MAnderson@perkinscoie.com; CRALL Matthew; mbutorac@kittelton.com; ROCK Michael D; montero-associates@charter.net; MRobinson@perkinscoie.com; MWhitlow@perkinscoie.com; NArn@ci.bend.or.us; nsnead@ci.madras.or.us; patz99@centurytel.net; REP Conger; REP Huffman; WHITMAN Richard M * GOV; HALLYBURTON Rob; FREEMAN Robin; russell@ortrucking.org; selingep@gmail.com; SEN Beyer; SHIPSEY Steve; HOGUE Thomas; tom.kloster@oregonmetro.gov
Cc: SMITH Elaine * Lainie; RAHMAN Lidwien
Subject: RE: Comments to Draft TPR for Sept 26 RAC

Matt and RAC Members,

I would like to pass along a comment on the draft TPR language that builds off of some discussions we had at earlier RAC meetings.

Several RAC members have commented that the new language either transfers the responsibility for addressing the transportation needs to others, or has the overall "costs/impacts" caused by the additional traffic bared by all users of the transportation system - as a trade-off to better achieving other objectives. At the last meeting, I brought this issue into more light, but did not yet have specific language to propose for the Rule. I believe that it is important to be upfront in the TPR that plan amendments taking advantage of either the new exemptions in Sections (9) or (10), or the options for practical/partial mitigation in Section (11), should be considered with a mutual understanding that state highway improvements to reduce the resulting congestion and improve traffic mobility issues in the subject area are not expected. The planning decisions made under these sections are a mutual policy choice that the broader objectives being considered outweigh traffic mobility considerations on the facility in the subject area.

I think that language making this understanding more clear can be either up front in Section (1) of the Rule (as we provide as one option below) or it can be addressed individually in Sections (9), (10) and (11). Exemptions from traffic mobility considerations for areas where zone changes may not be tied to earlier traffic analysis/assumptions (per one option discussed by the RAC), in multimodal mixed use areas, and in areas considering partial mitigation are directly applicable to increases in traffic on transportation facilities in a specific area and should be considered in the context of the new language.

I appreciate consideration of this language and expect that ODOT will comment on the proposed TPR amendments on this subject.

Sincerely,

Erik Havig

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

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 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. Amendments allowed under section (9), (10) or (11) of this rule should be considered with a mutual understanding that state highway improvements to reduce resulting congestion and improve traffic mobility issues in the subject area are not expected. A plan or land use regulation amendment significantly affects a transportation facility if it would:

From: Crall, Matthew [mailto:matthew.crall@state.or.us]

Sent: Tuesday, September 20, 2011 5:49 PM

To: PLAMBECK Andrew * GOV; HOUCK Angela; HOLMSTROM Bill; cbrehmer@kittelson.com ; cjacobs@orcities.org ; clehan@co.clackamas.or.us ; CStephens@ci.bend.or.us; HORMANN Dale; dono@ci.hillsboro.or.us; HAVIG Erik M; FISH Gary; gary.vanhuffel@biz.state.or.us ; ghmacpherson@stoel.com ; heidi@upstreampublichealth.org ; BOHARD Jerri L; RUE Jim; jjboyd@co.douglas.or.us ; joshua.naramore@oregonmetro.gov ; judith@tigard-or.gov ; Kathryn.Brotherton@ci.eugene.or.us ; kevin.young@ci.corvallis.or.us ; lludwig@orcities.org; PETERSON Lynn * GOV; MAnderson@perkinscoie.com; CRALL Matthew; mbutorac@kittelson.com; ROCK Michael D; montero-associates@charter.net ; MRobinson@perkinscoie.com; MWhitlow@perkinscoie.com; NArniss@ci.bend.or.us ; nsnead@ci.madras.or.us ; patz99@centurytel.net ; REP Conger; REP Huffman; WHITMAN Richard M * GOV; HALLYBURTON Rob; FREEMAN Robin; russell@ortrucking.org; selingep@gmail.com; SEN Beyer; SHIPSEY Steve; HOGUE Thomas; tom.kloster@oregonmetro.gov

Subject: Draft TPR for Sept 26 RAC

The attached draft is for discussion at the next Rulemaking Advisory Committee meeting.

The meeting will be held Monday September 26, 1:00 PM to 4:30 PM in Salem with teleconference options. An agenda will be distributed later this week.

-Matt

Matt Crall | Land Use & Transportation Planner
Transportation & Growth Management Program
Oregon Dept. of Land Conservation & Development
635 Capitol Street NE, Suite 150 | Salem OR 97301-2540
Office: 503-373-0050 ext. 272 | Cell: 503-871-2401
matthew.crall@state.or.us | www.oregon.gov/LCD/TGM



Forest Park Neighborhood Association
C/O Neighbors West Northwest
2257 NW Raleigh
Portland, Oregon 97210

November 21, 2011

Oregon Transportation Commission
1158 Chemeketa Street NE
Salem, OR 97301

Land Conservation and Development Commission
635 Capitol Street NE
Salem, OR 97301

Re: Proposed Revisions to Oregon Transportation Planning Rule 0060
and Oregon Highway Plan Policy 1F (Mobility Standards)

Dear Commission Members,

We appreciate the opportunity for the community to comment on the proposed amendments to the Transportation Planning Rule (TPR) 0060 and the Oregon Highway Plan (OHP) Policy 1F.

Forest Park Neighborhood Association (FPNA) is chartered by the City of Portland. Our neighborhood is located in the hills northwest of urban Portland, an area with many natural resources and steep hills surrounding the 5000 acres of Forest Park. We have a strong interest in supporting land use policies that make efficient and effective use of the land inside the UGB, that provide greater opportunities for economic development, and that reduce development pressures outside the UGB. We support smart redevelopment that upgrades basic infrastructure for existing urban communities while providing more amenities within walking distance of existing homes and businesses.

We thus support the proposed changes to the TPR and OHP. These changes will help the Portland metropolitan region to accommodate population growth in more efficient ways. They can also help reduce greenhouse gas emissions by encouraging thoughtful mixed-use development and redevelopment, and by encouraging development of multi-modal corridors, a policy direction supported by the 2035 Regional Transportation Plan.

We concur with comments from Metro and City of Portland. We hope that you will give serious consideration to specific changes suggested by City of Portland.

Thank you for your thoughtful work on these issues. We look forward to adoption and implementation of these important changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Grossnickle". The signature is written in a cursive, flowing style.

Jerry Grossnickle, President
Forest Park Neighborhood Association

CITY OF HILLSBORO



DEPT OF

NOV 09 2011

LAND CONSERVATION
AND DEVELOPMENT

November 9, 2011

Land Conservation and Development Commission
635 Capitol Street NE
Salem, Oregon 97301-2532

Oregon Transportation Commission
1158 Chemeketa Street NE
Salem, Oregon 97301

RE: TPR and OHP Rule Amendments

Dear LCDC and OTC Commissioners:

With great interest, the City of Hillsboro has followed the formation of proposed amendments to the Oregon Transportation Planning Rule (TPR at OAR-660-012-0060) and Oregon Highway Plan (OHP). We strongly support these amendments as currently drafted and proposed for adoption.

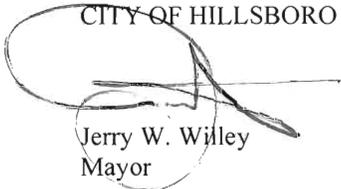
The amendments will improve our ability to implement Region 2040 Great Community concepts that are incorporated in Hillsboro's adopted AmberGlen Community Plan, draft South Hillsboro Community Plan and proposed Tanasborne-AmberGlen Regional Center Plan.

