

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION SEMINAR
FAIRFAX COUNTY GOVERNMENT CENTER
SATURDAY, OCTOBER 27, 2007**

COMMISSION MEMBERS PRESENT:

Walter L. Alcorn, Commissioner At-Large
Frank A. de la Fe, Hunter Mill District
Earl L. Flanagan, Mount Vernon District
Suzanne F. Harsel, Braddock District
Kenneth A. Lawrence, Providence District
Rodney L. Lusk, Lee District
Peter F. Murphy, Jr., Springfield District
Timothy J. Sargeant, Commissioner At-Large

COMMISSION MEMBERS ABSENT:

Janet R. Hall, Mason District
James R. Hart, Commissioner At-Large
Nancy Hopkins, Dranesville District
Ronald W. Koch, Sully District

STAFF PRESENT:

Barbara J. Lippa, Executive Director, Planning Commission
Sara Robin Hardy, Assistant Director, Planning Commission
Christopher Remer, Communications Specialist, Planning Commission
Linda B. Rodeffer, Clerk, Planning Commission
Kara A. DeArrastia, Deputy Clerk, Planning Commission
Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and
Zoning (DPZ)
Marianne Gardner, Chief, Policy and Plan Development Branch, Planning Division
(PD)
Jennifer Bonnette, Planner, PD, DPZ
Jennifer Lai, Planner, PD, DPZ
Laxmi Nagaray, Planner, PD, DPZ
Leonard Wolfenstein, Chief, Transportation Planning Section, Fairfax County
Department of Transportation

VIRGINIA DEPARTMENT OF TRANSPORTATION STAFF PRESENT:

Paul J. Kraucunas, Manager, Northern Virginia District, Land Development
Section

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(Note: The meeting was not officially called to order until Mr. Kraucunas arrived.)

Marianne Gardner, Chief, Policy and Plan Development Branch, Planning Division (PD), Department of Planning and Zoning (DPZ), announced that Paul Kraucunas, Manager, Northern Virginia District, Land Development Section, Virginia Department of Transportation (VDOT) would be late. She noted the following agenda items:

- Overview by Mr. Kraucunas of Traffic Impact Analysis Regulations established to implement legislation contained in Senate Bill 699, Chapter 527 of the 2006 Acts of Assembly.
- Discussion of issues/concerns regarding implementation.

In response to a question from Commissioner Lawrence, Ms. Gardner said that trip thresholds would trigger 527 reviews for Plan amendments. She said while zoning applications required a traffic impact analysis (TIA), Plan amendments generally did not require as much specificity unless they were associated with rezoning cases. Leonard Wolfenstein, Chief, Transportation Planning Section, Fairfax County Department of Transportation (FCDOT), explained that 5,000 additional vehicle trips per day were required to trigger a review for a Plan Amendment which was considerably higher than that for zoning cases. He said approximately 10-15 percent of nominations in the most recent Area Plans Review (APR) cycle would have triggered a 527 review.

Regina Coyle, Director, Zoning Evaluation Division, DPZ, pointed out that the threshold for zoning applications was 500 additional vehicle trips per day during peak hours but would be reduced to 100 on January 1, 2008. She explained that staff had been erroneously under the impression that the trip generation threshold only applied to new applications but had subsequently learned that previously approved and amended applications were subject to the new regulations also.

Responding to a question from Chairman Murphy, Ms. Coyle said that zoning application packages included information about the legislation and a checklist to determine if an analysis was required. She said if an applicant decided one was not needed, it was sent to FCDOT for concurrence.

Chairman Murphy said that he would like the Policy and Procedures Committee to review the current zoning process to see if any changes needed to be made in view of changes to policies and procedures, such as green building, affordable housing, and low impact development techniques.

In response to a question from Commissioner Harsel, Ms. Coyle said the merits of an application would not be considered when determining if it was subject to 527 review.

Responding to a question from Commissioner Flanagan, Ms. Coyle said some applications already filed would be subject to the 527 procedure.

Commissioner Lawrence stated that in the Providence District, road improvements would not be forgiven based on Transportation Demand Management (TDM) reductions. Mr. Wolfenstein said TDM measures could be a component of a TIA.

