

Attachment A

Evaluating Change of Use of a Private Connection

PURPOSE

Attachment A provides guidance for reviewing an existing private connection for change of use. It includes general direction for evaluating Change of Use (COU) of an existing connection, including permitted road approaches, grandfathered road approaches or presumed to be permitted road approaches. In addition, it provides step by step evaluation procedures and detailed information on the change of use criteria, including change in the number of trips, change in heavy vehicle volumes, safety & operational concerns and stopping sight distance. Finally, it provides direction on using the “*move in the direction of*” (MITD) approval criteria.

DEFINITIONS

These definitions are taken from OAR 734-051-1070, effective June 30, 2014.

(9) “*Approach*” means a legally constructed public or private connection that provides vehicular access to or from a state highway that:

- (a) Has written permission under a Permit to Operate issued by the department under OAR 734-051-3010; or
- (b) The department has recognized as grandfathered under OAR 734-051-1070(29); or
- (c) The department does not rebut as having a presumption of written permission under OAR 734-051-3015.

(10) “*Average Daily Trips*” means the total of all one-direction vehicle movements with either the origin or destination inside the study site that includes existing, primary, pass by, and diverted linked trips and is calculated in accordance with the procedures contained in the Trip Generation Manual, 9th Edition published by the Institute of Transportation Engineers (ITE). Adjustments to the standard rates in the ITE Manual for mode split may be allowed if calculated in accordance with Transportation Planning Rule and the ITE procedures. Adjustments to the standard rates for multi-use internal site trips may be allowed if calculated in accordance with ITE procedures and if the internal trips do not add vehicle movements to the approaches to the highway.

(14) “*Connection*” means an existing approach as defined in (9) or an unpermitted means of vehicular access to or from a state highway and an abutting private property, city street or county road.

(30) “*Grandfathered approach*” means an approach that the department has recognized in documentation dated prior to January 1, 2014 as having grandfathered status under the rules in effect on the date of the documentation. An approach that is recognized as having grandfathered status is treated in the same manner as a Permit to Operate under Division 51 rules unless otherwise noted.

(45) “Move in the direction of” means a change in an existing private connection that would bring the connection closer to conformity with access spacing, sight distance, or channelization standards set forth in OAR 734-051-4020. The process and criteria for moving in the direction of access spacing, sight distance, or channelization standards are set forth in OAR 734-051-3020(7) through (11).

(47) “Peak hour”, for the purpose of approach applications made under OAR 734-051-3020 (Change of Use), means the hour during which the highest volume of traffic enters and exits the property during a typical week.

(54) “Prior use” of an approach means the number of peak hour or average daily trips:
(a) Authorized by the Permit to Operate issued by the department; or
(b) Authorized by the department for a grandfathered approach in the documentation recognizing the approach as grandfathered; or
(c) Based on the use of the property on January 1, 2014 for approaches that the department does not rebut as having a presumption of written permission under OAR 734-051-3015.

(55) “Private approach” means an approach that serves one or more properties and that is not a public approach.

(78) “Trip” means a one-way vehicular movement that consists of a motor vehicle entering or exiting a property.

GENERAL INFORMATION

OAR 734-3020(2)(a)-(e) describes the threshold criteria for change of use of existing connections to private property abutting a state highway. When one or more of the criteria is met, a new application is required for each existing connection to the property. Determination that a change of use has occurred or is proposed, allows ODOT to decide if modification to one or more connections or other mitigation measures are needed to address the impact of the changes on safety and highway operations.

Typical Change of Use Situations

Change of use evaluations can be performed at any time that ODOT believes a change of use has or may have occurred. However, an evaluation is typically done at the time of a proposed action such as:

- (a) Zoning or plan amendment designation changes¹.

¹ Zoning or plan amendment designation changes and the division or consolidation of property boundaries by themselves may not generate trips. However, there may still be a safety or operational concern that needs to be evaluated to determine if a change of use is triggered (for example: sight distance or offset approaches). Also, at the time of proposed changes to land use zoning or comprehensive plan designations, or the division or consolidation of property boundaries it may be appropriate to comment that future development may be significant enough to meet the change of use criteria requiring a new road approach application. It may also be appropriate to comment for the record on other issues related to access that may be of concern even if a change of use does not occur (for example: reservations with specific limitations on use.)

- (b) Construction of new buildings.
- (c) Floor space of existing buildings increases.
- (d) Division or consolidation of property boundaries¹.
- (e) Changes in the character (type and/or volume) of traffic using the approach.
- (f) Internal site circulation design or inter-parcel circulation changes.

Other circumstances may also lead to the need to perform a change of use evaluation to determine if any of the thresholds in OAR 734-3020(2) are met.

A change of use evaluation is not required with every land use notice or proposed change in land use. If the proposed change in trip generation is insignificant and there are no evident safety and operations concerns associated with the connection, it is not necessary to perform a change of use evaluation. Examples of insignificant land use changes include:

- Additions to existing residences such as carport/garage, decks, bedroom, family room, or a well/pump house.
- Additional agricultural out buildings.
- Medical hardship dwellings.
- Unmanned utility site (cell towers, solar facility, electrical substation, etc.)

Consult the Region Access Management Engineer if there is a question about the need to do a change of use evaluation.

Sources of Information for Change of Use Determination

OAR 734-051-3020(4) Determinations of Change of Use.