We especially support creation of "multi-modal mixed-use areas" (MMAs) in the TPR. They will enable adoption of City zoning that will help our community develop vibrant, mixed-use employment and residential centers. MMAs will complement established Special Transportation Area (STA) provisions in the Oregon Highway Plan, thus allowing for an even broader use of the concept in the Portland Region's centers, corridors and main streets.

We strongly support the overall shift in the proposed TPR and OHP amendments from mobility standards to targets that emphasize multi-modal travel options. Using mobility targets to guide access management practices on State highways will be especially helpful in the Tualatin Valley Highway Corridor (OR8) study currently underway. Using this approach to prioritize interchange capacity will continue to accomplish the primary goals of Interchange Area Management Plans (IAMP) while allowing for a variety of design and safety solutions. We look forward to applying this new approach in the US Highway 26/Brookwood Avenue IAMP, a joint ODOT-Washington County-Hillsboro project well under way.

Thank you for your enlightened leadership in the effort to address these complex issues of urban transportation and land use.

CITY OF HILLSBORO



Jerry W. Willey
Mayor

cc: Metro Council and COO



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November 15, 2011

Land Conservation and Development Commission
Joint Subcommittee of the LCDC and the OTC
Sent via email

Thank you for the opportunity to comment on the proposed amendments to the transportation planning rule (TPR). The League, which represents 242 cities from a statewide perspective, is supportive of the draft TPR amendments (Public Review Draft- October 25, 2011) as they will provide improvements to our existing system and positive options for cities overall.

We do note, however, that the majority of the draft amendments require a large degree of discretion from ODOT by requiring the agency's concurrence that the proposed mitigation measures are adequate, or that the benefits of a proposed amendment outweigh the negative effects on transportation. This will require a definitive change in the way ODOT does business internally, and with local jurisdictions, and needs to be supported throughout the agency with adequate administrative direction, an appropriate and transparent implementation process, and an eye to amending other conflicting transportation policies or guidance documents.

Specifically, we support the draft amendments:

- To the definitions;
- To **0060(1)** which allows consideration of other options that reduce traffic generation when determining a significant effect- to reduce the significant effect and required mitigation; and
- To **0060 (2)** that clarifies that consistency for corrective action is to be measured at the end of the planning period (allowing for phased mitigation) and that allows improvements to other modes or other facilities to be utilized in migration actions.

We also would like to comment on the following sections, specifically:

0060(3) Option 2, Proportional Mitigation

Support Option 2 because we believe the actual language and intent is clearer, and consistent with the planning focus of the TPR.

0060(4) Option 1, Interstate Interchanges

Strongly support Option 1, which keeps the existing definition of interchanges (interstate) in this section. We oppose Option 2 that would instead include all interchanges, as it would be inconsistent with the focus, objectives and outcomes of the bill and the rulemaking effort, and an administrative and financial burden to local governments.

0060(9) Option 1, Zone changes

Strongly support Option 1 (as did the broad majority of the RAC members voting 15/4 affirmatively) as it is the clearest and the simplest. We do not however oppose Option 1A, as we believe it would maintain the existing intent of the program.

We do strongly oppose both Option 2 and Option 2A, as we believe the additional screens are either unnecessary or not workable. Using Option 2A, with the requirement that “the most recent acknowledged population forecast is within 20% of the actual population” would revoke this option altogether for many, many cities, (two thirds of the cities in the state either have never received population forecasts from their respective counties or their forecast is outdated (more than 10 years old). Even when a city generates their own forecasts, many counties have failed to act on or adopt a city proposed forecast at all, or in a timely manner. Using population forecasts as a criteria to validate a TSP in most cases would be using a criteria that is “less fresh” than the TSP – it is illogical and at best out of step with the outcome the TPR amendments are trying to achieve.

0060(10) Multimodal Mixed Use Areas

Support the overall concept of the exemption.

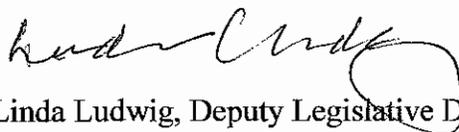
0060(11) Economic development

Strongly support the overall concept of the exemption and of Option 1, noting that there are many small cities outside of an MPO that would support a broader definition of economic development (as in Option 1).

However having run numbers for 2010, we note that the additional criteria in (iii) which requires an amendment to be located within a county that has an annual average unemployment rate greater than that of the State of Oregon in order to utilize the exemption may create an odd set of winners and losers among small cities outside of MPOs. Because of that, we would request that the Sub-Committee/Commission consider striking (iii) as a criteria for Option 1.¹

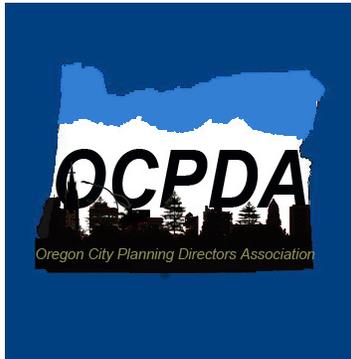
Again, we would very much like to commend the Sub-Committee members and agency staff for the time and attention given to this important effort.

Sincerely,



Linda Ludwig, Deputy Legislative Director
League of Oregon Cities

¹ Our analysis of the unemployment numbers by county for 2010 indicate that cities smaller than 10,000 population, outside of an MPO, within the following counties would be eligible for Option 1 as written: Columbia, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jefferson, Josephine, Klamath, Lake, Lane, Linn, Malheur, Marion, and Wallowa. Small cities outside of an MPO in the following counties would **NOT** be eligible: Baker, Benton, Clackamas, Clatsop, Gilliam, Jackson, Lincoln, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wasco, Washington, Wheeler, and Yamhill.



OREGON CITY PLANNING DIRECTORS ASSOCIATION

November 21, 2011

Land Conservation & Development Commission
635 Capitol St. NE, Suite 150
Salem, OR, 97301-2540

Subject: Comments regarding the proposed amendments to the Transportation Planning Rule (TPR) developed by the TPR Rules Advisory Committee (RAC).

Dear Commissioners,

The Oregon City Planning Director's Association (OCPDA) would like to take this opportunity to comment on the draft amendments to the Transportation Planning Rule—OAR 660-012- 0060 (i.e. TPR). You will recall that in August of 2010, the OCPDA requested that the LCDC amend the TPR. Accordingly, the OCPDA appreciates the efforts of the LCDC to initiate amendments to the TPR. The OCPDA has reviewed the draft amendments to the TPR and believes that they generally address the concerns previously identified by the OCPDA, although there are areas of concern which are discussed below.

Areas of Concern:

1. Zone Changes Consistent with a Comprehensive Plan.

The OCPDA firmly supports Option #1 of the amendments to Section 9 which would exempt zone changes that are consistent with the comprehensive plan map (i.e. Bright Line Option). More importantly, the OCPDA supports the ability of cities to make land use decisions that are consistent with their acknowledged comprehensive plan.

What is of serious concern is the "freshness test" proposed in other Options in the draft Rule. The concern is that if a local government has an acknowledged comprehensive plan, and has developed a Transportation System Plan (TSP) based on development patterns specified by the comprehensive plan, then they should have the ability to make

land use decisions in accordance with the acknowledged plan. This has been the policy of DLCD and appellate courts have opined accordingly.

The implication that Transportation System Plans developed based on acknowledged comprehensive plans are not satisfactory transportation planning documents is deeply troubling to our members, who have invested significant time and public funds in the processes of acknowledgement and periodic review. The OCPDA strongly urges LCDC to not change this fundamental element of land use decision making and to not adopt amendments to the TPR that apply a "freshness test."

2. Proportional Mitigation of Impacts.

The OCPDA recognizes and supports the amendments to Sections 2 and Section 3-Option#2 pursuant to the legal requirement of exactions to be roughly proportional to the impacts of a development (i.e. Dolan). The OCPDA previously identified the need to amend the TPR in a manner where the Rule would more clearly include provisions for rough proportionality. The concern of the OCPDA is that the amendments to these Sections may be interpreted beyond the literal interpretation or intent and in effect would not address the need to ensure exactions satisfy the Dolan requirements.