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Upon the arrival of Mr. Kraucunas, Chairman Murphy convened the seminar at 9:46 a.m. in the Board Conference Room, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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Mr. Kraucunas said the 527 regulations would provide information about the impact of development on traffic but that localities would make their own decisions about how to address them.

Mr. Kraucunas said his presentation would address Comprehensive Plan amendment and rezoning application thresholds and the fee structure. (A copy of his presentation is in the date file.)

Module I – Thresholds and Fees

- Each threshold would depend upon the type of submission, volume, type of development, and location.
- Localities that maintained their own roadways would also be subject to the regulations if a proposed development was within 3,000 feet of a VDOT maintained road for the purpose of evaluating the impact on the VDOT facility, not on the local community.
- Prior to adoption, Comprehensive Plan amendments must be submitted to VDOT for review of the traffic component that would result in substantial impacts or changes to the existing transportation network, such as adding new roadways or designating open space adjacent to a roadway scheduled to be widened.

Responding to a question from Commissioner Flanagan, Mr. Kraucunas said addition of sidewalks could be considered a substantial impact but design features such as curb cuts would not.

Mr. Wolfenstein and Mr. Kraucunas responded to a question from Commissioner Lawrence about the implications of the legislation for the Tysons Corner area.

Responding to a question from Commissioner Sargeant, Mr. Kraucunas said that the 527 review process could provide data for prioritizing road improvements. He added that in addition to providing information about the transportation impact of a proposed development, a developer would also be asked to address existing and future impacts in a corridor. He said by-right development would also be subject to a 527 review.

In response to a question from Commissioner Alcorn, Mr. Kraucunas said that rezoning applications, Plan amendments, and site plans would all be subject to the review even though no legal authority existed for denying an application due to the impact on regional transportation facilities.

Commissioner Lawrence commented that during the Metro West development, a transportation analysis had been done far beyond the immediate vicinity, but the traffic generated by specific developments could not be identified. Mr. Kraucunas responded that it was possible the 527 regulations could refine transportation modeling tools.

In response to a question from Commissioner Flanagan concerning workload generated by the new regulations, Ms. Gardner said the "APR Participation Guide" proposed that traffic impact information be included in APR nominations but not to the level of detail required for a 527 review. She said after the staff and task force recommendations, a nominator could then decide whether to go forward with the 527 review. She said it had not been decided how individual nominations in the same area would be handled. Mr. Wolfenstein said that it was up to the locality to determine how to handle those nominations.

Mr. Kraucunas reiterated that localities, not VDOT, would determine thresholds and said although there were no penalties involved in the 527 process, non-compliance could result in lawsuits. Chairman Murphy said this was a serious concern because citizens might consider the regulations mandatory while the development community would not. He said the regulations should be articulated clearly to citizens, especially during the Plan amendment process, because they were told that was the time for their input since it was too late at the rezoning stage. Mr. Kraucunas pointed out that if an application was not sent to VDOT for 527 review and a lawsuit was filed, the case most likely would be remanded back to the locality. He said localities must determine how they were going to handle applications that did not meet the threshold individually but did so collectively.

Responding to a question from Commissioner Lawrence, Mr. Kraucunas said although the 527 legislation did not require mitigation of a negative transportation impact, future legislation could address this issue. Commissioner Lusk commented that identification of impacts without a resolution was problematic.

Commissioner de la Fe said he thought the 527 process would be useful at the Plan amendment stage because a task force and/or a Commissioner could recommend denial of a nomination, but transportation impact was not a basis for denial at the rezoning stage.

Commissioner Sargeant said it would be hard for citizens to accept the fact that a development was approved even though it would adversely affect the transportation network.

In response to a question from Commissioner Alcorn, Ms Gardner said that an additional 5,000 vehicle trips per day, referred to on page 11 of the handout, was based on the highest permissible density. However, she said staff would like it to be based on existing trips. Mr. Kraucunas said he would research this issue and report to the Commission.