The department shall determine whether a change of use meets the thresholds in section (2) of this rule by using one or more of the following methods:

- (a) Field counts;*
- (b) Site observation;*
- (c) Traffic impact analysis;*
- (d) Field measurement;*
- (e) Crash history;*
- (f) Trip Generation, 9th Edition, published by the Institute of Transportation Engineers (ITE); or*
- (g) Information and studies provided by the local jurisdiction or the applicant.*

Rule 3020(4)(a)-(g) lists sources of information ODOT uses to determine whether an existing connection meets the thresholds for change of use in rule 3020(2). Rule 3020(4)(f) says ODOT uses the ITE trip generation manual to determine trip volumes. In addition, we can sometimes use local values for trip volumes by following the procedures outlined in ITE Trip Generation Handbook Chapter 4.5, which requires comparing three similar sites.

DO NOT use the fee calculator on the CHAMPS Application Tab to determine traffic volume because It produces an average of multiple uses and can generate higher or lower values!

If one or more of the criteria in (2)(a)-(e) are met, then a change of use application is required. The change of use evaluation and determination should be documented by filling out the Change of Use (COU) Tab in CHAMPS. In addition, the Change of Use findings must be completed in CHAMPS.

If none of the COU criteria are met, an application is not required. You just need to fill out the COU Tab in CHAMPS to provide necessary documentation.

Regarding the COU Tab, in cases where there is not an existing CHAMPS file, one will need to be created. Please use the CHAMPS-GIS reconciliation process to create a new CHAMPS record. The reconciliation process was started in 2014.

If a presumed to be permitted connection does not trigger change of use and a local government requires proof of a road approach permit or written permission from ODOT, then the applicant should be advised to request a Permit to Operate for the connection (see OAR 734-051-3015(2)(3)). The process for issuing a Permit to Operate for a presumed to be permitted connection is outlined in technical bulletin [AM 15-02\(B\)](#) on Presumption of Written Permission.

Trip Caps and Change of Use

If an approach permit or a reservation of access establishes a trip cap (a limitation on the number of trips allowed at an approach), then a change of use occurs when the number of trips at the approach exceeds the trip cap. The trip increases in rule 3020 would not apply. This is because a trip cap establishes a specific limit for use of the approach that is legally binding. Increases above the trip cap require a new application. A change of use should only be approved after consulting with the appropriate parties about any agreement, permit or land use action that established the cap. It is best to complete any necessary formal actions, such as revising an agreement or reservation of access, before approving a change of use.

Mandatory Meeting – OAR 734-051-3020(3)

*(3) **Mandatory Meeting.** Unless waived by the department, a meeting between ODOT staff and the applicant is required for a change of use application prior to the department deeming the application complete. It is preferable that the meeting be held prior to submittal of the change of use application.*

Rule 3020(3) says a meeting between ODOT staff and the applicant is required for a change of use application, unless ODOT waives the requirement. It is best if the meeting takes place as early in the process as possible, preferably before the application is submitted. By rule this meeting must take place before ODOT deems the

application complete. The meeting is an opportunity for ODOT staff to explain the application process and answer questions. It is a time to discuss the proposed development with the applicant, share information and ask questions, etc. Compiling and sharing as much information as possible early in the process will help get the application off to a good start and avoid costly delays later on.

Approval of Change of Use Applications

Rule 3020 establishes procedures and approval criteria for change of use applications. Change of use applications may be approved in different ways depending on the circumstances. In most cases, the “*moving in the direction of*” criteria in rule 3020 allow ODOT and the applicant to collaborate and agree on actions that lead to approving an application, without the need to meet the standards for a new approach permit.

STEP-BY-STEP COU EVALUATION PROCEDURES

Step 1: First, verify the status of the existing connection as permitted, grandfathered, or presumed to be permitted.

OAR 734-051-3020 (1) Applicability.

(a) This rule sets forth procedures and requirements for a change of use of an existing private connection to a state highway.

(b) A new application is required for the purpose of permitting all connections to a property when there is a change of use as set forth in section (2) of this rule. All connections to the property are subject to this rule whether they exist under a Permit to Operate, are grandfathered under OAR 734-051-1070(29), or the department provides written permission under OAR 734-051-3015.

Rule 3020(1) says the change of use rules apply to all private connections to the highway including permitted, grandfathered or presumed to be permitted approaches. It is important to determine the status of a connection before beginning the evaluation process. To determine the status, check for existing records in CHAMPS, the UPermit database and district paper files, including district Miscellaneous Permit files. District paper files may contain documentation that is not in CHAMPS or the UPermit database. ODOT has sometimes issued written permission in the form of a Miscellaneous Permit. In addition, the applicant may have a copy of a permit or other document that ODOT does not have on file. All of these resources can be used to determine the status of the connection.

Step 2: Second, determine if the connection is exempt from change of use evaluation.

OAR 734-051-3020 (5) Exempt from Application for Change of Use. Buildout of an approved site plan or multi-phased development does not require a new application for an approach road permit where the department determines that the buildout is

consistent with the land use approval by the local government and the permit issued by the department for development.

Rule 3020(5) says if an existing road approach permit covers build-out of an approved site plan or multi-phased development, a new approach application is not required.

Example 1: A road approach permit issued last year was for phases 1 & 2 of a 5-phase development. Phase 1 has been completed. ODOT receives notice of planned development of phase 2. As long as phase 2 is consistent with the land use approval and the approach permit, a new application is not required even if phase 2 generates higher volumes than the criteria for change of use in OAR 734-051-3020(2). This is because the development of phase 2 is consistent with the approach permit that was issued for both phases.