3. Eligible Economic Development Projects for Partial Mitigation.

The OCPDA does not support the limiting economic development to "industrial or traded-sector jobs" as stated in Section 11(a)(A). The OCPDA recognizes that economic development conditions vary to city and region. It also believes that economic development is needed in all communities, not just those who have the greatest capacity to improve local economic conditions. A broader definition is needed. The current definition in the draft Rule is related to Euclidian zoning practices and an old ineffective economic development model.

The OCPDA requests that the amendments to the TPR related to economic development be consistent with the modern knowledge-based economic development model. Moreover, it is important to amend the TPR in a manner which will support modern economic and land use planning practices. As such, the OCPDA supports including institutional and medical uses within the eligible economic development projects in Section 11 of the draft Rule.

Additionally, the OCPDA supports the efforts to the RAC to address the economic development realities of small rural cities and recommends that the LCDC adopt Option #1 of the Section 11 amendments. This option will allow small rural communities to accomplish economic development objectives that may not be related to traded-sector jobs but related to providing key commercial and industrial uses within a community. Based on the criteria for eligible cities, this option will also assist cities in reversing regional retail trends, inter-regional vehicular trips and certainly providing valuable economic improvements within these cities.

4. Decision Making Predictability Regarding Economic Development Projects.

The OCPDA is concerned is that the economic development benefit/effect determination will create a point of conflict between cities and the State in permitting economic development projects and would recommend creating general parameters for such

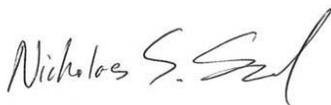
determination that takes into account a local government's preference for an economic development project and its acceptance of the negative effects on the transportation system. Section 11(b) requires local governments to determine if the benefits of a project (economic development related) outweigh the negative effects on local transportation facilities. This appears to allow cities to weigh the impacts of a project but this assumes that the "local transportation facilities" are city facilities. In many cases, such projects will affect state transportation facilities which then require the ODOT and Oregon Business Development Department to make such determination for a city. The OCPDA is concerned that the determination of benefit by these State agencies will not coincide or consider local government economic development objectives. Moreover, the determination of benefit will give the unbalanced authority to these State agencies to determine what local economic development projects are beneficial, presumably, to the State.

5. Scope of Work.

The OCPDA requests the LCDC to initiate subsequent Rulemaking on the remaining issues with the TPR that the current Rulemaking effort was not able to address. Two specific areas that the OCPDA recommends the LCDC continue Rulemaking on are: 1) Timing of Improvements/Mitigations; and 2) Funding for Improvements. It is important to note that this Rulemaking process was expedited significantly due to the legislative directive of SB 795 to amend the TPR and not all of the issues related to the TPR are resolved as identified in the TPR 0060 & OHP Policy 1F—Framework of Issues and Options.

In summary, the OCPDA appreciates the efforts of the LCDC to resolve issues with the TPR. The draft TPR amendments are supported by the OCDPA although, there are areas of concern. Additionally, the OCPDA understands the limited scope of this Rulemaking effort and requests subsequent Rulemaking be initiated to address the remaining issues with the TPR.

Respectfully,



Nicholas S. Snead
President
OCPDA
541-323-2916
nsnead@ci.madras.or.us



CITY OF

PORTLAND, OREGON

Sam Adams, Mayor
Nick Fish, Commissioner
Amanda Fritz, Commissioner
Randy Leonard, Commissioner
Dan Saltzman, Commissioner

November 22, 2011

Land Conservation and Development Commission (LCDC)
635 Capitol Street NE
Salem, OR 97301

RE: Proposed Amendments to Transportation Planning Rule

Dear Chair VanLandingham and Commission Members:

Thank you for the opportunity to comment on proposed amendments to the Transportation Planning Rule (TPR). City of Portland supports the new directions proposed in the rule, which will help Portland implement our plans for a more efficient transportation system through an increased use of alternative modes and development of mixed use neighborhoods.

We strongly support the provisions that would:

- **Exempt zone changes consistent with comprehensive plans from 0060 provisions.** We support Option #1A as proposed by the majority of RAC members. This change is especially appropriate for Portland. The City, for example, ran into difficulty with TPR compliance a few years ago when proposing zone changes in the North Interstate light rail corridor, which runs along I-5 in North Portland. These zone changes were consistent with Portland's adopted Comprehensive Plan and were intended to support the region's investment in light rail by promoting higher density multi-modal mixed use development in proximity to light rail stations. The application of the TPR 0060 performance standards nearly stopped these beneficial zone changes, but they would be allowed outright under the proposed rule changes.
- **Allow for the creation of "multi-modal mixed-use areas" or MMAs.** Many of Portland's mixed use areas already function as intended by the MMA designation with dense development, interconnected street grid, and intensive infrastructure for transit, bicycles and pedestrians. These areas already have high mode splits and reduced vehicle miles travelled on main streets and highways. The MMA designation in the TPR will give Portland a means to apply zoning and plan designations that both recognize and further enhance their multi-modal character without being unduly constrained by the TPR.

Although the concept of MMAs is a good one, we are concerned that it is undermined by the proposed requirement that areas within one quarter mile of an interchange ramp terminal be subject to more stringent review and receive concurrence from ODOT before being designated as an MMA. The Central City, the Gateway Regional Center, the Hollywood Town Center, the Lents Town Center and many of our light rail station areas are near freeway interchanges. We are concerned that these interchange provisions present a very real hurdle to the City in establishing MMAs and will merely shift conflicts about congestion to conflicts about safety. This hurdle could be lowered considerably by making a few specific changes to the text in the proposed draft. These are:

- Section (10)(b)(E)(iii) – Add a sentence to the end of (iii):

Within one-quarter mile from any interchange ramp terminal intersection if the mainline facility provider has provided written concurrence with the MMA designation as provided in subsection (c) of this section. The responsibility and decision for the written concurrence of the MMA designation will reside with the ODOT Regional Manager. Oregon Transportation Commission approval is not required for MMA designations.

In Portland, our interchanges are a complex mixture of non-standard designs where it is often difficult to apply conventional design and safety standards. However, ODOT's Region 1 manager is well-versed in the issues and constraints presented by our interchanges, and should specifically be identified in the amended TPR as the person who provides written concurrence when including interchanges in an MMA.

- Section (10)(c)(A)(iii)– Change this section to read:

(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 bring a vehicle to a full stop from ~~posted mainline speeds~~ prevailing speeds during peak periods or at the time off-ramp backups may occur.

Heavy traffic volumes on freeways in the Portland region often lead to prevailing speeds being less than posted speeds, particularly during peak hours. This proposed change will ensure that the vehicle queuing analysis reflects actual on the ground conditions and not an aspirational performance condition.

Thank you for your consideration of these issues. Again, the City of Portland supports the general tenor of the proposed TPR changes. With a few additional changes, as described above, the amended TPR can be further strengthened in its ability to help communities achieve their goals to create multimodal mixed use neighborhoods, which will themselves reduce the average number of vehicle trips on our roadways.

Sincerely,



Mayor Sam Adams



City of Tigard

DEPT OF

NOV 15 2011

LAND CONSERVATION
AND DEVELOPMENT

November 14, 2011

Oregon Transportation Commission
1158 Chemeketa Street NE
Salem, OR 97301

Land Conservation & Development Commission
635 Capital Street NE, Suite 150
Salem, Oregon 97301-2540

Re: Tigard Support for TPR/OHP Draft Amendments

Dear Honorable Commissioners,

Thank you for the opportunity to comment on the draft amendments to the Transportation Planning Rule (TPR) 0060 and Oregon Highway Plan (OHP). We commend the commissions, department staff, committee members, and the TPR Rulemaking Advisory Committee chair Greg MacPherson for their diligence in drafting these amendments in a way that was transparent, inclusive and balanced.

