Land Use Working Group Meeting

Joint Meeting with One Bay Technical Team &
TBRPC Regional Planning Advisory Committee

Friday, January 8, 2010 – 9:30 a.m. to 12:00 p.m.
Tampa Bay Regional Planning Council
Pinellas Park, Florida

AGENDA

I.	**CALL TO ORDER**	(Jennifer Willman)	**9:30**
II.	**PRESENTATION ITEMS**		
1.	Florida Legislative Update - Senate Bill 360	(Don Conn)	**9:35**
2.	One Bay Recommendations & Next Steps http://www.tbrpc.org/onebaytechteam	(Avera Wynne)	**9:50**
3.	Transit Oriented Development (TOD) Guiding Principles and Model Policies & Next Steps	(Jennifer Willman)	**10:20**
4.	Pasco County TOD Planning Activities	(Justyna Buszewski)	**10:30**
5.	Transit-Supportive Land Use Planning Activities in Region	(LUWG Members)	**10:50**
6.	TOD Station Typologies (survey voting)	(Willman/Wynne)	**11:00**
III.	**ANNOUNCEMENTS**		**11:45**

1. Next Joint Meeting for LUWG and One Bay/RPAC – March 5, 2010
2. One Bay Implementation Summit – Mid-April 2010
3. TBARTA Calendar

IV. ADJOURNMENT

The TBARTA Land Use Working Group provides input to the Regional Transportation Master Plan's technical team about land use planning issues. Specifically, the input provided relates to existing land use patterns, long-range land use plans, and growth projections. Various land use planning agencies, environmental groups, the development community and transportation agencies have been invited in order to convene technical experts to participate in this group.

The Tampa Bay Regional Planning Council is located at
4000 Gateway Centre Boulevard, Suite 100, Pinellas Park, Florida 33782.

TAMPA BAY AREA REGIONAL TRANSPORTATION AUTHORITY
LAND USE WORKING GROUP MEETING
JOINT MEETING WITH ONE BAY TECHNICAL TEAM/
REGIONAL PLANNING ADVISORY COMMITTEE (RPAC)
JANUARY 8, 2010

PRESENTATION ITEM 1

Agenda Item

Florida Legislative Update – Senate Bill 360

Presenter

Don Conn, TBARTA Legal Counsel

Summary

Governor Crist signed Senate Bill 360 into law on June 1, 2009. The bill directs changes to the transportation concurrency management system, and other growth management tools and techniques. Staff will provide an update on recent legislative activities, including a possible "Glitch Bill" for the 2010 Legislative Session, two "place-holder" bills (Senate Bills 274 and 276) introduced by Senator Michael Bennett, pending litigation, and the Mobility Fee Methodology Study.

Attachments

- Senate Bill 360 Update Memo from Don Conn (memo attachments are included in the agenda packet online only), December 31, 2009
  - Letter from Senator Bennett to Secretary Pelham, October 16, 2009
  - Letter from Secretary Pelham to Senator Bennett, December 2, 2009
  - Letter from the Tampa Bay Regional Planning Council concerning "Glitch Bill," December 14, 2009
  - Joint Report on the Mobility Fee Methodology Study, December 1, 2009
  - Articles Concerning Senate Bill 360 from the Florida Bar Journal, October 2009

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MEMORANDUM

To: Bob Clifford, Executive Director
Tampa Bay Area Regional Transportation Authority

From: Donald D. Conn

Date: December 31, 2009

Subject: Senate Bill 360 Update

Questions about the intent, interpretation and implementation of Senate Bill-360 continue to be raised. It is likely that a "Glitch Bill" will be introduced and considered during the 2010 Legislative Session to address, and hopefully resolve, these questions. Senator Michael Bennett, the prime sponsor of Senate Bill-360, has already introduced two "place-holder bills" (Senate Bills 274 and 276) that express the legislative intent to revise growth management laws without giving an indication of the specific revisions that will be proposed.

In addition, litigation that challenges the constitutionality of Senate Bill-360 and that seeks to enjoin its enforcement remains pending in the Leon County Circuit Court where the Court has denied a Motion to Dismiss the case, and the Defendants have now filed Answers to the Complaint. The next hearing in the case is set for February 22, 2010. *City of Weston, et al. v. Honorable Charlie Crist, et al,* Case No. 2009-CA-2639, Circuit Court in and for Second Judicial Circuit.

The primary issues concerning Senate Bill-360 include:

1. Whether the bill only removes state mandated concurrency requirements, or in the alternative whether it also limits or preempts local concurrency requirements?
    a. Whether the home rule provision included in Senate Bill-360 should be construed broadly to cover all local government ordinances dealing with comprehensive plans and local concurrency management systems, or in the alternative whether it only applies to local funding ordinances that impose transportation impact fees and charges?
    b. Whether the designation of TCEAs limits or preempts a local government's home rule power to adopt a local transportation concurrency system by ordinance, or whether in the alternative it simply eliminates the Department of Community Affairs' review of plan amendments in TCEAs for compliance with

state transportation concurrency requirements and allows local governments to abolish state transportation concurrency requirements?

2. Whether, how and/or when the recommended principles and options for a mobility fee presented in the Joint Report on the Mobility Fee Methodology Study by the Florida Departments of Transportation and Community Affairs, dated December 1, 2009, will be addressed by the Florida Legislature and enacted into law?
3. Whether plan amendments which designate dense urban service areas as TCEAs will remain exempt from the twice per year limit on plan amendments?
4. Whether the extra-jurisdictional impacts of development can be adequately addressed by impacted local governments, given the reduced role under Senate Bill-360 of the Department of Community Affairs and regional planning councils for review of developments of regional impact?

