



SUBJECT Land Use Compatibility Statement (LUCS) for Approach Road Permitting	FINAL NUMBER AM 12-01(B)	EFFECTIVE DATE 10/01/2012	VALIDATION DATE 06/30/2017	SUPERSEDES or RESCIND
	WEB LINK(S) http://www.oregon.gov/ODOT/Engineering/Pages/Technical-Guidance.aspx			
TOPIC/PROGRAM State Highway Approach Permits	APPROVED SIGNATURE Original signed by: Larry McKinley, Access Management Program Manager			

PURPOSE

The purpose of this bulletin is to provide background and direction to ODOT staff about use of the Land Use Compatibility Statement (LUCS) in the approach permitting process. The purpose of the LUCS is to certify that the land use to be served by a highway approach: 1) complies with statewide planning goals; 2) is compatible with acknowledged comprehensive plans; and 3) has obtained the local government land development approvals.

The guidance in this bulletin does not apply to project delivery.

GUIDANCE

ODOT staff is to use the LUCS to document that the department's highway approach permitting program complies with statewide planning goals and is consistent with acknowledged comprehensive plans, as required by ORS 197.180 and OAR 660-031.

The LUCS is part of the Application for State Highway Approach. It is the applicant's responsibility to have the local jurisdiction complete and sign the LUCS and to submit the completed LUCS with their application. A final land use decision may be accepted in lieu of the LUCS. An approach application will not be deemed complete until ODOT receives a completed and signed LUCS or final land use decision.

A completed and signed LUCS may be duplicated and used for multiple applications that are submitted together if all applications serve the same land use on the same site, and have the same zoning and site plan.

An Application for State Highway Approach is not to be processed when information on the LUCS indicates any of the following conditions:

- The land use to be served by the proposed approach is not consistent with the *acknowledged comprehensive plan*.
- Land development approval is required and an application has not been submitted to the local jurisdiction for review.
- Land development approval is required and the local jurisdiction has denied the request. OAR 660-031-0030 requires ODOT to deny the highway approach permit and cite land use inconsistency as the basis for denial.

An Application for a State Highway Approach may be processed when information on the LUCS indicates any of the following conditions:

- Land development approval is not required and the land development to be served by the proposed approach is consistent with the *acknowledged comprehensive plan*.
- Land development approval is required and the approval is final, including resolution of any appeals.
- Land development approval is required and there is a pending application for the land development to be served by the approach. See Pending Land Development Application in the Explanation section below.

DEFINITION

“*Acknowledged comprehensive plan*” means a comprehensive plan and implementing ordinances adopted by a city or county that have been found in compliance with the statewide planning goals by the Land Conservation and Development Commission. (See ORS 197.251 and OAR 660-031-0010(1)).

“*A pending land use action*” is a land development application submitted to a local government for review, for which the local government has not yet determined whether the proposed development complies with the *acknowledged comprehensive plan*, including resolution of any appeals.

BACKGROUND/REFERENCE

ORS 197.178(1) requires state agencies to carry out their duties and responsibilities with respect to activities that affect land use in a manner compatible with statewide planning goals and acknowledged comprehensive plans, unless expressly exempted by another statute.

OAR 660-031 describes state agency responsibilities for applying statewide planning goals and acknowledged comprehensive plans during permit reviews (ORS 197.180(1) through (7)). It lists ODOT road approach permits as Class B permits affecting land use. For Class B permits, state agencies are allowed to rely on affected local jurisdictions to determine consistency and compatibility (OAR 660-031-0026(2)(b)(B)).

ODOT has adopted OAR 731-015, Coordination Rules, to establish procedures for its state agency coordination program. OAR 731-015-0115(2) through (3) prohibit ODOT from issuing a road approach permit without certification of compatibility from the local planning official documenting that all land development approvals have been obtained for the land use to be served by an approach.

OAR 734-051 establishes procedures and approval criteria for issuing highway approach permits. OAR 734-051-3030(3) lists the LUCS as one of the requirements of an Application for State Highway Approach. OAR 734-051-3040(8) outlines the process for reviewing approach applications when there is a pending land use action.

EXPLANATION

Pending Land Use Action

A pending land use action is a land development application submitted to a local government for review, for which the local government has not yet determined whether the proposed development complies with the *acknowledged comprehensive plan*, including resolution of any

appeals. ODOT may accept and process approach permit applications when the LUCS documents that there is a pending land development application for the site. This includes when the local jurisdiction is processing a quasi-judicial plan or zone amendment for the site at the same time it is reviewing a land development application for the site; and the proposed development will be consistent with the new plan and zone designations.

ODOT may issue a conditional approval for an approach application when there is a pending land development application. Conditional approval defers the department's final decision until receipt of certification from the local jurisdiction documenting all land development approvals have been obtained, including resolution of any appeals. A conditional approval is not a condition of approval, but rather it is a deferral of final approval.

OAR 734-051-3040(8)(b) allows the department to issue a Permit to Construct an approach when there is a pending land development application and to require a deposit to ensure the approach is removed if the local jurisdiction denies the land development application.

OAR 734-051-3040(8)(c) prohibits the department from issuing a Permit to Maintain and Operate a highway approach until we receive certification from the local government documenting all land development approval are final, including resolution of any appeals. (OAR 731-015-0115)).

RESPONSIBILITIES

The District Manager is responsible for establishing procedures to implement this guidance and to ensure that staff understands the instruction and follows it consistently in the permitting process.

The Access Management Unit will, upon request of the District Manager(s), provide training and answer questions to facilitate implementation of this guidance.

ACTION REQUIRED

Implement guidance upon effective date of bulletin.

CONTACT INFORMATION

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