The draft TPR amendments, including the potential to exempt "Multi-modal Mixed-use Areas" from typical requirements of TPR congestion analysis (Section 10), will allow the City of Tigard to more effectively plan for communities in a way that supports efficient land uses and a balanced transportation environment. This will help overcome an unintended consequence of the TPR as it has been implemented that discourages density in some close-in areas, effectively encouraging inefficient, sprawl-type land use patterns. Additionally, the draft amendment allowing mitigations to alternative modes or locations (Section 2(e)) reflects an important shift toward system-level planning, which will provide flexibility for economic development in constrained areas while benefiting the system as a whole.

The proposed OHP amendments in Policy 1F are especially relevant to Tigard at this time. In particular, the added flexibility to develop alternative performance measures (Policy 1F.3) will be a significant factor in our upcoming Southwest Corridor Plan, which Tigard is undertaking in partnership with ODOT, Metro, and our neighboring cities and counties. The challenge of planning for this corridor in a comprehensive way requires consideration of a broad set of objectives including housing, employment, natural resources and multi-modal transportation. Alternative performance measures will be essential as we consider these many important planning objectives.

While the City of Tigard is supportive of the draft changes in both the TPR and OHP, we have two questions which are offered for consideration in your final adoption decisions.

1. The new minimum trip generation thresholds in the OHP will help overcome increased costs, delays and uncertainty associated with TPR analysis for amendments with small impacts. We support this intent. At the same time, it seems to raise the possibility of a single developer or applicant submitting multiple small applications in order to stay under the threshold. Are there provisions that will guard against this type of opportunistic interpretation of the minimum thresholds?
2. The proposed new Section 11 of the TPR will enable cities, with consent from ODOT, to accept

certain types of economic development projects with only “partial mitigation.” While we share the objective of supporting economic development, we question whether this approach is the best way to achieve the desired outcome. A significant down-side of this approach is that when one agency allows partial mitigation, the cost may be borne by all area communities – as a future developer is required to complete the mitigation, as the general traveling public bears the costs of increased congestion. The subcommittee recommendation identified possibilities for phased mitigation or mechanisms for partial payment. Where the RAC did not have time to consider these options at the depth required, it may be worthy of future consideration. Meanwhile, some of the other proposed amendments in the TPR and OHP will provide flexibility to support economic development.

In combination, the proposed amendments to the TPR and OHP will provide important new flexibility for local governments to work with state agencies to achieve community development goals in balance with the obligations for safe operations on the state highways. We strongly encourage their adoption.

Regards,



Craig E. Dirksen, Mayor
City of Tigard

cc: Tigard City Council
Tigard Interim City Manager Liz Newton
Tigard Sr. Transportation Planner Judith Gray
Mayor Willey, City of Hillsboro
Mayor Doyle, City of Beaverton
Mayor Dahlin, City of Cornelius
Mayor Ogden, City of Tualatin
Mayor Truax, City of Forest Grove
Mayor Mays, City of Sherwood



CITY OF REDMOND
Community Development Department

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November 22, 2011

Land Conservation and Development Commission
635 Capitol Street NE
Salem, OR 97301-2532

RE: Proposed Amendments to Transportation Planning Rule 060

Dear Chair and Commission Members,

Thank you for inviting comments on the proposed amendments to the Transportation Planning Rule 060 prepared by the Rules Advisory Committee, Public Draft, October 25, 2011.

We appreciate the Land Conservation and Development Commission's (LCDC) willingness to consider amendments to the Transportation Planning Rule (TPR), especially as it pertains to its application in urban areas. The amendments appear to strive for a balance between Oregon state land use goals, local efforts in comprehensive planning and economic development objectives. At the City of Redmond we believe that the amendments to the TPR should support the following policies: 1) Zone changes consistent with acknowledged comprehensive plans should be exempt from the TPR; 2) Mitigations should be proportional; 3) Mitigations should be funded at the time of development; and 4) Flexible solutions should be allowed for significant economic development projects especially in those regions where unemployment is higher than the state's average unemployment; and 5) Non-traditional methodologies should be explored for designing and funding mitigations.

With those goals in mind, we have the following comments to submit for consideration at the public hearing on December 8, 2011.

Section 9, Option #1:

The City of Redmond supports Option #1 as it most closely aligns with Oregon land use policies and processes, recognizing the importance of comprehensive planning and public facility planning for growth.

Section 11, Amend (a)(A) to include institutional economic development projects.

It is not clear in the current definition if educational or medical institutions would be considered qualifying projects, which are emerging as the leading job creation sectors in the 21st century, and are typically high density, high paying jobs. Not all communities have an economic development strategy that focuses on manufacturing and traded-sector industries. Some communities are focused on health and education. Some are focused on tourism, etc.

Traded sector jobs in the City of Redmond represent 10 – 15% of our job base, and are an important piece of our economic development strategy, however, they are not the only important piece of our local economic development strategy. The City of Redmond’s Economic Opportunity Analysis conducted in 2005 demonstrated that we should expect to grow our employment base by 10,000 new jobs by 2025. For the past two years, the Redmond Development Commission has been working on a comprehensive economic development strategy so that we can proactively and strategically attract the types of jobs that we feel would benefit our community the most. In addition to continuing our efforts in traded-sector business development and recruitment, we are also interested in recruiting a four-year higher education institution to Central Oregon and expanding our health care industry. We feel that both of those sectors are critical components of our community’s future economic success and we want to ensure that any significant educational or medical projects would qualify for consideration of this TPR partial mitigation discussion. We encourage you to broaden the definition of qualifying projects to specifically include significant institutional economic development projects as well.

We appreciate the opportunity to provide comments on this very important effort.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Heather Richards", written in a cursive style.

Heather Richards,
Community Development Director



1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
PHONE: 503.727.2000
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Mark D. Whitlow
PHONE: (503) 727-2073
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EMAIL: MWhitlow@perkinscoie.com

November 22, 2011

VIA EMAIL

John H. Van Landingham, Chair
Land Conservation and Development Commission
Suite 150
635 Capitol Street NE
Salem, OR 97301-2540

Re: Proposed TPR Amendment

Dear Mr. Chair and Commission Members:

This letter is written on behalf of the Retail Task Force (RTF) and the Government Relations Committee for the State of Oregon for the International Council of Shopping Centers (ICSC) in response to the October 25, 2011 Public Review Draft of the TPR. Please make this letter a part of your record of proceedings.

We propose the following amendments to the existing rule:

- OAR 660-012-0060(1). Revise this section as follows:

"(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation, except a zone change in conformance with an acknowledged comprehensive plan, would significantly affect an existing or planned transportation facility, . . . "

Comment: We support the "bright line" concept whereby zone changes in conformance with comprehensive plans would be exempt from the purview of the TPR in recognition of the sanctity of acknowledged comprehensive plans. In spite of that, we would accept Option 1 approved by the RAC as a workable alternative where that treatment is extended to local jurisdictions which have adopted TSPs. We would not support Option 2 or Option 2A

91004-0005/LEGAL22188176.1

- OAR 660-012-0060(1)(c). We suggest further revising the proposed amendment language to add the words "except that" as a new introductory phrase to the sentence beginning at line 4 of the subsection, as follows:

"(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted transportation system plan (TSP). Except that, ~~As~~ part of evaluating projected conditions, the amount of traffic that is 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 affect of the amendment."

Comment: This minor revision clarifies that the language in the subsection beginning at line 4 is an exception to the list of circumstances constituting a significant affect.