Example 2: *(continuation of above example)* Phases 1 & 2 of a 5-phase development are now completed. ODOT receives notice of planned development of phase 3. Phase 3 would be subject to change of use criteria because phase 3 is not covered by the approach permit issued by the department for the development. A change of use evaluation should be completed to determine if a new application is required for phase 3.

Step 3: Third, determine if any change of use thresholds are met.

OAR 734-051-3020(2) Changes Of Use Requiring an Application for State Highway Approach. Except as provided under section (5) of this rule, a new application is required for a change of use when any one of the following:

Rule 3020(2) says a new application is required for a change of use when any one of the criteria is met. For vehicle trip generation criteria in (2)(a)-(c), the rules apply when ODOT determines the actual volumes have exceeded the criteria; or when ODOT determines a proposed change will result in exceeding the trip generation criteria.

Rule 3020(2)(a)-(b) establishes change of use thresholds based on a change in the number of trips from the prior use of the property, not necessarily a change in trip volume at any one connection. In contrast, in (2)(c) the threshold is based on a change in the number of vehicles with a gross weight rating of 26,000 pounds or greater at any one connection to the property.

“Prior use” is defined in OAR 734-051-1070 as follows:

(54) “Prior use” of an approach means the number of peak hour or average daily trips:

(a) Authorized by the Permit to Operate issued by the department; or

(b) Authorized by the department for a grandfathered approach in the documentation recognizing the approach as grandfathered; or

(c) Based on the use of the property on January 1, 2014 for approaches that the department does not rebut as having a presumption of written permission under OAR 734-051-3015.

The prior use for permitted and grandfathered connections is the use allowed by the permit or grandfathered recognition. When the prior use is not clearly indicated on the permit or grandfather documentation, you must use the best available information to make a reasonable determination. For presumed to be permitted connections, the prior use is the use of the property on January 1, 2014, as established by the department in collaboration with the applicant. Unless there is more specific information available, use the current ITE Trip Generation Manual to estimate the number of average daily and peak hour trips to assign to the prior use.

See Attachment B (below) for additional guidance on determining prior use. Consult with the RAME or the District Manager if there are questions about prior use.

Five Change of Use Thresholds

1. Peak Hour Trip Thresholds

OAR 734-051-3020(2)(a) The number of peak hour trips increases by fifty (50) trips or more from that of the property’s prior use and the increase represents a twenty (20) percent or greater increase in the number of peak hour trips from that of the property’s prior use; or

To meet this threshold two requirements must be met. First, there must be an increase of at least 50 peak hour trips above the peak hour trips of the prior use of the property. Second, the increase in peak hour trips must be 20% or greater than the property’s prior use.

Typically in a traffic impact analysis when a development’s AM, PM, and/or weekend peak hour trips are compared, AM existing is compared to AM proposed; PM existing is compared to PM proposed; and weekend existing is compared to weekend proposed. For the change of use evaluation criteria, this practice is not followed. Instead the highest existing AM, PM, or weekend peak hour trips are compared to the highest proposed AM, PM, or weekend peak hour trips.

The examples below illustrate situations when change of use is met and not met in various scenarios.

Example A: Criteria for Change of Use is met under 3020(2)(a).

	AM Peak Hr	PM Peak Hr	Weekend Peak Hr
Prior Grandfathered Use	100 vph	150 vph	75 vph
Proposed Use	100 vph	150 vph	200 vph

Highest Proposed Use - Highest Prior Use = # increase peak hour trips
 200 vph – 150 vph = 50 vph increase

- 1) Proposed increase in peak hour trips is 50 or more? **Yes**
- 2) Proposed increase in peak hour trips is 20% or more? **Yes**
 Percent increase = (vph increase / vph prior use) x 100 = % increase
 (50 vph / 150 vph) x 100 = 33% increase

Example B: Criteria for change of use is not met under 3020(2)(a).

	AM Peak Hr	PM Peak Hr	Weekend Peak Hr
Prior Permitted Use	600 vph	520 vph	400 vph
Proposed Use	500 vph	660 vph	420 vph

Highest Proposed Use - Highest Prior Use = # increase peak hour trips
 660 vph – 600 vph = 60 vph increase

- 1) Proposed increase in peak hour trips is 50 or more? **Yes**
- 2) Proposed increase in peak hour trips is 20% or more? **No**
 Percent increase = (60 vph) / 600 vph) X 100 = 10% increase

***Example C:** Criteria for change of use is met under 3020(2)(a).

A 5,000 sq. ft. supermarket proposes to expand an additional 2,000 sq. ft. for a total of 7,000 sq. ft. The existing connection is permitted for a single family home.

	AM Peak Hr	PM Peak Hr	Weekend Peak Hr
Prior Permitted Use	1 vph	1 vph	1 vph
Proposed Use	25 vph	74 vph	76 vph

Highest Proposed Use - Highest Prior Use = # increase peak hour trips
 76 vph – 1 vph = 75 vph increase

Prior Permitted Use: Based on connection being constructed when there was a single family home on the site

Proposed Increase: Based on calculation 7000 sq. ft. supermarket)

- 1) Proposed increase in peak hour trips is 50 or more? **Yes**
- 2) Proposed increase in peak hour trips is 20% or more? **Yes**
 (75 vph / 1 vph) X 100 = 7500%

***Example D:** Criteria for change of use is not met under 3020(2)(a).

An unpermitted connection to property developed with a single family house is presumed to be permitted. The proposal is to sub-divide the property and construct 19 additional single-family detached housing units, which would add 19 peak hour trips.