Included with this memo are the following attachments:

1. Letter from Senator Bennett to Secretary Pelham dated October 16, 2009;
2. Letter from Secretary Pelham to Senator Bennett dated December 2, 2009;
3. Letter from the Tampa Bay Regional Planning Council concerning "Glitch Bill" dated December 14, 2009;
4. Joint Report on the Mobility Fee Methodology Study dated December 1, 2009; and
5. Articles Concerning SB-360 from The Florida Bar Journal, October 2009.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Industry - Policy and Steering, *Chair*
Community Affairs, *Chair*
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Finance and Tax
Governmental Operations - Policy and Steering
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Reapportionment
Ways and Means - Policy and Steering

SELECT COMMITTEE:
Florida's Economy

SENATOR MICHAEL S. "MIKE" BENNETT
21st District

October 16, 2009

Secretary Thomas G. Pelham
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

Dear Secretary Pelham:

Re: Senate Bill 360

This letter is written in connection with your presentation to the Senate Committee on Community Affairs on Oct. 6, 2009. Interest remains high in the subject matter of Senate Bill 360, and opinions differ significantly on the intent and effect of that legislation.

While it is clear that the Department has a limited role in the interpretation of the growth management provisions of Senate Bill 360 through its power of implementation, the Department has no special insight or responsibility for interpretation of the Constitutional provisions governing home rule authority. Similarly, the Department is accorded no special deference on the issue of legislative intent.

Under Florida law, SB 360 is to be construed in accordance with the well established tenets of statutory construction. These include, among other things, that SB 360 be construed in para materia with the other provisions of Chapter 163, Part II, that the legislation be read: (1) to give effect to all of its provisions, (2) without reading any of the provisions out of the statute, (3) without being interpreted to produce an absurd result, and (4) to change the law as it existed before the enactment of the bill.

You have spoken on many occasions about the failure of transportation concurrency as a tool to yield desirable urban form. Section 4 of SB 360 contains a legislative finding which is consistent with that view. It provides, "the Legislature also finds that in urban centers transportation cannot be effectively managed and mobility cannot be improved solely through the expansion of roadway capacity, that the expansion of roadway capacity is not always physically or financially possible, and that a range of transportation alternatives are essential to satisfy mobility needs, reduce congestion, and achieve healthy, vibrant centers." Following that

REPLY TO:
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Senate's Website: www.flsenate.gov

JEFF ATWATER
President of the Senate

MIKE FASANO
President Pro Tempore

legislative finding, Section 163.3180(5)(b) categorically defines certain areas as transportation concurrency exception areas (TCEAs) without the process as prescribed by existing state law. It is useful to keep this designation in context. The urban area designation affects only about 14% of the state's land area, yet that area contains 70% or more of the state's population. These are the areas where the Legislature intended to eliminate transportation concurrency, without affecting the remainder of the state.

The concept of transportation concurrency exception areas was not created by SB 360; it has existed in the law for a number of years and has been understood to constitute an exception from concurrency requirements generally. It is a geographic area, heretofore designated pursuant to general law by a local government within its comprehensive plan, within which transportation concurrency requirements do not apply except through the fulfillment of the plan that was the basis for the creation of the TCEA. Within a TCEA the local government's level of service (LOS) standards do not apply. With SB 360 the Legislature took this existing concept and, by legislative fiat, extended it to all areas of the state that meet certain "density" criteria. The language of that designation is unequivocal: "[t]he following <u>are</u> transportation concurrency exception areas: ..." The Legislature did not make that designation optional, at the election of the local government. By using an existing statutory mechanism (TCEA) rather than creating a new statutory mechanism to accomplish its purposes, the Legislature simply extended TCEA treatment to an area of its own choosing, rather than relying upon local governments to do it. The language of the bill is mandatory (are) rather than permissive (may). The Legislature was aware that the designation of TCEA's may have superseded anything the local government may have previously had done in its comprehensive plan. This would require the local government to readopt such ordinances, that are consistent with state law, for their mobility requirements and change their comprehensive plan to reflect these requirements. This is a minor issue if it allows for additional urban infill without a one size fits all straight-jacket.

From a statutory construction point of view it does not make sense to suggest that SB 360 only removes state-mandated concurrency requirements. There is no language in the legislation that draws that distinction, nor is that the meaning of current TCEA law. If that were all the Legislature intended to do, it could have clearly stated that by limitation. Without such a limitation, state law trumps local ordinances that were enacted pursuant to the past transportation concurrency framework previously mandated by the state. By relying on the existing concept of TCEAs, the Legislature was making clear that it intended to grant the broad exception to concurrency within a TCEA.

Your interpretation of Senate Bill 360 focuses heavily on the new language of section 163.3180(5)(f): the creation of TCEA's and the local government power savings provision. This provision in the bill needs to be read in context with the balance of the legislation and in connection with the Florida Constitutional provisions concerning local government power. Senate Bill 360 is a general law. The provisions of this law hold over any and all local government enactments which are inconsistent. Under Florida's constitutional home rule powers

provision, local governments are not free to adopt ordinances "inconsistent with" general law. To read SB 360 as allowing local governments to continue using the ordinances they adopted when concurrency was required by the state, and to thereby nullify the legislation, would be inconsistent with the automatic TCEA designation in the statute and the bill's emphasis on stimulating growth in urban areas.

You have cited the local government "home rule" power savings provision added in §163.3180 (5)(f) as the authority for the proposition that local governments may continue to impose their own concurrency requirements, notwithstanding the legislative designation of TCEAs. It is my understanding from the legislative discussions that preceded the adoption of such language that this language was proposed by the League of Cities and the Florida Association of Counties as "comfort language", designed to insure that even in the absence of concurrency requirements within legislatively-designated TCEAs, local governments could still adopt funding ordinances to charge for transportation impacts within those areas. Such language would be unnecessary if all that was intended was to remove state concurrency and leave in place existing local concurrency ordinances as you have suggested. There would be no need to have the "home rule" savings provision if all that was done was to grant relief from "state-mandated concurrency requirements" because the Legislature's action would not have implicated local power at all.

If the Legislature's action was intended to remove only state concurrency, it defies logic that the bill would include the specific exemptions for certain counties based on their existing local ordinances. Broward, for example, uses concurrency to partially fund alternative modes of transportation. Broward wanted to be exempt from the provisions of SB 360 because it did not want the bill to change their existing system. Miami-Dade had already adopted a large TCEA for urban infill and redevelopment and did not want its boundaries changed by the legislation. The bill did not carve out special exceptions for these counties just so that they would not have to meet a minimal mobility planning requirement. Instead, they lobbied hard to prevent transportation concurrency from being altered within their jurisdictions. These counties understood that transportation concurrency would automatically be changed by the enactment of the bill and the designation of the dense urban land areas.