- OAR 660-012-006(3). We propose the following revisions to this section:

"(3) Notwithstanding sections (1) and (2) of this rule, the following circumstances do not constitute a significant affect ~~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; or

(b) 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; and

(c) The affected local government finds that 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; and

(d) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and

(e) 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 (d) of this section."

Comment: We propose the above language as a much needed "shortcut" to the TPR. It allows a developer to offer mitigation of project impacts to avoid any further degradation, but in a way that avoids a finding of significant affect. One of the largest economic development inhibitors is the TPR's requirement to repair system deficiencies, in addition to mitigating project development impacts. LCDC should allow developers to "pay their own way" by mitigating their own impacts under the proposed language, but without the need to do a long-range traffic study. Please see the attached letters from Fred Meyer Inc. and Gramor Development requesting the adoption of TPR revisions that would provide "pay your own way" relief to the real estate industry.

This alternative does not take away local discretion and, in fact, provides it in the form of a necessary finding by the local government that the development resulting from the amendment will mitigate its own impacts in a manner that avoids further degradation to the transportation system.

The difference between this alternative and the other alternatives (Options 1 and 2) recommended by the RAC is that this alternative avoids a finding of significant affect based upon the listed circumstances and allows a project to mitigate its own impacts without the need for a costly and time-consuming long-range transportation study.

John H. Van Landingham, Chair
Land Conservation and Development Commission
November 22, 2011
Page 4

Thank you for the opportunity to provide additional comments on these important amendments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark D. Whitlow". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Mark D. Whitlow

MDW:crl

Enclosures (2)

cc: Retail Task Force (via email) (w/encs.)
International Council of Shopping Centers (via email) (w/encs.)



February 15, 2011

Michael D. Rock
Oregon Department of Transportation
Transportation Development Division
555 13th Street NE
Salem, OR 97301

RE: Proposed Transportation Planning Rule (TPR) Amendments

Dear Joint Committee Members:

Gramor Development is an established northwest developer of high-quality, well-designed commercial shopping centers and mixed use developments. Examples of Gramor's projects include Lake View Village in downtown Lake Oswego, Progress Ridge TownSquare and Murray Scholls Town Center in Beaverton and the Happy Valley Town Center in Happy Valley.

Gramor is interested in maintaining an adequate inventory of buildable lands inside growth boundaries. Many infill, refill or new development sites inside growth boundaries are constrained. Often the constraint is inadequately sized parcels already zoned for commercial or mixed use development. In those cases, Gramor must rely on comprehensive plan map and zoning map amendments and/or related text changes to obtain a development site of adequate size. Those cases trigger the need to comply with the Transportation Planning Rule, which often proves to be problematic.

The Transportation Planning Rule needs to be simplified and streamlined. I believe that zone changes in conformance with comprehensive plans should not trigger the need to comply with the TPR. In addition, the TPR needs to be further modified to allow private developments to mitigate their project impacts without being required to fix existing or project transportation system deficiencies. That part of the rule terminates projects and is bad for the economy.

Thank you for the opportunity to comment. We would like the opportunity to participate in a broader discussion with other industry members to fashion practical solutions based upon factors in the market place.

Sincerely,
Gramor Development, Inc.



Matt Grady, AICP
Senior Project Manager

MG:kw

What's on your list today? You'll find it at

Fred Meyer

Fred Meyer Stores • P.O. Box 42121 • Portland, OR 97242-0121 • 3800 SE 22nd Ave. • Portland, OR 97202-2999 • 503 232-8844 • www.fredmeyer.com

February 14, 2011

Michael D. Rock
Oregon Department of Transportation
Transportation Development Division
555 13th Street NE
Salem, OR 97301

**RE: Potential Amendments to Transportation Planning Rule – Request for
Streamline to Facilitate Development**

Dear Joint Committee Members:

This letter is written on behalf of Fred Meyer Stores Inc. Fred Meyer is the second largest private employer in the state of Oregon. Fred Meyer owns and operates 52 stores in Oregon and employs over 13,000 people in the state.

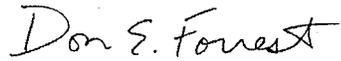
When a plan amendment or zone change is needed to develop a new Fred Meyer store, or to enlarge an existing facility, in order to allow the expansion or new development, the TPR requires that concurrent transportation facility capacity be available by the end of the long-range planning period. A long-range transportation impact study is required with a goal of identifying the potential impacts to the transportation system anticipated by the new or expanded store, with proposed transportation improvements to mitigate those impacts.

Additionally, the traffic impact study will identify existing and projected system functionality over the longterm, with the typical study finding that the system is already operating at unacceptable levels, or will be when projected to the end of the planning period. Fred Meyer is then required to mitigate its own impacts and, in addition, to provide additional off-site transportation improvements to fix the existing or anticipated system deficiency(s), beyond Fred Meyer's proportionate share.

It is our hope that the Joint Committee will consider an amendment to the TPR which would allow retailers and developers to proceed with their projects by covering their own impacts, but without being required to repair existing or anticipated system failures. We understand that provisions of the existing rule allow this consideration but only under limited circumstances. We encourage the State to make that simple result available at the outset, and to streamline other provisions to reduce the traffic impact study requirements for a simplified and cost effective approach.

Thank you for the opportunity to submit this request and participate in this important discussion.

Sincerely,

A handwritten signature in cursive script that reads "Don E. Forrest".

Don Forrest
Site Acquisition Manager
Real Estate & Store Development



November 3, 2011

John VanLandingham, Chair
Marilyn Worrix, Vice Chair
Barton Eberwein
Hanley Jenkins
Tim Josi
Greg Macpherson
Land Conservation and Development Commission
635 Capitol Street NE, Ste. 150
Salem, OR 97301-2540

Chair VanLandingham and LCDC Commissioners,

The Chamber of Medford/Jackson County would like to thank the members of the RAC for their work on the proposed revisions to the Transportation Planning Rule (TPR). The Chamber believes, on whole, the amendments to the TPR will be beneficial to the State of Oregon and will improve Oregon planning processes.

We do, however, have one significant concern. That concern relates to the proposed changes to the new OAR 660-012-0060(9). The proposed changes include several options. In the first instance, we would like to express our agreement with the *broad majority* of the RAC that Option #1, is sufficient.

The Chamber recognizes there was a minority who were concerned that Option #1 will create a *loophole* where lands added to a UGB would not be required to do sufficient transportation planning work in advance of urban development. Our objection is that all the other options take the position that full detailed traffic analysis is necessary *at the time of UGB amendment* in order to *ever* rely on broader scale transportation planning. If a TSP is adopted and acknowledged and it contemplates urban development of the land where the zone change is sought then there is no legitimate planning reason why one type of urbanizable land should be treated differently from another *solely on the basis it was included in a UGB at a later date*. The proposed language in all three options goes far beyond closing a potential *loophole* and instead undermines the spirit and purpose of these amendments to better balance Goal 9 Economic Development and Goal 12 Transportation Planning.

System-level transportation planning should be done through a TSP amendment following a UGB amendment. In the language proposed, Option #2 or Option #2A could be modified to remove the prohibitions on the application of OAR 660-012-0060(9) *ever being applied* to land included in a UGB. If this were done, then the potential UGB *loophole* would be closed and the minority concern fully addressed, but in a manner that is consistent with our understanding of a RAC consensus policy position that transportation planning at a system level should be allowed by the rule. This would assure the rule amendments would continue to meet the spirit and purpose directed by the legislature in Senate Bill 795.

If LCDC shares the minority concern regarding the proposed OAR 660-012-0060(9), then the Chamber of Medford/Jackson County requests appropriate language to address the issue.

