

**FAIRFAX COUNTY PLANNING COMMISSION  
LAND USE PROCESS REVIEW COMMITTEE  
WEDNESDAY, JULY 8, 2009**

COMMITTEE MEMBERS PRESENT:

Frank A. de la Fe, Hunter Mill District  
Earl L. Flanagan, Mount Vernon District  
James R. Hart, At-Large  
Kenneth A. Lawrence, Providence District  
John L. Litzenberger, Jr., Sully District  
Peter F. Murphy, Jr., Springfield District

COMMITTEE MEMBER ABSENT:

Timothy J. Sargeant, At-Large

OTHER COMMISSIONER PRESENT:

Jay P. Donahue, Dranesville District

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

Katherine D. Ichter, Director  
Angela K. Rodeheaver, Chief, Site Analysis Section, Transportation Planning Division  
Michael A. Davis, Transportation Planner, Transportation Planning Division

OTHER STAFF PRESENT:

Regina C. Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning  
Barbara J. Lippa, Executive Director, Planning Commission Office  
Kara A. DeArrastia, Deputy Clerk to the Planning Commission

OTHERS PRESENT:

Amber K. Scharn, Esquire, with Odin, Feldman & Pittleman, PC

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Chairman Peter F. Murphy, Jr., called the meeting to order at 7:05 p.m. in the Board Conference Room, 12000 Government Center Parkway, Fairfax, Virginia 22035. He noted that the first order of business was approval of minutes.

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Commissioner Flanagan MOVED TO APPROVE THE MINUTES OF JUNE 10, 2009.

Commissioner Litzenberger seconded the motion which carried unanimously.

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Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ), explained that on January 8, 2009, the Committee had received a briefing by Fairfax County Department of Transportation (FCDOT) staff on the Virginia Department of Transportation's (VDOT) Chapter 527 Transportation Impact Analysis (TIA) process and how it had been integrated into the County land use process related to Comprehensive Plan amendments and rezoning applications. She noted that FCDOT staff had prepared an item to the Board of Supervisors (BOS) about proposed modifications to the procedures for processing a rezoning application that required a TIA and said that staff would present these procedural changes to the Committee this evening.

Michael Davis, Transportation Planner, Transportation Planning Division, FCDOT, stated that the State Chapter 527 regulations required TIAs for rezoning applications that met the criteria established by State regulation. He said FCDOT staff had been working closely with VDOT staff on the TIA review process. He explained that the proposed procedures required that TIAs be submitted to FCDOT with the initial filing of the application with DPZ, which would enable the VDOT and DPZ reviews to occur simultaneously. Mr. Davis noted that the procedural changes allowed VDOT to identify deficiencies in the submitted TIA early in the process and that the applicant would need to submit a revised TIA to address any deficiencies before the application was accepted by DPZ. He said the BOS would review this proposal before a letter to industry was sent explaining the new process.

In response to a question from Chairman Murphy, Mr. Davis noted that FCDOT staff would submit an item to the BOS that explained the proposal and included the letter to industry. He said that once the BOS endorsed the new procedures, FCDOT staff would formally notify the development community.

Replying to a question from Commissioner de la Fe, Mr. Davis said that based on the anticipated trip generation of the proposed development, the applicant would know whether a TIA would be required and that scoping was usually completed before the application was submitted to DPZ. He explained that VDOT reviewed the submitted TIA within 45 days of receipt to ensure that that it met technical requirements, provided recommendations for transportation improvements, and submitted comments to the County within 45 days of a complete TIA. Mr. Davis noted that once VDOT determined that the TIA complied with the appropriate regulation, the application would be accepted by DPZ and the VDOT review period would commence. He stated that the Planning Commission public hearing date for the application would not be scheduled until VDOT notified FCDOT and DPZ staff that the submitted TIA had met the applicable submission requirements.