The Legislature directly and clearly designated certain areas as TCEAs based upon clear statutory criteria, and did not allow through the local government "home rule" powers savings provision, the entire statutory scheme to be ignored by local governments' status quo. That construction renders an absurd result and makes the entire legislative effort meaningless because it fails to create the economic stimulus that the Legislature intended. Reading all of SB 360 together the only construction that makes sense is that the Legislature actually intended to except large geographic areas from transportation concurrency and that the local government savings provision was to confirm the ability of local government to create and charge fees for transportation impacts within those legislatively created TCEAs. Further, in Section 4 of the Bill, amending Section 163.3180(7), a clarification was added that a local government "that does

not have a transportation concurrency exception area designated pursuant to subparagraph 1., subparagraph 2., subparagraph 3" may grant an exception from the concurrency requirements upon certain conditions. The quoted language makes clear that the TCEAs designated pursuant to subparagraphs 1, 2 or 3 grant exemptions from all of the transportation concurrency requirements which exist, local and otherwise.

I do believe that this legislation should be clarified to remove any doubt as to the Legislature's intent. There is no point in mandating transportation concurrency exception areas in order to improve urban form, remove the unworkable proportionate-fair share system, and require local governments to plan for mobility if, at the same time, the Legislature left the door open for local governments to ignore these requirements and continue their existing transportation concurrency requirements. Local governments had the ability to create TCEAs before SB 360. Clearly the Legislature intended to do something other than reiterate that optional transportation management strategy.

Sincerely,

Michael S. "Mike" Bennett

STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

December 2, 2009

The Honorable Michael Bennett
Florida Senate, District 21
3653 Cortez Road West, Suite 90
Bradenton, Florida 34210

Re: Senate Bill 360

Dear Senator Bennett:

Thank you for your letter of October 16, 2009, setting forth your personal legal interpretation and "understandings" regarding Senate Bill 360. While you stated that your letter was "written in connection with [my] presentation to the Senate Community Affairs Committee on October 6, 2009," it ignores much of my detailed presentation. Also, your letter presents arguments that have been previously made by development industry lobbyists and considered by the Department. Nevertheless, I have again carefully reviewed your arguments, and I offer the following comments.

First, I respectfully note that your interpretation of SB 360 has changed dramatically. On page 2 of your letter, you state that "it does not make sense to suggest that SB 360 only removes state mandated concurrency requirements." However, in your June 11, 2009, letter to the editor published in the *Sarasota Herald Tribune*, you made exactly that suggestion about SB 360 as follows:

> **"The bill removes state mandated concurrency requirements in a number of jurisdictions**. However, it also specifies that the 'designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees.'
>
> ***
>
> This [home rule] provision was created **to preserve** a local government's right to implement and fund transportation strategies using any of the tools that it would have under its home rule powers. **The bill is designed to give local governments even broader discretion** on how to manage transportation issues

> within their jurisdictions, because it does not require them to fall in line with the state transportation concurrency requirements." (Emphasis added.)

It would be extremely ironic and incongruous if a bill that was intended to "preserve" and "broaden" local governments' powers should now be interpreted to limit and preempt those powers, as your October 16, 2009, letter advocates.

Second, your latest interpretation significantly downplays the importance of SB 360's home rule provision which, as the above-quoted excerpt indicates, was the basis of your June 11, 2009, interpretation. In your latest interpretation, you relegate the home rule provision, without even quoting the language, to page 3 of your October 16 letter, and then dismiss it based on your personal "understanding" of why it was included in SB 360 (your 10/16/09 letter, at page 3). There are several problems with your "understanding" that the home rule provision was included only to ensure that "local governments could still adopt funding ordinances to charge for transportation impacts" within TCEAs:

(a) Under Florida law, SB 360, including the home rule provision, must be based on its language and not on the personal "understandings" of individuals. The plain language of the home rule provision does not support your latest interpretation. Rather, the broad language of the home rule provision covers all ordinances and not just "funding ordinances" as you suggest. Local comprehensive plans and local concurrency management systems are adopted by local ordinances and therefore are within the local home rule power preserved by SB 360.

(b) Your interpretation that the home rule provision is intended only to provide that "local governments could still adopt funding ordinances to charge for transportation impacts" would render the provision superfluous and meaningless in violation of the rules of statutory construction. Even without this provision, local governments would have the home rule power to charge for transportation impacts so its inclusion for that purpose would be unnecessary and meaningless.

(c) Your understanding is contrary to the understanding of many other people involved in the process, including other legislators who have told me that they agreed with the Department's interpretation and voted for Senate Bill 360 because they understood that local governments would retain their home rule power to apply transportation concurrency in their jurisdictions. I note that my ultimate evaluation and recommendations regarding Senate Bill 360 would also have been different if the home rule provision had not been included.

(d) During the legislative discussions in the Senate, local governments and various other groups raised serious concerns and objections to the expansive nature of the "dense urban land areas" in which it was proposed that transportation concurrency would be eliminated. Local governments advocated strongly that they should retain their home rule

powers, including the local option to implement transportation concurrency. To accomplish this objective, local governments proposed the following broad home rule provision which was inserted into Senate Bill 360:

> "The designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees."

This broad provision unequivocally provides that Senate Bill 360's designation of TCEAs did not limit a local government's home rule powers which clearly included the power to adopt transportation concurrency. The inclusion of this provision was necessary to make it clear that SB 360 was intended only to remove state-mandated transportation requirements and did not in any way "limit" local home rule powers.

I strongly disagree with the remaining points in your letter as follows:

1. The Department's interpretation does not render SB 360 "meaningless" as you contend. SB 360 eliminates the Department's review of plan amendments in TCEA's for compliance with state transportation concurrency requirements. Also, it allows local governments to abolish state transportation concurrency requirements in their jurisdictions, as some local governments are already doing. These fundamental changes in pre-existing law can hardly be dismissed as "meaningless."