Sincerely,

Brad S. Hicks, CCE, IOM, ACE
President & CEO

The Chamber of Medford/Jackson County



November 18, 2011

Land Conservation and Development (LCDC)
635 Capitol Street NE
Salem, OR 97301-2532

Oregon Transportation Commission (OTC)
1158 Capitol Street NE
Salem, OR 97301

Dear Commission Members:

Thank you for the opportunity to comment on the proposed amendments to the Transportation Planning Rule (TPR) and the Oregon Highway Plan (OHP). TriMet strongly supports the new direction proposed for both policy documents. The amendments will help our region implement the 2035 Regional Transportation Plan (RTP) and the 2040 Growth Strategy, both of which rely heavily on the provision of more transit service and transit-oriented development.

The only way this region can accommodate expected growth is to provide more opportunities for people to live, work, shop, and play in places where they can walk, bike and ride transit. We can't afford to have transit- and pedestrian-oriented development blocked simply because it happens to be near a freeway or state highway. Research conducted by Reconnecting America for the Federal Transit Administration, identified Portland as among the top 10 U.S. cities with the most significant growth in demand for housing in transit zones in coming years. The proposed amendments will help communities design and build more transit-oriented development, meeting market demand, and making the region more livable while accommodating more people.

The policy changes proposed will also need to carry forward into changes to a series of implementing documents, like the Oregon Highway Design Manual, in order to ensure this new policy direction really makes a difference. We look forward to seeing the TPR and OHP amendments enacted in December and encourage the state to develop a work plan for those necessary changes to implementing documents. Thank you for your leadership on these efforts.

Sincerely,

A handwritten signature in blue ink that reads "Neil McFarlane".

Neil McFarlane
General Manager



*Community Development Department
71 S.E. "D" Street, Madras, OR, 97741
541-475-3388*

November 22, 2011

Land Conservation & Development Commission
635 Capitol St. NE, Suite 150
Salem, OR, 97301-2540

Subject: City of Madras Comments regarding the proposed amendments to the Transportation Planning Rule (TPR).

Dear Commissioners,

The City of Madras (City) has been significantly involved in developing amendments to the TPR by participating in the Rules Advisory Committee (RAC). The City believes that amending the TPR is of critical importance to the City of Madras. The City recommends that any amendments to the Rule shall:

1. Exempt zone changes consistent with comprehensive plans;
2. Include provisions for proportional mitigation;
3. Allow required mitigations to be constructed after zoning is changed;
4. Reduced mitigation requirements for key economic development projects; and
5. Recognize non-traditional funding sources to be utilized to fund mitigations.

The City has reviewed the proposed amendments to the TPR and finds that Option #1 of Section 3, 9, and 11 addresses the most of the City's recommended amendments to the TPR. This Rulemaking effort clearly does not allow required mitigations to be constructed after zoning is changed or allow non-traditional funding sources to be utilized to fund mitigations. The City recommends the LCDC continue work on the TPR to address these needs as they are of critical importance. That being said, the City has reviewed the proposed TPR amendments and has the following comments:

General Comments:

The City commends the LCDC for developing a diverse and knowledgeable RAC and acknowledges the significant commitment each member of the RAC has made in developing reasonable amendments to the TPR. To this extent, the City recommends the LCDC adopt the amendments to the Rule recommended by the RAC. Moreover, where the majority of the RAC

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supported specific options to amend the Rule, the City recommends those options be adopted. If the LCDC were to adopt any amendment to the Rule that was inconsistent with the recommendation of the RAC would negate the effort of the RAC and threaten the integrity of the process used to develop reasonable amendments to the TPR.

Supported Options:

The City supports the following options to amend the TPR:

- Section 3: Option #1
- Section 4: Option #1
- Section 9: Option #1
- Section 11: Option #1

Additional Comments Regarding Supported Options:

Section 3: The City supports the LCDC adopting Option #1. The City of Madras has repeatedly indentified the need to include the legal requirement of rough proportionality (i.e. Dolan) in the TPR as the current Rule requires property owners to mitigate more than their proportional impact to transportation facilities.

The City of Madras has direct experienced this issue and finds that the current Rule places a disproportionate burden upon property owners to mitigate beyond their impact to transportation facilities. The TPR and the violation of this legal standard have stalled one very significant economic development project in Madras. If the property owner were only required to mitigate their own impacts the City would have captured this economic development opportunity. As such, Option #1 of Section 3 addresses this need and recommends the LCDC adopt this option.

Section 9: The City recommends the LCDC adopt Option #1. A fundamental element of the Oregon land use planning system is plan acknowledgement by DLCDC/LCDC. State law and appellate courts have opined that once a city has an acknowledged comprehensive plan they are subsequently able to make land use decisions that are consistent with their acknowledged plan.

By adopting Options# 1A, 2, or 2A it would change this fundamental element of the land use planning system, as these options would apply a “freshness test” to a Transportation System Plan (TSP). Furthermore, the implication that TSPs developed based on acknowledged comprehensive plans are not satisfactory transportation planning documents is deeply troubling. The City of Madras has invested thousands of dollars and hours of time to amend its TSP over 3 times in the last 9 years to proactively address local transportation issues. The City strongly recommends the LCDC not adopt Options# 1A, 2, or 2A as it would negate the City’s action to address local transportation issues and dramatically affect our ability to make local land use decisions in a manner that is consistent with our comprehensive plan.

Section 11: The City recommends the LCDC adopt Option #1 of Section 11. The City of Madras has distinctly different economic conditions in terms of workforce availability and skill than other larger cities. For this very reason, the City is not able to feasibly recruit traded-sector or industrial businesses. Even so, the City continues to move forward on economic development policies that are related to

An Equal Opportunity Provider

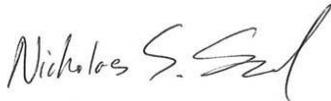
both traded-sector and commercial services for several reasons. First, the City recognizes the need for traded-sector and will capitalize on any such opportunity. Second, the City understands that many of our residents seek retail/commercial services (i.e. regional retail) in the Bend and Redmond and would like to provide such services within the City. Third, by providing needed retail within the City it reduces the vehicle miles traveled by City residents and also to the region by reducing intra-regional trips.

Additionally, the City recommends that Option #1 be adopted, as Option #2 puts a premium on traded-sector industrial jobs in large cities. In effect it allows larger cities to utilize the ability to partially mitigate transportation impacts for traded-sector industrial economic development projects while maintaining the status quo for mitigation (i.e. complete mitigation) for economic development projects in small rural communities.

Such policy disparately treats small rural communities by placing further limitations on their ability to achieve economic development objectives. Furthermore, Option #2 perpetuates the land use planning problems with regional retail. As such, the City strongly advocates for the LCDC to adopt Option #1 of Section 11.

In closing, the City of Madras appreciates the opportunity to participate in the Rulemaking effort and the ability to comment on the proposed amendments to the TPR. The City supports adopting Option #1 in Sections 3, 4, 9, and 11. If you should have any questions, please contact me at your convenience by phone or email.

Respectfully,

A handwritten signature in black ink that reads "Nicholas S. Snead". The signature is written in a cursive, flowing style.

Nicholas S. Snead
Community Development Director
541-323-2916
nsnead@ci.madras.or.us

76th OREGON LEGISLATIVE ASSEMBLY--2011 Regular Session

Enrolled
Senate Bill 795

Sponsored by Senator TELFER; Senators FERRIOLI, GEORGE, GIROD, KRUSE, NELSON, OLSEN, STARR, THOMSEN, WHITSETT, WINTERS, Representatives CONGER, THATCHER, WHISNANT

CHAPTER

AN ACT

Relating to transportation planning; and declaring an emergency.

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

SECTION 1. (1) The Legislative Assembly finds that the growth and economic development of this state requires an appropriate balance between economic development and transportation planning.

(2) The Legislative Assembly finds that the Oregon Transportation Commission and the Land Conservation and Development Commission have initiated a joint review of the transportation planning rule, the Oregon Highway Plan and the associated guidance documents.