	AM Peak Hr	PM Peak Hr	Weekend Peak Hr
Prior Unpermitted Use	1 vph	1 vph	1 vph
Proposed Use	15 vph	20 vph	19 vph

Highest Proposed Use - Highest Prior Use = # increase peak hour trips
20 vph – 1 vph = 19 vph increase

- 1) Proposed increase in peak hour trips is 50 or more? **No**
- 2) Proposed increase in peak hour trips is 20% or more? **Yes**
(19 vph / 1 vph) X 100 = 1900%

*Examples C and D used Trip Generation by Microtrans, Version 6.

2. Average Daily Trip Thresholds

OAR 734-051-3020(2)(b) The average daily trips increases by five hundred (500) trips or more from that of the property's prior use and the increase represents a twenty (20) percent or greater increase in the average daily trips from that of the property's prior use; or

Use the same analysis as for (2)(a) above, but use daily trips rather than peak hour trips. Here we look at the impacts when the trips are spread out over a day rather than just the trips included in the peak hour.

3. Large Heavy Vehicle Threshold

OAR 734-051-3020(2)(c) The daily use of a connection increases by ten (10) or more vehicles with a gross vehicle weight rating of twenty-six thousand (26,000) pounds or greater; or

This threshold is based on the number of heavy vehicles with a gross vehicle weight rating (GVWR) of 26,000 pounds or greater that use a single connection, not based on the number of trips generated from the prior use of the property. The intent is to evaluate a connection when there is an increase of 10 or more trucks or other large vehicles using it. For a highway connection with large vehicles entering and exiting, an increase of 10 or more large vehicles is considered equivalent to an increase of 20 daily large vehicle trips. Large vehicles typically require the driver to have a commercial driver's license (CDL). The Oregon Commercial Driver Manual indicates when a CDL is required when the GVW rating is "26,001 pounds or greater."

The two main reasons to be concerned about an increase in the number of large, heavy vehicles: 1) large vehicles have greater sight distance requirements, and 2) they can have a significant impact on highway traffic mobility considerations.

Table 3.a and Table 3.b below show vehicles by weight class. Class 6 vehicles include those with GVWR between 19,501–26,000 pounds. Class 7 vehicles include those with GVWR between 26,001–33,000 pounds. Thus, in effect rule 3020(2)(c) applies to vehicles in Class 7 and above.

Table 3.a.

Weight Class	Minimum GVWR (lbs)	Maximum GVWR (lbs)	VIUS * Category	Common Category
Class 1		6,000	Light-duty	Light Duty
Class 2	6,001	10,000	Light-duty	Light Duty
Class 3	10,001	14,000	Medium-duty	Light Duty
Class 4	14,001	16,000	Medium-duty	Medium Duty
Class 5	16,001	19,500	Medium-duty	Medium Duty
Class 6	19,501	26,000	Light-heavy	Medium Duty
Class 7	26,001	33,000	Heavy-heavy	Heavy Duty
Class 8	33,001		Heavy-heavy	Heavy Duty

* VIUS: US DOT Vehicle Inventory and Use Survey

Table 3.b.

	Weight Class »							
	1	2	3	4	5	6	7	8
Common Category »	Light			Medium			Heavy	
Chevrolet Silverado 1500		2						
Chevrolet Silverado 2500HD		2						
Chevrolet Silverado 3500		2	3					
Dodge Ram 1500		2						
Dodge Ram 2500		2						
Dodge Ram 3500		2	3					
Dodge Ram 3500 Chassis Cab			3					
Dodge Ram 4500 Chassis Cab				4				
Dodge Ram 5500 Chassis Cab					5			
Ford F-150		2						
Ford F-250		2						
Ford F-350			3					
Ford F-450				4				
Ford F-550					5			
Ford F-650						6	7	
Ford F-750							7	
GMC Sierra 1500		2						
GMC Sierra 2500HD		2						
GMC Sierra 3500		2	3					
GM C4500				4	5			
GM C5500					5	6		
GM C6500						6	7	
GM C7500						6	7	8
GM C8500							7	8
Semi trucks								8

Classification based on published manufacturer data available on 3/28/2009.

Semi-trucks are classified as vehicles with a GVWR of 26,001 pounds or greater. Depending on type and size, school buses, large motor homes, fire trucks, etc. may also have a GVWR of 26,001 pounds or greater.

4. Safety and Operations Concerns

OAR 734-051-3020(2)(d) ODOT demonstrates that safety or operational concerns related to the connection are occurring as identified in OAR 734-051-4020(3); or

Over time conditions on the system can change from when the approach was first approved. This provision allows ODOT to review an approach for the following safety and operations concerns, which might result in a change of use and require a new application for the approach.

4020(3) Safety and Operations Concerns.

(a) Regular queuing; or

(b) Overlapping left turn movements; or

(c) Crash rate; or

(d) Top five percent Safety Priority Index System; or

(e) Inadequate spacing to public approach (District or Regional highway, ≥ 50 mph;

or

(f) Weave movements:

The Access Management Unit and the RAMES developed a technical bulletin for each of the safety and operations concerns. ODOT staff is expected to use the bulletins for guidance. Staff will also need to consult with the RAME, because engineering analysis and judgment is often required to evaluate these issues.