2. Your contention that there is no statutory language suggesting that SB 360 "only removes state-mandated concurrency requirements" is wrong. The home rule provision provides for that as does the statutory intent language of Chapter 163, Part II, Florida Statutes, which provides that the statute establishes minimum criteria. Local governments have always had the power to adopt stricter criteria, and there is no language in SB 360 that prohibits local governments from adopting transportation concurrency requirements that are stricter than state requirements.

3. Contrary to your suggestion, the exemptions for Broward County and Miami-Dade County do not "defy logic" under the Department's interpretation. Without these exemptions, these two local governments would have to comply with SB 360's new mobility planning requirements regardless of whether transportation concurrency was eliminated. Because these two jurisdictions had already adopted innovative transportation planning requirements, they were granted exemptions from the new TCEA mobility planning requirements. The Department's interpretation gives effect and meaning to these exemptions without eviscerating the home rule provision as does your interpretation.

4. Your argument that it is "absurd" and "pointless" to allow local governments to continue their existing transportation concurrency requirements ignores what the Legislature itself recognized in SB 360. The Legislature recognized that if transportation concurrency is going to be eliminated, there must be a replacement. Thus, in SB 360, the Legislature determined that a mobility fee should be considered as a replacement, but recognized that time would be needed to study and implement a mobility fee system. Further, the Legislature directed local governments to adopt new mobility plans to support and fund mobility, including alternative modes of transportation, in designated TCEAs. Again, the Legislature recognized that this would take time and gave local governments two years in which to adopt the new mobility plans.

The Department's interpretation, which allows local governments to continue applying their local transportation concurrency systems while replacements are being developed, is not only consistent with the language of SB 360, but is a reasonable, responsible, orderly and workable approach. On the other hand, with all due respect, your interpretation, which would strip local governments of their existing transportation concurrency regulations before any replacements have been developed, would lead to unreasonable and irresponsible results. Pursuant to state mandates, local governments have in good faith devoted over 20 years and millions of dollars to the development of their existing transportation concurrency systems. To recklessly and precipitously abolish those systems, before replacements have been developed and adopted will be hugely disruptive of, and harmful to, areas that contain more than 70 percent of the State's population. This would be the antithesis of sound planning and growth management.

I believe that the legislative intent of SB 360 is clearly reflected in its language, that the Department's interpretation gives effect to that clear legislative intent, and that no clarification is needed. Accordingly, I respectfully urge you to support the Department and local governments as they endeavor to implement SB 360 in a reasonable and responsible manner.

Respectfully,

Thomas G. Pelham
Secretary

TGP/rd

Tampa Bay Regional Planning Council

Chair
Commissioner Bill Dodson

Vice-Chair
Commissioner Jack Mariano

Secretary/Treasurer
Jill Collins

Executive Director
Manny Pumariega

December 14, 2009

The Honorable Thomas Pelham, Secretary
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

Re: Glitch Bill for Senate Bill 360

Dear Secretary Pelham:

On behalf of the Tampa Bay Regional Planning Council (TBRPC), I would like to offer the following comments in the event that a glitch bill for Senate Bill 360 will be considered during the 2010 Regular Legislative Session. The TBRPC recognizes the significant effort that went into developing and passing SB-360 and commends those efforts. We are committed to working constructively with you and others in the Legislature to identify and resolve issues that have arisen from this major piece of legislation and which will benefit from clarifications and revisions during the 2010 Session.

First, we would like to express our appreciation for the confidence the Legislature has shown in the regional planning councils by changing the mediation process which the councils have developed from a voluntary process to one which is mandatory. We welcome this responsibility and are committed to making it a success. We would like to suggest, however, that the Legislature clarify if the intent was to make our entire dispute resolution process mandatory (including informal meetings and arbitration) or only the mediation component of that process.

Second, we encourage the Legislature to seriously consider during the 2010 Session the mobility fee recommendations which you will be receiving from the Departments of Transportation and Community Affairs. It appears that the Legislature intended that mobility fees would be the method of replacing any funds that may be lost to local governments due to the changes made in SB-360 in DRI and concurrency requirements. However, some local jurisdictions are continuing to collect transportation impact fees until the Legislature deals with this issue, while others are uncertain about their ability to continue to collect transportation impact fees. Unless this is addressed during the 2010 Session, the ability of local governments to deal with the transportation impacts of development in a uniform and efficient manner will be severely limited.

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Third, plan amendments are currently considered only twice per year. However, SB-360 allows plan amendments which designate dense urban service areas as TCEAs to be proposed at any time and without being subject to the twice per year limit. Thus, local governments may be faced with an increased number of requests for comp plan amendments, and with requests being received throughout the year rather than only at two times a year. Such plan amendments require significant commitments of staff time and resources to prepare, review and/or revise each proposal. There is also some confusion regarding whether the creation of TCEAs in some instances even requires a plan amendment or if SB-360 is self-executing and has already created TCEAs. We request that the Legislature resolve this uncertainty and also address the impacts to local governments if a significant increase in requests for plan amendments is experienced.

Fourth, there is a critical need to address and establish a clear method by which local governments and the regional planning councils can address extra jurisdictional impacts of developments in one county on an adjoining jurisdiction. With the changes in the law government DRIs that result from SB-360, the ability of the Department of Community Affairs and the regional planning councils to address extra jurisdictional impacts has been reduced. Thus, the probability of disputes between adjoining jurisdictions due to the impact of development in one jurisdiction on an adjoining jurisdiction has likely been increased. This area of the law has become less certain and would benefit from clear direction by the Legislature on how extra jurisdictional impacts can be effectively and fairly addressed and mitigated.

Finally, there is a need to resolve the issue of whether or not local governments can continue to apply concurrency standards adopted by local ordinance under their home rule powers, or whether SB-360 was self-executing and locally adopted concurrency standards no longer apply. This question should be resolved consistent with the principles of home rule by allowing local governments to retain the right to apply concurrency standards adopted under local ordinances until such time as the local governments choose to modify, replace, or repeal such ordinances.

As previously stated, the TBRPC is committed to working with you and other members of the Florida Legislature on the implementation of SB-360. We ask to be included in the process of developing and considering a glitch bill during the 2010 Session.