SECTION 2. (1) The Oregon Transportation Commission and the Land Conservation and Development Commission shall jointly review the administrative rules, plans and associated guidance documents to better balance economic development and the efficiency of urban development with consideration of development of the transportation infrastructure in consultation with local governments and transportation and economic development stakeholders.

(2) The commissions shall consider revisions to the transportation planning rule (OAR 660-012), the Oregon Highway Plan and the associated guidance documents that streamline, simplify and clarify the requirements in the following areas:

(a) The planning requirements placed on zone changes that are consistent with locally adopted comprehensive plans.

(b) The development of practical methods that may be used to mitigate the transportation impacts of economic development.

(c) The planning requirements placed on zone changes within urban centers.

(d) The analysis required for transportation impacts of urban growth boundary changes.

(e) Clarification of planning periods and requirements for update of local transportation system plans.

(f) Thresholds for required analysis of transportation impacts of project proposals.

(g) The use of average trip generation rates.

(h) The development of mobility standards, including but not limited to volume to capacity ratios or corridor or area mobility standards.

(i) The analysis required for transportation impacts of comprehensive plan amendments that require improvements to avoid further degradation of transportation facility performance by the time of development.

SECTION 3. (1) The Land Conservation and Development Commission shall adopt revisions of the transportation planning rule consistent with the results of the review of the rule required in section 2 of this 2011 Act prior to January 1, 2012.

(2) The Oregon Transportation Commission shall adopt revisions to the Oregon Highway Plan consistent with the results of the review required in section 2 of this 2011 Act prior to January 1, 2012.

SECTION 4. The Oregon Transportation Commission and the Land Conservation and Development Commission shall report to the Legislative Assembly on the review of the transportation planning rule, the Oregon Highway Plan and the associated guidance documents and on the actions taken prior to February 1, 2012.

SECTION 5. 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 April 28, 2011

.....
Robert Taylor, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 7, 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

Secretary of State Item 10 - Attachment D
December 7-9, 2011 LCDC Meeting
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

<u>Land Conservation and Development Department</u>	660
Agency and Division	Administrative Rules Chapter Number
<u>Casaria Tuttle</u>	(503) 373-0050, ext. 322
Rules Coordinator	Telephone
<u>Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301</u>	
Address	

RULE CAPTION

Amend Transportation Planning Rules to simplify, clarify and streamline local plan amendments and rezonings.

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
12-8-11	08:30 AM	Columbia Gorge Discovery Center, 5000 Discovery Drive. The Dalles. OR	LCDC

Auxiliary aids for persons with disabilities are available upon request.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

AMEND:

660-012-0005; 660-012-0060; 660-024-0020

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 197.040

Other Authority:

Statutes Implemented:

ORS 197.040; 197.712; 197.717; 197.732; 195.025; Chapter 432, OR Laws 2011

RULE SUMMARY

The proposed amendment would add a new section to OAR 660-012-0060 that would facilitate economic development by allowing for partial mitigation of the transportation effects of a rezoning (or amendment to a plan or development regulation). The proposed amendment would add a new section to OAR 660-012-0060 to allow local governments to designate areas where congestion standards would not be applied when evaluating rezonings (or amendments to plans or development regulations). The proposed amendment would add a new section OAR 660-012-0060 to exempt a rezoning from the rule if it is consistent with prior acknowledged planning. The proposed amendment would amend existing sections within the rule to clarify the definition of a significant effect to the transportation system and to allow more options for how a local government responds when the rezoning (or amendment to a plan or development regulation) would have a significant effect.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

12-08-2011 Close of Hearing	Casaria Tuttle	casaria.r.tuttle@state.or.us	10-14-11 9:30a.m.
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address	Date Filed

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday. ARC 923-2003

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Land Conservation and Development Department

660

Agency and Division

Administrative Rules Chapter Number

Amend Transportation Planning Rules to simplify, clarify and streamline local plan amendments and rezonings.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Proposed amendments to Transportation Planning Rules OAR 660-012-0005, 660-012-0060 and OAR 660-024-0020

Statutory Authority:

ORS 197.040

Other Authority:

Stats. Implemented:

ORS 197.040; 197.712; 197.717; 197.732; 195.025; Chapter 432, OR Laws 2011

Need for the Rule(s):

The proposed rule amendments are in response to concerns about the interaction between OAR 660-012-0060 ("the TPR") and the mobility standards in Oregon Highway Plan (OHP). Furthermore, the proposed amendments are in response a new law adopted by the 2011 Oregon Legislature requiring LCDC to amend the TPR by January 1 in order to address these concerns and to streamline, simplify and clarify the requirements of the rule "to better balance economic development and the efficiency of urban development with consideration of development of the transportation infrastructure."

In some situations OAR 660-012-0060 makes it more difficult to rezone land or increase allowed densities . Downtowns typically have levels of motor-vehicle congestion that exceed (or are projected to exceed) the performance standards. Similarly OAR 660-012-0060 can make it difficult to rezone land for economic development where motor-vehicle congestion exceeds (or is projected to exceed) performance standards. These rule amendments are intended to address these unintended consequences and make other changes to clarify, simplify and streamline the local amendment process.

Documents Relied Upon, and where they are available:

Recommendation of the Joint-Subcommittee of LCDC and OTC:

<http://www.oregon.gov/LCD/docs/rulemaking/2009-11/TPR/Recommendation-Final.pdf>

Testimony received by the joint-subcommittee (multiple documents for several meetings):

http://www.oregon.gov/LCD/meetings.shtml#Joint_Subcommittee_TPR__OHP

Senate Bill 795 (2011)

<http://www.leg.state.or.us/11reg/measpdf/sb0700.dir/sb0795.en.pdf>

Draft rule amendments reviewed by the Rulemaking Advisory Committee (multiple drafts for several meetings):

http://www.oregon.gov/LCD/meetings.shtml#Transportation_Planning_Rule

Other background information:

http://www.oregon.gov/LCD/Rulemaking_TPR_2011.shtml

Fiscal and Economic Impact:

Statutory provisions (ORS 183.335(2)(b)(E) and (G), and ORS 183.540) require the agency to consider whether a proposed rule amendment will have any significant economic impact on business and whether options should be considered to reduce any negative impacts of the rule on business. The amendments to these rules will likely have no direct impact on most businesses in the state. Rather, these rules impact actions of local government, which in turn could impact certain businesses. By streamlining transportation planning rule requirements, the rule will most likely have a positive economic impact on businesses pursuing plan amendments that potentially affect the transportation system.

In individual cases, these proposed rule revisions could result in some economic costs and benefits, depending upon the site-specific circumstances and the uses proposed. The exact impact is impossible to predict because of the multitude of possible circumstances.

Statutory provisions also require the agency to estimate the effect of proposed rules on the cost to construct a 1,200 square foot dwelling on a 6,000 square foot parcel. (ORS 183.534). The proposed rules should have negligible effects on construction of the prescribed dwelling unit and lot. The rule would only apply in situations where a plan or land use regulation amendment is needed to authorize residential development. Most new housing units are built on lands currently planned and zoned for residential development and to which the rule would not apply. In those situations where a plan or land use regulation amendment are needed, and the rule would apply, the effect of the amendment should be to reduce costs that would otherwise be associated with complying the Transportation Planning Rule.

Statutory provisions also ask the agency to "Assess what economic and property interests will be, or are likely to be, affected by the proposed rule;"... "Assess the likely degree of economic impact on identified property and economic interests;"... and ... "Assess whether alternative actions are available that would achieve the underlying lawful governmental objective and would have a lesser economic impact." (ORS 197.040(1)(b)). The statute provides that the requirements "shall not be interpreted as requiring an assessment for each lot or parcel that could be affected by the proposed rule." (ORS 197.040(3)). The economic and property interests affected by this rule include property owners and developers who are likely to pursue comprehensive plan or land use regulation amendments to allow more intense development that is likely to impact the transportation system. The underlying lawful governmental objective expressed in the rule is to streamline the requirements for proposed plan amendments and zone changes subject to certain transportation planning rules. The agency is required to

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

IMPACTS TO THE GENERAL PUBLIC

The proposed rule amendments would not have a direct impact to the general public because the TPR applies to local government actions, and is not directly applicable to the general public. However, local government actions in response to the rule could impact the public. It is not possible to predict such impacts, which could include positive or negative impacts, as discussed below.