Responding to a question from Commissioner Sargeant, Ms. Gardner said that because nominators might want feedback before deciding to pursue a nomination subject to 527 review, the proposed procedure at this time was to send them to FCDOT for an initial review and obtain staff and task force recommendations before submitting them to VDOT. She noted that it was possible a nomination would have to go back to the task force after completion of the VDOT review.

In response to a question from Commissioner Flanagan, Ms. Gardner said FCDOT, in concert with DPZ, would determine if a nomination met the threshold.

- Establishment of open space or parkland could also have a substantial impact on transportation because if federal money was used for widening a road, open space could not be disturbed. If VDOT was involved in the planning stage for open space or parkland, future widening of roads could be planned accordingly.
- When a rezoning was associated with a Plan amendment, only the rezoning application should be submitted to VDOT for review.

Responding to a question from Commissioner Flanagan, Mr. Kraucunas said if the Commission did not agree with the last bullet above, the County could submit justification to review Plan amendments to him and he would present it to the Technical Committee. Commissioner Alcorn said the 527 review would be more useful at the Plan amendment stage than the rezoning stage. Commissioner de la Fe agreed.

- Rezoning applications and Plan amendments sent within 10 business days of receipt to VDOT for review and comment if the proposal would substantially affect transportation on state-controlled highways.

Mr. Kraucunas said it would be helpful if the proposals sent to VDOT included an application number so it could be matched up with the traffic impact study.

In response to a question from Chairman Murphy, Mr. Wolfenstein said that Daniel Rathbone, Chief, Transportation Planning Division, FCDOT, was coordinating this effort with other County agencies. Ms. Coyle added that as the process was now envisioned by DPZ, an application would be sent to FCDOT for a 527 determination and once the traffic impact study was complete, it would be sent to VDOT for review.

- Threshold for rezoning applications and site plan review – 100 vehicles in peak hours for residential development, approximately 100 homes; threshold for non-residential development was 250 vehicles trips per hour or 2,500 trips per day.
- Threshold for low-volume roads – residential site generating 200 vehicle trips per day and at least doubled existing volume.

Commissioner Alcorn said the last bullet could apply on occasion in Fairfax County to stub-streets in infill development and might discourage connections.

Although not related to the 527 legislation, Mr. Kraucunas explained that the Commonwealth Transportation Board was developing new subdivision standard requirements that encouraged connectivity and if connections were not provided, it was possible VDOT would not maintain those roads. He said in other cases VDOT might conditionally accept roads but if adjoining property developed in the future without connections, VDOT could withdraw acceptance. Chairman Murphy said in such cases it would be very important that disclosures were made in sales documents so buyers would know that if connections were not made, they could be responsible for maintaining their own roads. Mr. Wolfenstein pointed out that this requirement would have more of an impact on counties that were not as developed as Fairfax.

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The seminar recessed at 11:22 a.m. and reconvened at 11:35 a.m.

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Mr. Kraucunas continued his presentation:

- Threshold for redevelopment sites only – when an existing use was developed as a different or denser use, trips generated by the existing use that would be removed could be deducted from the total trips generated by the proposed use.
- Fees
 - Submissions on behalf of government entities – no charge
 - Comprehensive Plan amendments – \$1,000
 - Rezoning/subdivision plat/site plan/plan of development
 - 100 vehicles per hour or less – \$500
 - More than 100 vehicles per hour – \$1,000
 - If submission does not meet VDOT standards, the first revision would be free; subsequent submissions charged the initial fee.

Responding to a question from Chairman Murphy, Mr. Kraucunas said that nominators, including homeowners’ associations, would pay the fee for Plan amendment nominations but County agencies would not be charged. Commissioner Flanagan suggested that a category for non-profit organizations be established. Mr. Kraucunas said he could present justification for that to the Technical Committee.

In response to a question from Commissioner Harsel, Mr. Kraucunas said inaccurate trip projections were an example of why a submission could be rejected.

Responding to a question from Commissioner Lusk, Mr. Kraucunas said because Fort Belvoir/Base Realignment and Closure (BRAC) nominations would be submitted by the County,

no fees would be charged. Commissioner Lusk noted that since many of the nominations would be subject to a 527 review, the timeline could be affected.