For additional information please contact Manny Pumariega, Executive Director at 727/570-5151, ext 17 or manny@tbrpc.org.

Sincerely,

William D. Dodson, Chair
Tampa Bay Regional Planning Council

cc: The Honorable Charlie Crist, Governor of Florida
The Honorable Jeff Atwater, President of the Senate
The Honorable Larry Cretul, Speaker of the House
Tampa Bay Area Legislative Delegation

THOMAS G. PELHAM
Secretary
Florida Department of Community Affairs

CHARLIE CRIST
Governor

STEPHANIE C. KOPELOUSOS
Secretary
Florida Department of Transportation

December 1, 2009

The Honorable Jeff Atwater
President of the Senate
The Capitol
Tallahassee, Florida 32399-1100

The Honorable Larry Cretul
Speaker of the House
The Capitol
Tallahassee, Florida 32399-1300

Dear President Atwater and Speaker Cretul,

Pursuant to the Community Renewal Act, Chapter 2009-96, Laws of Florida, the Florida Department of Community Affairs and Florida Department of Transportation respectfully submit their Joint Report on the Mobility Fee Methodology Study. The report provides background information, principles for a mobility fee, options for legislative action, a plan to implement a mobility fee, an economic analysis, potential costs and benefits, and activities necessary to implement a fee.

The agencies prepared this joint report with the assistance of a Stakeholder working group, technical working groups and the Center for Urban Transportation Research. We commend all participants for their creativity, hard work and ongoing commitment to this effort.

Sincerely,

Tom Pelham

Thomas G. Pelham
Secretary

SCKopel

Stephanie C. Kopelousos
Secretary

Joint Report On the Mobility Fee Methodology Study

Submitted to the President of the Florida Senate and the Speaker of the Florida House of Representatives, pursuant to Section 13, Chapter 2009-96 Laws of Florida, the Community Renewal Act

Prepared by
Florida Department of Transportation
Florida Department of Community Affairs

December 1, 2009

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ACKNOWLEDGEMENTS

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1000 Friends of Florida
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The Honorable Linda Saul-Sena
Tampa City Council
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EXECUTIVE SUMMARY

Since its inception, the policy objectives of transportation concurrency have been frustrated by its practical application. Originally envisioned as a planning tool to provide for public infrastructure in coordination with new development, transportation concurrency has been increasingly viewed merely as a funding mechanism requiring development to pay for new roads.

The State of Florida has operated under transportation concurrency for nearly a quarter century. A significant benefit has been coordinating the timing of development with the availability of transportation facilities and services. The concurrency system also provides guidance for land use decisions and infrastructure priorities and has allowed private developer contributions to support needed transportation improvements. During this time however, new development and background growth in traffic has consumed and often exceeded available capacity in the system. Public and private investment in transportation has not been sufficient to achieve desired level of service standards.

As our urban centers have become more congested, the cost of mitigating for transportation impacts has escalated. Meanwhile, suburban and rural areas with available roadway capacity have little or no mitigation costs for transportation impacts. When combined with the lower costs of land, concurrency is often seen as a factor in promoting suburban sprawl and discouraging infill, redevelopment and transit supportive communities.

Concurrency has created challenges for local governments and the development community. The system is increasingly complex to administer; mitigation costs have been unpredictable; costs are often perceived as inequitable because of the “last in pays” approach; and the system generally is focused on expanding roadway capacity instead of extending mobility across all modes such as transit.

The Legislature has modified transportation concurrency by authorizing a variety of alternatives including proportionate-share and proportionate fair-share contributions as “pay and go” options for mitigation. Despite these reforms, dissatisfaction with concurrency remains.

The 2009 Legislature enacted Senate Bill 360 as Chapter 2009-96, Laws of Florida, entitled the Community Renewal Act (the Act). The Act eliminated the state mandate for transportation concurrency in qualifying areas within designated Dense Urban Land Areas (DULAs). DULAs are areas with a population density in excess of 1,000 people per square mile. The Act also directs the Department of Community Affairs (DCA) and Florida Department of Transportation (FDOT) to complete their ongoing mobility fee studies and report back to the Legislature by December 1, 2009.

Based on extensive stakeholder input, this report recommends basic principles to be considered when implementing a mobility fee. The report also responds to the statutory requirement to provide “an

economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector."

This report contains several key recommended principles to support a mobility fee approach. These principles are summarized as follows.

- ***Fairness and Funding***: A mobility fee alone cannot address all of Florida's transportation needs. The approach should ensure all new development provides mitigation for its impacts on the transportation system. Development should not be required to pay for transportation backlogs caused by a shortfall in public investment in transportation infrastructure.

- ***Transparency and Predictability***: A mobility fee should be transparent and predictable in its application so that proposed development is no longer required to endure lengthy concurrency reviews and approvals with uncertain and widely varying outcomes.

- ***Countywide minimum application***: A mobility fee should be applied countywide with participation of each local government within the county. There should be an option for a regional/multi-county application. Local governments would enter into interlocal agreements to establish the framework for the mobility fee program: establishing funding priorities and methods to ensure equitable distribution of funds. Comprehensive plan amendments would be necessary to establish the mobility fee program, provide for intergovernmental coordination and modify existing transportation concurrency management policies.

- ***Multimodal Planning***: A mobility fee should be based on and help fund mobility plans. These plans should incorporate multimodal choices including roadways, transit, bikeways, pedestrian walkways, congestion management strategies and other appropriate facilities and services.

- ***Promote Compact, Mixed-use and Energy Efficient Development:*** To meet the legislative direction to "promote compact, mixed-use and energy-efficient development" a mobility fee should be sensitive to vehicle or person miles traveled and vary by location and development type. Mobility plans should identify areas where development is desired to reduce auto dependence. A mobility fee would depend on the location of new development to support a growth management policy encouraging urban infill, redevelopment, transit supportive development and design strategies and measures to reduce transportation demand.

- ***Local Government Flexibility:*** Local governments should have the option to retain the ability to pursue land use and transportation strategies that address the specific needs of their area. Local governments should have the option to retain locally adopted impact fees so long as credits are provided to ensure there is no double charging for impacts.