<http://www.oregon.gov/ODOT/Engineering/Pages/Technical-Guidance.aspx>

5. Stopping Sight Distance of Ten Times (10x) the Speed Limit

*OAR 734-051-3020(2)(e) The connection does not meet the stopping sight distance standards, as measured in feet, of ten (10) times the speed limit established in ORS 811.111 or the designated speed posted under ORS 810.180 for the highway as measured in miles per hour, or ten (10) times the 85th percentile speed of the highway where the 85th percentile speed is higher or lower than the speed limit established in ORS 811.111 or the designated speed posted under ORS 810.180. The ***applicant may*** perform a study to determine if the 85th percentile speed is higher or lower than the speed limit established in ORS 811.111 or the designated speed posted under ORS 810.180. The sight distance measurement, as described in OAR 734-051-4020(2)(c)(A)–(B), and the study to determine the 85th percentile speed shall be performed according to published department procedures by or under the supervision of a professional engineer as defined in OAR 734-051-1070. The measurement shall be taken under existing and proposed site conditions.*

Over time sight distance conditions at a connection may change from when the approach was built. This provision allows ODOT to review sight distance at an approach for conditions that might result in a change of use and require a new application for the approach. For example, the connection may have been approved when the posted speed or sight distance standard was lower than it is today, resulting in a sight distance that is no longer considered safe.

The Highway Design Manual (8.2.2(1)) says, “*At a minimum stopping sight distance for the design speed of the highway must be provided at all approaches.*” The sight distance measurement is to be performed “*as described in OAR 734-051-4020(2)(c)(A)-(B)*” and compared to ten (10) times the speed to determine if the sight distance meets a change of use criterion. If the applicant wants to perform the sight distance measurement, then a qualified staff person should offer to assist or provide information to help the applicant perform the procedure correctly. It is recommended that ODOT staff collect all of the sight distance data using the RAME recommended sight distance field measurement form. This will save you some work later on and provide enough information to evaluate any concerns with stopping sight distance.

The rule says, “*The measurement shall be taken under existing and proposed site conditions.*” It is important to consider both existing and proposed conditions. The existing condition is what you see on the property today. It is easy to understand and evaluate. In contrast, proposed site conditions may include new buildings or additions to existing buildings; new or moved signs; new or changed landscaping; or changes in utilities; or other changes. It is important to understand what changes are being proposed. Your review includes evaluating whether there is potential for sight distance at the approach to be reduced by the proposed changes to the site. The proposed site improvements or development must meet the 10 times posted speed criteria.

ORS 811.111 mentioned in this provision refers to the statutory speed limits set by law, i.e. school zone, residential, business districts. ORS 810.180 is the statute governing how ODOT establishes the posted speed from speed zone investigations. This means what you see posted in the field or find in the database is the speed you will use. You might find a section of highway that appears to not have a posted speed. In that case, you need to work with your Region Traffic staff to see what or if there is a statutory speed limit.

The published department procedure for determining the 85th percentile speed is found in the Speed Zone Investigation Manual. Approving a speed study will follow the procedure outlined in Technical Bulletin [AM13-06\(B\)](#), Sight Distance Standards and Deviations for Highway Approaches.

The examples below compare the measured sight distance for the existing and proposed conditions to the calculated stopping sight distance of 10 times the posted speed.

Example E

Measured sight distance	left - 600 ft. right - 780 ft.
Posted speed	55 mph
Calculate stopping sight distance requirement	$55 \text{ mph} \times 10 = 550 \text{ ft.}$
Facts:	Sight distance of 600 ft. left and 780 ft. right both meet (and exceed) the requirement of 550 ft.
Conclusion:	A new approach application is not required based on sight distance.

Example F

Measured sight distance	left - 420 ft. right - 700 ft.
Posted speed	45 mph
Calculate stopping sight distance requirement	$45 \text{ mph} \times 10 = 450 \text{ ft.}$
Facts:	Sight distance of 420 ft. left <u>does not meet requirement</u> of 450 feet in this example. Sight distance of 700 ft. right exceeds requirement of 450 ft. in this example
Conclusion:	A new approach application is required on the basis of sight distance to the left of the existing connection.

Example G

Measured sight distance	left - 420 ft. right - 700 ft.
Posted speed	45 mph
85 th percentile speed from study by Permittee	40 mph
Calculate stopping sight distance requirement	$40 \text{ mph} \times 10 = 400 \text{ ft.}$
Facts:	Sight distance of 420 ft. left exceeds requirement of 400 ft. in this example Sight distance of 700 ft. right exceeds requirement of 400 ft. in this example
Conclusion:	A new approach application is not required on the basis of sight distance.

Example H

Measured sight distances without proposed new building:	left - 600 ft. right - 750 ft.
Measured sight distances with proposed new building:	left - 300 ft. right - 750 ft.
Posted speed	50 mph
Calculate stopping sight distance requirement	50 mph X 10 = 500 ft.
Facts:	Sight distance of 600 ft. left without proposed building exceeds requirement of 500 ft., but sight distance of 300 ft. left with the proposed building <u>does not meet requirement</u> of 500 feet in this example. Sight distance 750 ft. right exceeds requirement of 500 ft. in this example.\
Conclusion:	A new approach application is required on the basis of sight distance to the left of the existing approach due to the proposed new building. This example points out the importance of considering what action is being proposed and assess if it will impact sight distance.