In reply to questions from Commissioner Flanagan, Mr. Davis said that each time a revised TIA was submitted to VDOT, the 45-day review period started over. He explained that the requirement for a TIA was based only on the number of trips generated by the proposed development, although the TIA could demonstrate an expected reduction in the total trip generation based on Transportation Demand Management strategies and other transportation improvements.

Responding to questions from Commissioner Lawrence, Mr. Davis said that the majority of initial TIA submittals contained technical deficiencies. He explained that at a scoping meeting, FCDOT staff, VDOT staff, the applicant, and the applicant's traffic consultant discussed the scoping document, resolved any deficiencies, and finalized the scope. Mr. Davis noted that there had been cases where a submitted TIA had not conformed to its assigned scope but none where a deficiency in the scope had been directly linked to a deficiency in the TIA. He said the proposed procedures did not include any changes to the scoping process.

Angela Rodeheaver, Chief, Site Analysis Section, Transportation Planning Division, FCDOT, pointed out that FCDOT, VDOT, and the other appropriate parties must sign the scoping document. She cited a case where the applicant had not agreed to include an item in the TIA as requested by FCDOT, so a condition had been placed with FCDOT's signature for the inclusion of that item. She said she did not know whether this disputed item had actually been included in the TIA.

In response to a question from Commissioner de la Fe, Mr. Davis explained that the scope of the traffic study area included any roadway on which 10 percent or more of the new vehicle trips generated by the proposed development were dispersed. Ms. Rodeheaver said the scope was also determined by the traffic engineers.

Replying to a question from Chairman Murphy, Mr. Davis noted that VDOT agreed with the proposed procedural changes and would implement them as soon as they were endorsed by the BOS.

At Chairman's Murphy's request, Mr. Davis distributed the letter to industry to the Committee members, a copy of which is in the date file.

In reply to a question from Commissioner Hart, Ms. Coyle explained that the Chapter 527 regulations could pose a potential conflict for a special permit requiring a TIA because the *Code of Virginia* mandated that this case be heard by the Board of Zoning Appeals (BZA) within 90 days of its acceptance.

Commissioner Hart requested that staff identify the scenarios under which a potential conflict could occur and recommend to the BOS Legislative Committee that legislation be considered to address this issue. Mr. Davis noted that he would provide the Committee with information pertaining to discussions FCDOT staff had with the County Attorney's Office about this issue. Ms. Rodeheaver pointed out that the BZA could not make a decision on the application until the TIA had been approved by VDOT.

Ms. Coyle stated that in previous BZA cases where it appeared as though the 90-day deadline would not be met, DPZ staff had requested an extension from the applicant. She noted that Planned Residential Community plans also had a time limit that could lead to a potential conflict. She said staff would further examine this issue with the County Attorney's Office.

Mr. Davis explained that the new procedures might address this situation since the VDOT review would begin earlier in the process, the 120-day review period might conclude before the BZA had to make a decision on the application.

Responding to a question from Commissioner Hart, Ms. Coyle said DPZ staff ensured that the Planning Commission received the VDOT comments prior to the public hearing. She noted that the Chapter 527 regulations had not hindered the zoning review process because the average timeframe for a case to reach the Planning Commission was seven to eight months.

In response to a question from Commissioner Litzenberger, Mr. Davis indicated that the Chapter 527 regulations addressed three types of land use options: 1) rezoning applications, 2) Comprehensive Plan amendments, and 3) site plans.

Commissioner Litzenberger discussed a nomination that had been approved in the recent North County Area Plans Review (APR) process, APR 08-III-5DS, which had proposed to increase intensity on the Dulles Expo Center site to 0.70 floor area ratio. He noted that the number of trips calculated for the proposed development had not triggered a TIA although there were concerns that the increased intensity would cause a significant traffic impact.

Commissioner Litzenberger suggested that staff implement a new procedure in future APR cycles that required a TIA for nominations that would cause a significant traffic impact although it was not prompted by the Chapter 527 regulations. Ms. Rodeheaver pointed out that there was not enough time to conduct a traffic study on each nomination and problems frequently arose at the rezoning stage because developers thought they were entitled to the higher density even though it presented transportation issues.