- Localities would determine the need for a TIA and should establish policies.
- 527 information could be used to satisfy analysis requirements at the permitting stage.

Module II – Study Elements and Scoping Meetings

- Required elements of Comprehensive Plan transportation package
 - Describe and analyze existing conditions
 - Analyze future conditions without the proposed development
 - Analyze proposed development based on trip generation and distribution of trips.

Responding to a question from Chairman Murphy, Mr. Wolfenstein said FCDOT would review proposals subject to 527 legislation in the same way it reviewed other proposals. Mr. Kraucunas recommended that VDOT and FCDOT hold a joint scoping meeting so a developer would not have to submit one proposal to the County and another to VDOT.

Chairman Murphy remarked that the process would be time consuming at the Plan amendment stage. Ms. Gardner agreed and explained that the task force could consider nominations with the preliminary DPZ and FCDOT recommendations and then see if the nominator wanted to pursue the 527 review. Alternatively, she said the task force could decide it wanted a 527 review and was willing to reconvene for that purpose. She also noted that the task force or the Planning Commission could determine if a cluster of nominations should be reviewed comprehensively and if so, they could be postponed.

Commissioner Lusk commented that other studies, such as the Springfield Connectivity Study, could also be used to analyze transportation impacts.

Commissioner Alcorn noted that a 527 review would also include regional transportation impacts which were not currently addressed during the zoning process.

Responding to a question from Commissioner Harsel, Mr. Kraucunas said if a proposal changed significantly after the 527 review, VDOT could ask for another 527 review. Commissioner Alcorn pointed out that the “as built” impact as the baseline for the analysis would not always work.

In response to a question from Commissioner Flanagan, Mr. Wolfenstein said staff would not perform traffic analyses for nominators or applicants. Mr. Kraucunas reviewed the required elements of a Comprehensive Plan transportation package as found on page 39 of his handout. After discussion of this issue, Commissioner Lawrence said perhaps non-profit and redevelopment organizations should be given fee exemptions or reductions.

- VDOT's Six-Year Improvement Program and the Metropolitan Planning Organization's long-range transportation plan could be used as resources to perform traffic analyses.

Mr. Kraucunas reviewed the following slides:

- Analysis of Existing Conditions
- Site Trip Generation
- Site Traffic Distribution and Assignment
- Analysis of Future Conditions with Proposed Development
- Recommended Improvements and Conclusion

Concerning the last bullet, Mr. Kraucunas said that VDOT would review proposed mitigation measures to determine if they would in fact achieve the desired result. He said VDOT would review both the traffic study and the actual application and although it would not make recommendations, it would make statements of fact, such as not providing a turn lane would decrease the level of service. Mr. Wolfenstein pointed out that unlike many localities in Virginia, Fairfax County already submitted traffic studies and applications to VDOT for review.

Responding to a question from Commissioner Lawrence, Mr. Kraucunas said VDOT wanted assurance that TDM programs were enforceable, but it would not get into a level of detail such as remediation or penalty budgets.

Mr. Kraucunas emphasized that the study findings should be clear and concise and include a description of all impacts. He said VDOT would alert the jurisdiction of future transportation needs, noting that this represented a change from the way things had been done in the past.

- Scoping meeting requirements
 - Required for proposals that generate more than 1,000 peak hour site trips
 - Optional for proposals generating less than 1,000 peak hour site trips
 - Meetings should be scheduled at least two week in advance
 - Submit documentation before the meeting

Module III – Timelines and Contacts

- Plan amendments
 - Locality should submit complete Comprehensive Plan package to VDOT
 - VDOT may request a meeting within 30 days after submittal of nomination
 - VDOT will comment within 90 days
 - If VDOT requests resubmittal, the timelines start over

Ms. Gardner and Mr. Wolfenstein responded to questions from Commissioners Alcorn and Harsel about the level of detail included in traffic studies for Plan amendments. Mr. Wolfenstein noted that in the past, FCDOT had compared trip generation of the existing and the proposed use but

that a review of impacts to the surrounding road network and levels of service had not been addressed due to the lack of resources and tools.