In addition to these principles, this report offers three options in response to the request for recommended legislation. For each option, the report lists advantages and disadvantages. The recommended options are:

- ***Require mobility fees statewide by a date certain***: A mobility fee would be established using a uniform methodology but would vary depending on location and type of development as well as the underlying mobility plan developed for that area.

- ***Require mobility fees in "DULA" counties and authorize mobility fees in all other counties***: The eight counties qualifying as DULA counties under the Act would be required to implement a mobility fee approach. All other counties would be able to opt-in and create a mobility fee and mobility plan.

- ***Authorize mobility fee pilot counties***: Selected pilot counties would develop a mobility fee with technical assistance from DCA and FDOT. The agencies would report on the pilot counties by a date certain. Non-pilot counties could continue to pursue their own planning and associated fees currently allowed under home rule.

The plan for implementing a mobility fee is dependent on the option chosen. It is envisioned a mobility fee would require local governments to develop mobility plans, interlocal agreements between the county and cities, comprehensive plan amendments and land development regulations. Many larger urban areas are already experimenting with these concepts and have the technical capacity to implement a mobility fee approach. Other smaller and rural communities would likely require technical assistance.

In addition to providing technical assistance to local governments, the agencies would have to undertake implementation activities including: creation of model interlocal agreements, comprehensive plan policies and land development regulations. DCA would have to revise Chapter 9J-5, Florida Administrative Code, to establish requirements for transportation and land use strategies and the agencies would have to evaluate level of service standards for all transportation facilities.

In evaluating the potential costs and benefits of a mobility fee, it is anticipated that there will be some upfront costs to the state agencies required to assist with implementation. Local governments will experience upfront implementation costs as well. At the same time, local governments often expend considerable resources administering their transportation concurrency management systems. Under a mobility fee approach, local governments would be able to redirect resources to planning activities needed to support the system and fewer resources to administer the transportation concurrency management system.

New development will benefit from the timeliness and predictability of a mobility fee. A mobility fee would also have a variable private sector impact for new development depending on the location and type of development. Denser, mixed-use development will pay less than lower density, single use developments further from urban centers.

In preparing this report, the agencies continued working with an existing stakeholder group to recommend a framework for a mobility fee. This report recommends mobility fee principles and legislative options for consideration by the Legislature.

INTRODUCTION

Considerable interest has been expressed in Florida in the concept of a transportation mobility fee. Chapter 2009-96, Laws of Florida, the *Community Renewal Act*, enacted June 2, 2009, calls for the state to evaluate and consider implementation of a mobility fee. The Act states a mobility fee should "provide for mobility needs, ensure that development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts, fairly distribute the fee among the governmental entities responsible for maintaining the impacted roadways, and promote compact, mixed-use, and energy-efficient development."

Chapter 2009-96, Laws of Florida, Community Renewal Act
Section 13. (1)(a) *The Legislature finds that the existing transportation concurrency system has not adequately addressed the transportation needs of this state in an effective, predictable, and equitable manner and is not producing a sustainable transportation system for the state. The Legislature finds that the current system is complex, inequitable, lacks uniformity among jurisdictions, is too focused on roadways to the detriment of desired land use patterns and transportation alternatives, and frequently prevents the attainment of important growth management goals.*

(b) *The Legislature determines that the state shall evaluate and consider the implementation of a mobility fee to replace the existing transportation concurrency system. The mobility fee should be designed to provide for mobility needs, ensure that development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts, fairly distribute the fee among the governmental entities responsible for maintaining the impacted roadways, and promote compact, mixed-use, and energy-efficient development.*

(2) *The state land planning agency and the Department of Transportation shall continue their respective current mobility fee studies and develop and submit to the President of the Senate and the Speaker of the House of Representatives, no later than December 1, 2009, a final joint report on the mobility fee methodology study, complete with recommended legislation and a plan to implement the mobility fee as a replacement for the existing local government adopted and implemented transportation concurrency management systems. The final joint report shall also contain, but is not limited to, an economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector.*

An alternative to transportation concurrency has been discussed in Florida for as long as concurrency has been required. Concurrency is a growth management technique ensuring adequate facilities and services are available concurrent with development impacts. Coordinated land use, infrastructure, capital improvements planning and adequate funding is required to support the concurrency system, consistent with adopted comprehensive plans.

Transportation concurrency has been continually evolving. Since its enactment, the Legislature has provided several concurrency alternatives to better accommodate growth in urban centers where transportation capacity is more constrained. Proportionate-share and proportionate fair-share mechanisms were also added to the concurrency process to enable development to "pay and go" – pay for impacts and proceed to develop. However, the implementation of proportionate-share/proportionate fair-share has been controversial and challenging.

An expressed concern is the inequity of a system that requires payment only after the roadway level of service standard has been exceeded. New development freely consumes available roadway capacity, encouraging development in outlying areas. This places a disproportionate financial responsibility on developers seeking concurrency approval after available capacity has been consumed. These and other unintended consequences, such as the regional transportation impact of local land use decisions, have surfaced over the years regarding the implementation of the existing transportation concurrency regulations in Florida.[1]

The Act characterizes the existing transportation concurrency regulations as "complex, inequitable, lacking uniformity among jurisdictions, is too focused on roadways to the detriment of desired land use patterns and transportation alternatives, and frequently prevents the attainment of important growth management goals." Any change to existing transportation concurrency systems should address these issues, while ensuring that adequate transportation facilities and services are provided to support development.

The agencies were instructed to develop and submit a joint report to the Legislature on the mobility fee methodology study no later than December 1, 2009. In fulfillment of this directive, this joint report includes a mobility fee methodology, recommended legislative options, a plan to implement the mobility fee and an economic analysis of implementation of a mobility fee.

[1] Chapin, "Rethinking the Florida Concurrency Mandate," 2008.

SETTING THE STAGE

This section addresses coordination of land use and transportation, transportation funding and the role of transportation concurrency in Florida.