Step 4: Fourth, apply the change of use approval criteria in OAR 734-051-3020(6).

(6) Approval Criteria. The department shall approve an application for a state highway approach that does not pose a safety or highway operations concern, as set forth in OAR 734-051-4020(3), or all such concerns are sufficiently mitigated pursuant to OAR 734-051-3070, and:

- (a) The application meets the applicable approach road spacing, channelization and sight distance standards set forth in OAR 734-051-4020(2)(a) through (c); or*
- (b) The department and the applicant reach agreement that the application moves in the direction of conforming to approach road spacing, channelization, and sight distance standards under sections (7) through (9) of this rule; or*
- (c) The applicant and the department reach agreement under section (6)(b) that the existing condition without change is sufficient to support approval of an application.*

The application cannot pose a safety or highway operation concern; or the safety and operations concern must be sufficiently mitigated in accord with OAR 734-051-3070.

In addition, one of the (6)(a)-(c) criteria must be true:

- a. The application meets standards. This is a straight forward approval with no deviations required.
- b. Agreement is reached on “Moving in the direction of” criteria. This is when ODOT and the applicant agree that the approach moves in the direction of the

standards. This means the approach can be approved without processing deviations. See below for additional information regarding “moving in the direction of”.

- c. Agreement is reached that no change to the existing condition is required. This is when ODOT and the applicant agree that the existing condition is satisfactory for approval of the application. Although the rule does not clearly state that deviations are not required in this case, this is the intent.

If the application does not meet one of the criteria in (6)(a)-(c), then the request is processed as an application for a new approach, requiring deviations if applicable and addressing any safety or highway operations concerns.

Some existing unpermitted connections cannot be approved using the “*moving in the direction of*” criteria. These are listed in rule 3020(11)(a)-(f).

(11) Connections Not Subject to Moving in the Direction of Conformity Criteria.

Notwithstanding sections (6) through (8) above, the “moving in the direction of” criteria as set forth in section (8) of this rule shall not be applied to the connections in subsections (a) through (f), below. For these connections, the department shall apply the standards of OAR 734-051-4020 to approve, deny, or approve with mitigation the application, consistent with the procedures in OAR 734-051-3040.

(a) Connections where no right of access to the property exists at the location of the connection, and an application for a grant of access or indenture of access is not approved;

(b) Connections to undeveloped property without an approved site plan or land use approval allowing for development of the property;

(c) Connections for which the department rebuts a presumption of written permission under OAR 734-051-3015;

(d) Connections to property abutting a highway segment with a statewide classification and a posted speed of 50 miles per hour or greater;

(e) Connections to property abutting a highway segment designated as an expressway; and

(f) Connections to property within the boundaries of an adopted facility plan, or corridor plan, where the connection is inconsistent with the plan, and the planned component for the access to the property has been constructed or is funded to be constructed within four years at the time of the application.

This rule lists six types of existing connections that cannot be approved using the “*moving in the direction of*” criteria. If a request involves connection that fits into one of the listed categories, the applicant needs to submit an application for a new approach.

(7) Moving in the Direction of Conformity Collaborative Process. *The department and applicant, through a collaborative process, shall determine whether an application moves in the direction of conforming to the spacing, channelization or sight distance standards subject to safety and operations concerns. The collaborative*

process shall be made available to the applicant within thirty (30) days of the date an application for state highway approach is deemed complete.

Rule 3020(7) requires ODOT to make a collaborative process available to the applicant within thirty (30) days of the date an approach application is deemed complete.

The collaborative process described in rule 3020(7) is an opportunity for ODOT and the applicant to use the “*moving in the direction of*” criteria in rule 3020(8) to reach agreement to approve a requested connection. The goals of the collaborative process are to ensure that all relevant information is fully considered; to resolve differences to the extent possible; and to facilitate timely issuance of a final decision. Successful collaboration requires ODOT and the applicant to commit to a being fair and honest; and to work together to understand each side and reach an equitable agreement.

In order to approve an application using the “*moving in the direction of*” criteria, any safety and operations concerns must be addressed in a satisfactory manner. ODOT is responsible for identifying any safety or operations concerns related to the requested approach. In addition, ODOT must document why a safety or operations concern could cause an application to be denied or require mitigation. Finally, ODOT must demonstrate why any specific mitigation is needed in order to require the mitigation to approve the application. ODOT staff should always strive to help the applicant find cost effective solutions for mitigation to resolve safety and operations concerns.

“Moving in the Direction of” Approval Criteria

(8) Criteria for Moving in the Direction of Conformity. In determining whether an application for a private approach to a state highway moves in the direction of conformity with the spacing, channelization and sight distance standards of OAR 734-051-4020, the department shall consider all connections on the subject site. An application moves in the direction of conformity with OAR 734-051-4020 when changes are made to a connection that include, but are not limited to, one or more of the following:

Rule 3020(8)(a)-(g) lists examples of changes considered to be “*moving in the direction of*” conforming with standards. The rule and corresponding statute (ORS 374) state that an application moves in the direction of conformity with access spacing, channelization and sight distance standards when one or more of the changes in listed in (8)(a)-(g) are made. In fact, some of the changes listed in (8)(a)-(g) won’t improve access spacing, sight distance, or channelization. The introduction to section (8) says other changes or actions can also be considered. It allows ODOT and the applicant to reach agreement on actions not listed in (8)(a)-(g) that would improve existing condition and provide a basis for approving the application. Improving spacing, sight distance or channelization should be the priority whenever possible and practical.