In response to another question from Commissioner Harsel, Ms. Gardner said the legislation required that a Plan amendment be submitted to VDOT no later than 100 days prior to the Board of Supervisors' (BOS) public hearing but could be submitted sooner.

Commissioner Sargeant suggested that the timeline be flexible enough to allow the nominator/applicant time to resolve issues that might arise with the County or state so deferrals would not be necessary. Mr. Wolfenstein responded that those issues could be addressed at Planning Commission and BOS' public hearings.

Responding to a question from Commissioner Alcorn, Mr. Kraucunas said that VDOT would not identify mitigation measures or recommend that an application or nomination be denied based on the impact to regional transportation facilities, such as the Beltway or Routes 66 and 95. He said they would point out deficiencies, such as "At build out, the level of delay on the Beltway would increase but could be reduced if ramps were widened."

Commissioner Lawrence said he thought it was important to have time to resolve conflicts the County and VDOT might have before the public hearings.

Chairman Murphy said that on November 7, 2007, he would constitute a new committee, the Planning Commission Land Use Process Review Committee, to review the County's land use process and address implications of the 527 legislation with staff and representatives from the development and business communities. He said he was particularly concerned about the impact on the Fort Belvoir/BRAC Plan amendment nominations and about the fact that the legislation was not enforceable.

In response to a question from Commissioner Lawrence, Mr. Kraucunas said that the impact on the regional transportation network would be addressed in the scoping meeting.

- Rezoning applications
 - Transportation Impact Analysis prepared by locality or applicant
 - Locality to submit application to VDOT within 10 business days of receipt of complete application
 - VDOT comments or requests a meeting within 45 days
 - VDOT comments after 120 days if meeting requested
 - Locality includes VDOT comments into public record

Mr. Kraucunas said if VDOT did not think an impact analysis was accurate at the time of first submission and requested that it be resubmitted, the original timeframes would apply.

Responding to a question from Chairman Murphy, Mr. Kraucunas said that the legislation was the result of Governor Timothy Kaine's initiative to link transportation with land development.

Ms. Coyle reviewed timing for land use applications:

Zoning Ordinance requirements:

- Special permit applications – 90 days
- Rezoning, proffered condition amendment (PCA), special exception (SE) and final development plan amendment (FDPA) applications – one year for the BOS to act after acceptance

DPZ timing:

- Rezoning, PCA, and FDPA applications for Planning Commission public hearings – within five to six months after acceptance
- SEs – within four to five months of acceptance
- Planned Residential Community applications – not known at this time if 527 legislation will apply but a recently adopted Zoning Ordinance amendment requires that they be heard with six months of acceptance

Responding to a question from Chairman Murphy, Mr. Kraucunas reiterated that VDOT would not make a recommendation of approval or denial. Commissioner Sargeant commented that it would be a rejection if an application/nomination was returned because the traffic analysis was inaccurate. Mr. Kraucunas pointed out that the traffic analysis would be rejected, not the application.

Commissioner Flanagan questioned whether the state had the authority to tamper with time limits established by the BOS. Mr. Kraucunas said the intent was not to interfere, but if a study had to be redone because the density changed, in reality a delay would result.

Commissioner de la Fe suggested that the Planning Commission ask the BOS Legislative Committee to exempt the County from the timing aspect of this legislation. He pointed out that the process would be useful in the Plan amendment process but not at the rezoning stage, noting that VDOT had indicated if an amendment and rezoning were associated, it only wanted to see the rezoning application.

Mr. Wolfenstein commented that after the legislation had been passed, FCDOT staff had raised these concerns to the state to no avail.

Ms. Coyle said a Zoning Ordinance amendment might be necessary to adjust established timeframes to comply with the legislation.

Commissioner Sargeant said that Plan amendment nominators should be told that the process would take more time for nominations subject to the 527 review; therefore, it was very important that nominations be clear, concise, and accurate.

Chairman Murphy said delays in the land use process could adversely affect the County's economic base and ability to attract businesses.

Commissioner Flanagan said he agreed with Commissioner de la Fe about asking the BOS to assist in reaching an agreement with the state to ensure that Plan amendment nominations and land use applications would not be delayed due to the review.