Coordination of Land Use and Transportation

Land use and transportation are inextricably linked. Land uses create a demand for transportation facilities and transportation services are catalysts for land development. The location, type, magnitude and timing of land development can open opportunities for multi-modal transportation systems or can create an auto-dependent landscape where transit, walking and biking to satisfy travel demand become impractical.

Comprehensive plans connect land use and transportation at four major levels:

- The long range future land use and transportation elements of comprehensive plans are to be coordinated and consistent such that planned land uses are supported by planned transportation facilities adequate to achieve mobility based on adopted level of service standards;
- Comprehensive plans are to include intergovernmental coordination elements to ensure coordination with the plans of adjacent local governments and transportation agencies;
- Comprehensive plans are to include a five-year schedule of capital improvements to ensure the adopted level of service standards are achieved and maintained during the short range planning period; and
- Comprehensive plans establish concurrency management systems to ensure that development will not be allowed unless adequate transportation facilities are or will be available.

In addition, comprehensive plans are to be coordinated with the transportation plans prepared by metropolitan planning organizations (MPOs). Florida has 26 MPOs each with long range transportation needs and cost feasible plans. Through an ongoing update process each long range transportation plan will be designed to provide for mobility within its area based on demands through the 2035 time period.

At the long range planning time period, future land uses often exceed planned transportation facilities in regard to the location and magnitude of development, development patterns are often dominated by low density residential development separated from places of employment and shopping, and travel patterns include extensive extra-jurisdiction movement. At the short range planning period, both local and state governments have struggled to construct adequate transportation facilities with available revenues. A result has been an inability to consistently achieve and maintain adopted level of service standards, particularly in urban centers.

The Act amended section 163.3164, Florida Statutes, to define Dense Urban Land Areas (DULAs). Eight counties and 238 municipalities qualify as DULAs. Only portions of those eight counties, with the

exception of Miami-Dade and Broward, qualify as transportation concurrency exception areas (TCEAs). The municipalities which qualify as DULAs are identified by the law as TCEAs in their entireties.

Within the state designated TCEAs, the Act removes the state-mandated transportation concurrency requirements. However, because the Act contains a home rule provision and no language preempting the areas of transportation concurrency or prohibiting local governments from adopting regulations that are stricter than state requirements, local governments may continue applying their existing transportation concurrency requirements.

In section 163.3180(5)(a), Florida Statutes, the legislative findings for transportation concurrency were expanded to include:

> *The Legislature also finds that in urban centers transportation cannot be effectively managed and mobility cannot be improved solely through the expansion of roadway capacity, that the expansion of roadway capacity is not always physically or financially possible, and that a range of transportation alternatives are essential to satisfy mobility needs, reduce congestion, and achieve healthy, vibrant centers.*

Finally, section 163.3180(5)(b)4., Florida Statutes, establishes a new planning requirement for local governments within state designated TCEAs:

> *A local government that has a transportation concurrency exception area designated pursuant to subparagraph 1., subparagraph 2., or subparagraph 3. shall,* ***within 2 years after the designated area becomes exempt, adopt into its local comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation****. Local governments are encouraged to adopt complementary land use and transportation strategies that reflect the region's shared vision for its future* (emphasis added).

To provide guidance to local governments on land use and transportation strategies, DCA has initiated rulemaking to amend Chapter 9J-5, Florida Administrative Code. The land use and transportation strategies will provide a legal basis for the mobility plan and associated mobility fee.

Florida's Transportation System	
State Highways	12,093 centerline miles
Local Roads	107,247 centerline miles
Public Transit	28 Fixed-Route Systems
Rail	2,800 Railway Miles
Seaports	14 Seaports
Aviation	128 Airports

Transportation Funding in Florida

This section provides information on Florida's transportation system as well as state and local transportation finance. Financial information includes the most recent data available on transportation revenues and expenditures, and information on long range unfunded needs.

The State Transportation System

Florida has an extensive transportation system of state highways, local roads and streets, public transit systems and services, rail facilities, seaports, aviation facilities, trails and bikeways. The state – through

FDOT – owns, operates, and maintains the State Highway System and has the primary responsibility for long-distance travel: the movement of goods and people between regions of the state and between Florida and other states and nations. The state shares responsibility for regional and local transportation with owners of the rest of the system (e.g. local governments, private sector).

FDOT carries out its statutory mandate[2] to focus state resources on implementing the Strategic Intermodal System (SIS). The SIS is a statewide network of high-priority transportation facilities, including the largest and most significant commercial service airports, spaceport, deepwater seaports, freight rail terminals, passenger rail and intercity bus terminals, rail corridors, waterways and highways.

Transportation Needs Verses Revenues

FDOT and Florida's 26 MPOs adopt and periodically update long range transportation plans that are cost feasible. That is, the costs of planned projects are balanced with estimates of revenues reasonably expected to be available over a period of 20 or more years. Projects needed to serve future population and land use, which cannot be built because of insufficient revenues, are referred to as "unfunded needs."

The most recent *2035 SIS Multimodal Unfunded Needs Plan*, adopted by FDOT in 2006, identified $53.2 billion in unfunded needs (measured in 2006 dollars). The estimate of unfunded needs in Florida's metropolitan areas alone is $62.5 billion (measured in 2005 dollars).[3]

Local Government Transportation Funding

The most recent summary data available on transportation expenditures by counties and municipalities was compiled by the Florida Legislative Committee on Intergovernmental Relations for the year 2007. Statewide, local governments spent $7 billion, about 60 percent of which was spent on roads and streets, the remainder was spent on other transportation infrastructure and services (e.g. airports, transit).[4] A summary of local transportation expenditures by revenue source is unavailable.

Local revenue sources include fuel taxes, user fees such as bus fares and airport landing fees, property taxes and transportation impact fees. Forty-one of Florida's 67 counties adopted transportation impact fees as of 2007. Seventy-one of 408 municipalities reported transportation impact fee revenues in 2006.