Following is a more detailed discussion of each item listed in (8)(a)-(g), as well as, some additional actions that may serve as a basis for approval.

(8)(a) Eliminating or combining existing connections to the highway resulting in a net reduction in the number of connections; or

This criterion requires a reduction in the number of connections to the highway. A reduction generally improves safety because it reduces potential conflict points for vehicles, pedestrians and bikes. Conflict points are potential accident locations and create friction to operations of through traffic. For example, a typical “T” approach has 9 vehicle-to-vehicle conflict points on a two lane highway and 8 pedestrian and bike conflict points. Studies have shown that accident rates increase as access density increases per mile and that for each access point the free flow speed (FFS) of a segment of a highway decrease 0.25 mph per approach.

(8)(b) Improving the distance between connections; or

This criterion generally requires increasing the distance between connections. This can be achieved by reducing or relocating connections to the highway. OAR 734-051-4020(8)(a) says the distance between connections is measured along the highway from the center of the existing approach to the center of the nearest connection on the same side of the highway in both directions.

Increasing the distance between connections generally improves safety because it provides more time and space for a driver to observe and respond to vehicles entering and existing approaches along the highway. The more workload there is for a driver the higher the potential for an accident to happen. Increasing the distance between connections can also have the effect of decreasing access density, thereby reducing the potential accident rate in a highway segment. The free flow speed may also be improved as described in (8)(a) above.

Relocating an approach may increase spacing in one direction but decrease spacing in the other direction. Thus the spacing for all driveways affected by the relocation should be reviewed before deciding to use this criterion. Relocation should not reduce the spacing for an approach below the spacing standards of OAR 734-051-4020 if the existing spacing meets those standards, unless approved by the Region Access Management Engineer or other qualified staff.

There is not a minimum distance a connection has to be moved to meet this criterion. Each case is evaluated on its own merits. Some questions to consider include:

- Does moving the connection maximize spacing between connections?
- Does it move the connection to a location that meets the standard in one direction without reducing the distance below the standard in the other direction?
- Will relocating the connection improve safety and operations?
- Will relocating the connection reduce the number of conflict points?
- Would a spacing deviation be approved at the proposed location? *(Note: approval of deviation is not required for agreement on moving in the direction of criteria).*

(8)(c) Improving sight distance; or

Improved sight distance can be achieved by such actions as removing permanent objects obstructing the sight line; relocating the approach to a location with better sight distance; and cutting/grading of slopes. A key element in sight distance is the proper selection of the design vehicle. Large heavy vehicles in enough volume could be the control for sight distance. The sight distances in Table 2, OAR 734-051-4020 should be provided whenever possible. Additional guidance on sight distance is in Technical Bulletin AM 13-06(B), Sight Distance Standards and Deviations for Highway Approaches.

Carefully consider whether brushing and trimming of vegetation is an acceptable improvement, as this is a normal maintenance activity for any approach. It should only be considered to meet “*move in the direction of*” criteria when the applicant obtains an agreement with other parties to remove obstructions that are not on their property or on the highway right of way.

(8)(d) Widening an existing connection to accommodate truck turning radius requirements; or

Widening a connection to the property to accommodate truck turning movements can improve safety and operations at the connection. Increasing the radii of the connection and/or widening the throat of the connection may reduce conflicts with traffic in adjacent lanes, pedestrians or bicycles. Changing from a dustpan design to a curbed radius design may also better accommodates truck traffic at a connection. Widening should be considered for connections with frequent truck traffic and should be based on an appropriate design vehicle that frequently uses the connection rather than a vehicle that occasionally uses the connection.

Widening a connection may result in faster vehicle entry speeds. Be aware that faster vehicle entry speeds can increase hazards to pedestrians and bicyclists if the connection is in a high volume pedestrian and bicycle environment.

Reference should be made to the HDM 8.2.2(4) for accommodating or designing for trucks as the design vehicle. The connection should be “designed for” rather than to “accommodate” the design vehicle. The RAME may allow for “accommodating” being adequate based on the site ADT and location.

Note: If change of use was triggered based on increased truck or heavy vehicle traffic under rule 3020(2)(c), always evaluate the adequacy of the turning radii of the existing connection.

(8)(e) Widening an existing connection to accommodate additional exit lanes; or

Additional exit lanes can reduce delay and queuing associated with the exiting turn movements. Excessive delays may cause drivers to take shorter gaps in mainline traffic

when turning at an approach. Shorter gaps in mainline traffic make it difficult for drivers to complete turn movements safely, leading to increased risk of crashes. Excessive queuing creates pressure on the first driver to take shorter gaps. Long on-site queues may block site circulation causing entering vehicles to stop on the highway.

These are some things to consider and evaluate when using this criterion:

- Will the Level of Service (LOS) improve to a level that meets the local (City/County) standard?
- Will queuing conditions improve by adding an additional exit lane or changing the lane grouping?
- Will the Volume to Capacity ratio (V/C) be improved? Consider the applicable OHP standard for entering movements and a standard of 1.00 for exiting movements.
- Would changing from a dustpan design to a curbed radius design be an improvement? See Table 9-1 in the HDM for threshold on the type of approach needed.
- Will a wider approach present safety problems for pedestrians and bicyclists?