In response to a question from Ms. Coyle, Mr. Kraucunas said the timeline was a law, not a regulation, and it was VDOT's interpretation that the clock started over if a resubmission was required.

- Subdivision/site plan process
 - VDOT comments, or requests a meeting, within 30 days; meeting to be held within 60 days of receipt
 - Locality to include VDOT comments into the public record

Module IV – Comparison to current process

- Similarities
 - Study contents similar to current Transportation Impact Analysis
 - Same baseline methodology
- Differences
 - Submission required based on threshold
 - No action taken by locality until final comments received from VDOT or deadline for VDOT response had passed
 - Geographic scope
 - Tracking of studies, known as LandTrack
 - More scoping meetings
 - Collection of data
 - Trip generation
- VDOT review
 - Completeness
 - Assumptions
 - Calculations
 - Conclusion
 - Study details
 - Purposes of TIA

Responding to a question from Ms. Coyle, Mr. Kraucunas stated that if a site plan was submitted within two years of approval of a rezoning application, another TIA would not have to be done. If not, he noted that a supplemental analysis would have to be submitted. He said if a TIA was submitted for a Comprehensive Plan amendment, another one would have to be submitted for the rezoning.

Mr. Kraucunas said VDOT had no additional authority to require improvements and localities had the same legal authority as before the legislation was enacted. He added that VDOT's

comments would address major impacts, ensure that proposed mitigation measures would be effective, and identify future needs.

In response to a question from Chairman Murphy, Mr. Wolfenstein said that the transportation analysis at the Plan amendment stage would be more consistent and in-depth than in the past.

Responding to another question from Chairman Murphy, Ms. Gardner said the preliminary staff report would have FCDOT's comments and if the nomination went to VDOT, the final staff report would be published two weeks before the Planning Commission public hearing date and would include VDOT's comments. Chairman Murphy expressed concern that citizens would not be aware of VDOT's comments at the time of the public hearing. Ms. Gardner replied that a task force could decide not to review a nomination until VDOT's comments had been received or choose to reconvene to review them.

Ms. Gardner suggested staff contact the task force chairman after VDOT's review if there were substantial changes to FCDOT's recommendations. Chairman Murphy said that he did not want task force members or citizens to become aware of late developments at the public hearing.

Commissioner Lawrence noted that the geographical scope of the analysis at both the Plan amendment and rezoning stage would increase under the new legislation, but that a developer could not be required to mitigate adverse impacts. He suggested one way to address this was by revising transportation priorities in the Capital Improvement Program.

Mr. Wolfenstein stated that FCDOT would have an opportunity to address VDOT's recommendations in the final staff report. Commissioner Sargeant suggested that the process be structured so that the preliminary task force vote, based on staff and citizen input, was sent to VDOT, and a final task force vote was taken after VDOT's review, if there was enough time.

- Implementation phasing plan
 - Northern Virginia in first phase
 - First phase only looking at Plan amendments and sites generating more than 500 trips in peak hours
 - Other districts in six month increments
 - After six months will look at all thresholds

Mr. Kraucunas said VDOT's recommendation would be made available to the public on the Internet with several different search criteria.

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Mr. Kraucunas said he would research the following issues:

- If the additional vehicles trips per day were based on the density permitted in the Comprehensive Plan or on existing development

- VDOT reviews of a Comprehensive Plan amendment nomination associated with a rezoning application
- No fee for nominations submitted by non-profit organizations
- Appeal of a VDOT analysis
- Impact of VDOT review on County's Ordinance timing requirements for review of applications

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The meeting was adjourned at 2:18 p.m.
Peter F. Murphy, Jr. Chairman
Suzanne F. Harsel, Secretary

For a verbatim record of this meeting, reference may be made to the audio recording which can be found in the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Meeting attended by: Linda B. Rodeffer
Kara A. DeArrastia

Minutes by: Linda B. Rodeffer

Administratively approved on: July 18, 2008

Barbara J. Lippa, Executive Director
Fairfax County Planning Commission

Linda B. Rodeffer, Clerk
Fairfax County Planning Commission