Potential indirect fiscal benefits could occur through reduction of costs in land development, as described in the Impacts to Small Businesses section below. Another potential indirect benefits may include increased economic development and increased employment opportunities. Indirect impacts may include development that increases traffic congestion.

IMPACTS ON LOCAL GOVERNMENT

Local governments will be directly affected because these rules apply to plan and zone amendments administered by local governments. The proposed rule amendments would, in some situations, allow local governments to approve amendments to local plans, development regulations and zoning maps without ensuring that transportation facilities will continue to meet performance standards. The result will likely be increased congestion on local streets and state highways. While local government would be affected, it would not be a direct fiscal effect because they would not be required to expend any additional money as a direct result of the local actions authorized by the proposed rule amendment. In addition, there is the potential for increased or decreased property values resulting from these local planning or zoning actions. The overall potential fiscal impact cannot be estimated.

IMPACTS ON STATE AGENCIES

The proposed rule amendments will affect the Oregon Department of Transportation (ODOT) and have been prepared in close coordination with ODOT and the OTC. In some situations, the proposed rule amendments would allow local governments to approve amendments to local plans, development regulations and zoning maps without ensuring that state highways will continue to meet performance standards. The result will likely be increased congestion on some state highways. While ODOT would be affected, it would not be a fiscal effect because

2. Cost of compliance effect on small business (ORS 183.336):

- a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

No small businesses are directly subject to the proposed rule amendments because the TPR only applies to local government actions. These local actions could affect a very large number of small businesses, but that number cannot be estimated by the department.

Indirectly a business could be affected by the existing rule and the proposed rule amendments if the business applies to a local government for an amendment to a plan, land use regulation or zone map. Types of businesses and industries that would be expected to be indirectly affected include, but are not limited to, real estate developers, real estate investors, real estate brokers, construction and consultants (planning, architecture, engineering and legal). Additionally, businesses in Oregon could be indirectly affected if they are seeking to acquire or lease land from a land developer or are seeking to develop land for their own use.

Because these indirect effects are dependent on specific situations and could potentially affect any business within the state, no quantitative

Because these market effects are dependent on specific situations, and could potentially affect any business within the state, no quantitative estimates of the number of indirectly affected small businesses are possible.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The TPR does not require ongoing reporting or recordkeeping for businesses.

Demonstrating compliance with OAR 660-012-0060 does require certain "administrative activities" if a business applies to a local government for an amendment to a plan, land use regulation or zone map. In most cases, the affected business would contract with consultants in a traffic engineering, planning, or legal firms to provide the professional services necessary to carry out these activities. The proposed rule amendment would reduce the cost of those services in some cases because the amendments will streamline the process and generally reduce certain mitigation requirements. The amount of the reduction will vary considerably depending on the site-specific circumstances, the type of development proposed and the conditions of the transportation network in the vicinity. Therefore, the department cannot make quantitative estimates of the reduced costs.

c. Equipment, supplies, labor and increased administration required for compliance:

The TPR does not require specific equipment, supplies labor or administration for ongoing compliance.

How were small businesses involved in the development of this rule?

If not, why?:

The Rulemaking Advisory Committee included at least five members who represent or work for small businesses.

Administrative Rule Advisory Committee consulted?: Yes

A rulemaking advisory committee was used to develop this rule. Additional information about the committee is available online:

http://www.oregon.gov/LCD/Rulemaking_TPR_2011.shtml#Rules_Advisory_Committee

12-08-2011 Close of Hearing	Casaria Tuttle	casaria.r.tuttle@state.or.us	10-14-11 9:30 AM
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address	Date Filed

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

ARC 925-2007

HOUSING COST IMPACT STATEMENT

FOR ESTIMATING THE EFFECT OF A PROPOSED RULE OR ORDINANCE ON THE COST OF DEVELOPING
A *TYPICAL 1,200 SQ FT DETACHED SINGLE FAMILY DWELLING ON A 6,000 SQ FT PARCEL OF LAND.
(ORS 183.534) *FOR ADMINISTRATIVE RULES*

AGENCY NAME:

Department of Land Conservation and Development

ADDRESS: 635 Capitol Street NE, Suite 150

CITY/STATE: Salem, Oregon 97301

PHONE: 503-373-0050 x272

PERMANENT:

TEMPORARY:

HEARING DATES: December 8, 2011

EFFECTIVE DATE: January 1, 2012

**BELOW PLEASE PROVIDE A DESCRIPTION OF THE ESTIMATED SAVINGS OR ADDITIONAL COSTS THAT WILL
RESULT FROM THIS PROPOSED CHANGE.**

PROVIDE A BRIEF EXPLANATION OF HOW THE COST OR SAVINGS ESTIMATE WAS DETERMINED.
IDENTIFY HOW CHANGE IMPACTS COSTS IN CATEGORIES SPECIFIED

Description of proposed change: (Please attach any draft or permanent rule or ordinance)

Amend Transportation Planning Rules to simplify, clarify and streamline local plan amendments and rezonings.

Description of the need for, and objectives of the rule:

The proposed rule amendments are in response to concerns about the interaction between OAR 660-012-0060 (“the TPR”) and the mobility standards in Oregon Highway Plan (OHP). Furthermore, the proposed amendments are in response a new law adopted by the 2011 Oregon Legislature requiring LCDC to amend the TPR by January 1 in order to address these concerns and to streamline, simplify and clarify the requirements of the rule “to better balance economic development and the efficiency of urban development with consideration of development of the transportation infrastructure.”

In some situations OAR 660-012-0060 makes it more difficult to rezone land or increase allowed densities. Downtowns typically have levels of motor-vehicle congestion that exceed (or are projected to exceed) the performance standards. Similarly OAR 660-012-0060 can make it difficult to rezone land for economic development where motor-vehicle congestion exceeds (or is projected to exceed) performance standards. These rule amendments are intended to address these unintended consequences and make other changes to clarify, simplify and streamline the local amendment process.

List of rules adopted or amended:

OAR 660-012-0005; 660-012-0060; OAR 660-024-0020.

Materials and labor costs increase or savings:

No changes anticipated to material or labor costs.

Estimated administrative, construction or other costs increase or savings:

No change anticipated to construction costs.

No change anticipated to administrative costs in most cases. In the event that development of new detached single-family housing requires rezoning land, the amendments could reduce the cost of transportation analysis

required by local governments to support the rezoning, and could reduce the cost of constructing transportation projects to support the residential development.

The proposed amendments will likely reduce the cost of housing for housing types other than a "typical" detached single-family dwelling. The proposed amendments would make it faster and less costly for local governments to rezone for higher densities and for a mix of uses where appropriate. This may have the effect of lowering housing costs for those housing types. Other housing types that could benefit would include multi-family houses, such as row houses, semi-detached housing, cottage clusters, condominiums and apartments.

Land costs increase or savings:

Most new housing will be built on land already planned and zoned for residential development. Consequently, OAR 660-012-0060 would not apply either with or without the proposed amendments. In the unusual event that development of new detached single-family housing requires rezoning land, the amendments could reduce the cost to develop the land as described above.

Other costs increase or savings:

No change anticipated.

*Typical-Single story 3 bedrooms, 1 ½ bathrooms, attached garage (calculated separately) on land with good soil conditions with no unusual geological hazards.

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