(8)(f) Narrowing an existing connection to provide the appropriate number of entry and exit lanes as required for the property; or

Narrowing a connection can achieve a benefit by more clearly defining entry and exit lanes. Excessively wide connections allow drivers to enter and exit at unpredictable locations within the approach, increasing the risk of conflicts with other vehicles, pedestrians and bicycles.

Examples of where this criterion may be appropriate include the following:

- Existing open frontage changed/narrowed to a defined approach location by curbing.
- Existing 30-foot wide approach narrowed to 24 feet in areas of high pedestrian use. The narrower approach may result in slower speeds and narrower width for pedestrians to cross.

(8)(g) Developing a throat on a connection to allow for more efficient movement of motorists from the highway.

The throat length of the connection is the distance from the back of sidewalk (or end of approach radii in absence of sidewalk) to the first drive aisle or parking space (or internal site road network). An adequate throat length helps to keep traffic conflicts within a parking lot from impacting traffic operations on the highway. The throat distance also provides space in the connection for inbound and outbound traffic queuing.

These are some things to consider when using this criterion:

- For low traffic volume commercial and industrial connections, the shortest desirable connection throat length is 25 ft. (about one 25 ft. car length).

- For medium traffic volume commercial and industrial connections (150 – 400 peak hour trips), the shortest desirable connection throat length is 75 ft. (about three 25-ft. car lengths).
- For high-volume connections (over 400 peak hour trips) such as a shopping center entrance, the adequate throat length is to be determined by the results of a traffic study or as recommended by the RAME.
- The peak hour 95% queue should generally be used for the throat distance. This is estimated by use of the “Two Minute Rule” in the ODOT Analysis Procedures Manual.

As noted above, the actions listed in (8)(a)-(g) are not meant to be the only changes that can be considered acceptable for “*moving in the direction of*”. Following are examples of other changes that could be considered. It is helpful to think about how they address the cause of the change of use and how they would improve the existing situation.

- Improvements to channelization on the highway (widening or lengthening storage, improving taper or deceleration distance).
- Improvements to open frontage such as curbing and/or sidewalk along the property frontage.
- Improvements to pedestrian or bicycle safety related to connections.
- Restriction of movements to and/or from connections.
- Relocating the connection to line up with connections on the other side of the highway (appropriate off-sets will have 50% less conflict points).
- Grade Change – improving the vertical geometrics of a connection may improve safety and operation of the connection, including sight distance and exiting speed.
- Site circulation and parking changes to improve connection safety and operation.
- Mailbox turnouts in rural areas

Improving spacing, sight distance or channelization should be the priority whenever possible and practical. It is recommended that staff evaluate these three standards to determine if, under the circumstances, deviations could be justified. Deviations are not required for change of use applications that ODOT agrees are moving in the direction of conforming to standards. However, the evaluation helps establish a basis for what is acceptable.

(9) Agreement. *Where the department and applicant agree that a change of use application moves in the direction of conforming to spacing, channelization, and sight distance standards, the department shall approve the application without requiring separate deviations from those standards. The department, upon completion of the terms of agreement, shall issue a Permit to Operate for all approaches that are to remain operational as identified in the agreement. An agreement to remove, modify, or mitigate a connection pursuant to the agreement between the department and the applicant is not an appealable decision.*

Reaching agreement on “*moving in the direction of*” approval is the goal for change of use applications. When the applicant and ODOT reach agreement, then ODOT issues approval of the application. A Permit to Operate should be issued to each existing connection to the property that will remain in operation.

When an approval is issued based on this agreement, the applicant cannot appeal the agreement; it is not considered an appealable decision.

(10) Where Agreement is Not Reached.

(a) If, after participating in a collaborative process pursuant to section (7) of this rule, the applicant and the department cannot agree that an application is moving in the direction of conformity pursuant to sections (8) and (9) of this rule, the region manager shall document the issues of agreement and non-agreement with the applicant through a written statement of non-agreement. The applicant may then request further collaboration on the issues of non-agreement under OAR 734-051-3090, sections (1) through (3), and/or a review by the Dispute Review Board under 734-051-3100.

(b) Where agreement cannot be reached under the processes of subsection (a) of this section, the department may require additional information to complete the application and make a decision pursuant to the standards of OAR 734-051-4020 and issue a final decision to approve, deny, or approve with mitigation, consistent with the procedures in OAR 734-051-3030 and 3040. The department’s decision to deny or approve with mitigation applications under the standards of OAR 734-051-4020 are subject to post-decision review under OAR 734-051-3080.

When agreement on “*moving in the direction of*” cannot be reached through the initial collaborate process, the Region Manager is required to prepare a statement of non-agreement. The statement must document issues upon which there is agreement with the applicant and those where there is not agreement. The latter are actions or improvements that one party proposed as acceptable that the other party rejected as unacceptable. The Region Manager may want to request the applicant to review and comment on the statement of non-agreement to ensure that it accurately reflects the applicant’s position. The statement becomes a basis for further collaboration on the issues of non-agreement or a review by the Dispute Review Board under (10)(b).

If additional collaboration under (10)(b) does not result in agreement, then the approach is processed as an application for a new approach. At this point, the department is allowed to ask for additional information to make a decision, even though the change of use application may have been deemed complete. This is because the deemed complete status was based on an application for change of use and agreement about “*moving in the direction of*” criteria; and not the standards for a new approach application. If an applicant does not provide the additional information requested by the department, it could result in denial of the application for a new approach permit.