Commissioner de la Fe pointed out that the VDOT comments on the Lake Anne Village Center Plan Amendment indicated that VDOT would not provide a recommendation until a rezoning application had been filed for the subject area.

Replying to a question from Commissioner Hart, Ms. Rodeheaver said she was not aware of any budgetary issues that would impede VDOT's ability to meet the Chapter 527 requirements. Mr. Davis noted that so far, the VDOT reviews had been rigorous and its comments had been valid and detailed. He added that it was beneficial to have VDOT involved more extensively earlier in the rezoning process.

In response to a question from Commissioner Flanagan, Mr. Davis said the VDOT review of a rezoning TIA was more rigorous and detailed than a Plan amendment TIA.

Commissioner Flanagan expressed concern that an APR nomination that had received initial support from VDOT would encounter problems at the rezoning stage due to a more detailed TIA. Mr. Davis replied that staff would further investigate this issue.

Chairman Murphy agreed with Commissioner Flanagan's concern and said that a more comprehensive traffic study should be conducted at the Plan amendment stage.

Commissioner Hart pointed out that the Planning Commission and the BOS could not deny a rezoning application due to the lack of school capacity or incomplete transportation improvements. He said, however, a Plan amendment could be denied due to its traffic impact.

Katherine Ichter, Director, FCDOT, explained that transportation issues tended to surface at the rezoning stage because more detail about the project was provided then. She recalled the MetroWest case where the associated Plan amendment and rezoning application had been processed concurrently and a more detailed transportation analysis had been performed at the Plan amendment level. She said requiring such a thorough analysis for a Plan amendment entailed a much higher level of investment by the applicant.

Commissioner de la Fe questioned requiring that level of detail at the Plan amendment stage because in effect the proposal would be treated as a rezoning and would, therefore, undermine the Plan amendment process. Chairman Murphy concurred and said that the traffic analysis at the Plan amendment stage should be more detailed but not to the extent required at the rezoning stage.

Mr. Davis pointed out that the amount of capacity needed for the transportation network was determined at the Plan amendment stage.

Commissioner Lawrence said Plan amendment traffic studies should be less detailed than rezoning studies and strongly recommended that density not be put in the Plan unless it was known that it could be supported for the reasons stated earlier by Commissioner Hart. He noted that this was an issue being addressed by the Tysons Corner Committee in developing Plan language for that area.

In reply to a question from Chairman Murphy, Mr. Davis noted that the proposal would be presented to the BOS on September 14, 2009, and if endorsed, the new procedures would go into effect October 1, 2009, or January 1, 2010, at the latest.

Responding to more questions from Chairman Murphy, Ms. Coyle said the Planning Commission could provide the BOS with a recommendation. She noted that if the BOS adopted the procedural changes, no further action would be required from the Committee.

Commissioner de la Fe expressed concern that the new procedures might extend the time it took to process a rezoning application. Ms. Ichter replied that she thought the process would not take longer because the new procedures would ensure that an improved TIA was submitted at the beginning of the process.

Ms. Coyle said she would present information to the Committee about the impact on cases that had explicit time limits. She suggested that the Committee further examine the situation involving cases that the BOS expedited in which a Supervisor might ask staff to schedule a public hearing date for the application before VDOT confirmed that the TIA complied with the applicable requirements.

In response to a question from Chairman Murphy, Ms. Coyle noted that at the next Committee meeting scheduled for July 29, 2009, staff had planned to deliver demonstrations on the improvements made to the online Land Development System and staff report presentations. She said, however, that staff would not be ready to deliver this demonstration at that time.

At Chairman Murphy's request, the July 29th meeting was cancelled and expected to be rescheduled for September or October.

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The meeting was adjourned at 8:07 p.m.  
Peter F. Murphy, Jr., Chairman

An audio recording of this meeting is available in the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Kara A. DeArrastia

Administratively Approved: July 13, 2010

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Linda B. Rodeffer, Clerk  
Fairfax County Planning Commission