State fuel taxes collected for local government use include three cents for counties and one cent for municipalities, providing an estimated $400 million in 2007.[5] Local governments may exercise local option fuel taxes of up to twelve cents per gallon. Eighteen of the 67 counties have fully exercised their local option fuel taxes. In 2007, local option fuel taxes raised an estimated $875 million.[6] In addition to

[2] Section 339.61, Florida Statutes.
[3] Center for Urban Transportation Research, *The 2008 Review of Florida's MPO Long Range Transportation Plans*, October 2008.

the motor fuel taxes, the Legislature has authorized a number of other local option taxes for transportation purposes including sales surtaxes as shown in the following tables.

Table 1: Florida Counties Levying Optional Motor Fuel Taxes

	Eligible	Levying	Purposes	Adoption
Ninth Cent § 336.021(1)(a), F.S.	67	49	Transportation	Referendum or Extraordinary vote
1 to 6 Cent § 336.025(1)(a), F.S.	67	65	Transportation	Referendum or Majority
1 to 5 Cent § 336.025(1)(b), F.S.	67	18	Transportation Capital	Referendum or Majority plus 1

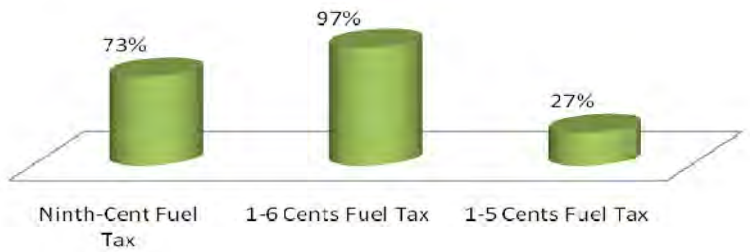

Figure 1: Florida Counties Levying Optional Motor Fuel Taxes.

Table 2: Florida Counties Levying Optional Sales Surtaxes

	Eligible	Levying	Purposes	Adoption
Charter County Transportation System §212.055(1), F.S.	7	2	Transit/Roads	Referendum
Local Government Infrastructure §212.055(2), F.S.	67	20	Infrastructure	Referendum
Small County (pop. 50,000) §212.055(3), F.S.	31	28	Any	Referendum

[4] Florida Legislative Committee on Intergovernmental Relations; see http://www.floridalcir.gov/fiscal.cfm
[5] Florida Department of Transportation, *Florida's Transportation Tax Sources, A Primer*, January 2007.
[6] Ibid.

Role of Transportation Concurrency

Transportation concurrency is not just a payment system. Rather it is part of a broader planning system to provide adequate transportation facilities and services.

In Florida, the concept of concurrency was first introduced in 1985 as part of the Local Government Comprehensive Planning and Land Development Regulation Act (Growth Management Act). This growth management tool provides that adequate transportation facilities and services must be available concurrent with the impacts of development. Specifically, section 163.3180(2)(c), Florida Statutes, requires "transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent."

To satisfy the concurrency requirement for transportation facilities, the Legislature has provided alternatives where adequate transportation facilities will not be in place or under actual construction within 3 years, which include:

- Capacity that is available through development agreements;
- Planned capacity in the first 3 years of the five-year schedule of capital improvements; or
- A monetary contribution toward the fair share cost of improving the transportation facility for a project in five-year or long-term schedule of capital improvements or to a beneficial improvement to be added to schedule in the next amendment cycle (proportionate fair-share mitigation applies to development not subject to Developments of Regional Impact (DRI) review, while proportionate-share applies to DRI.

TRANSPORTATION CONCURRENCY CHRONOLOGY

YEAR	ACTION
1985	The concept of concurrency becomes law with the passage of Florida's Growth Management Act (Chapter 163, Part II, Florida Statutes).
1992	FDOT adopts Statewide Minimum Level of Service Standards for the State Highway System.
1993	Chapter 163, Part II, Florida Statutes, is amended to authorize transportation concurrency exception areas, transportation concurrency management areas and long-term concurrency management plans.
1999	The Legislature adds multi-modal transportation districts to the local concurrency tool box.
2002	FDOT standards amended to apply to FIHS
2005	The Legislature enacts the first Senate Bill 360, which imposes new financial feasibility requirements for the capital improvement elements of local plans, adopts stricter requirements for the transportation concurrency flexibility options and establishes a developer proportionate fair share payment system for transportation concurrency. It also requires the approval of FDOT for mitigation of impacts on the SIS.
2006	The FDOT Level of Service Standards apply on SIS and FIHS
2009	The Legislature enacts the second Senate Bill 360, which eliminates state-mandated transportation concurrency requirements in 238 cities and the existing urban service areas of six large counties.

Comprehensive planning requirements for the implementation of a transportation concurrency system mandate:

- Adopting level of service standards for measuring adequate facilities;
- Eliminating existing service deficiencies through a financially feasible schedule of improvements; and
- Coordinating land uses with available facilities and services to accommodate new growth anticipated by the comprehensive plan.

In principal, if long range land use and transportation planning are coordinated and a financially feasible schedule of transportation improvements is maintained, adequate roadway capacity at the time of a building permit should be available.

Some of the benefits of transportation concurrency include:

- Coordination of the timing of development with availability of transportation facilities and services included in a financially feasible schedule of improvements;
- Maintenance of adopted level of service standards;
- Ensures that where capacity is not available, based on adopted level of service standards, development must provide mitigation for its impact on level of service;
- Allows for private developer contributions and/or funding of needed transportation improvements; and
- Provides feedback, accountability and guidance for land use decisions, infrastructure priorities and funding.

There has been widespread dissatisfaction with reliance on roadway level of service standards, particularly as this discourages development in urban centers. The focus on achieving and maintaining state roadway levels of service for automobile mobility has promoted multi-lane, free flowing roadways in urban areas to the exclusion of other modes. Many argue the concurrency system has impeded urban redevelopment and infill.

A related problem is the difficulty in meeting established level of service standards on a facility- by-facility basis during the PM peak hour.[7] This approach to defining adequacy of transportation service has contributed to widespread "backlogs" (facilities on which the adopted level-of-service standard is exceeded) across the state. The cost of providing facilities to maintain adopted standards is well beyond the abilities of existing transportation funding mechanisms.

[7] The peak hour is the hour during which the greatest amount of travel occurs on a typical weekday. The PM Peak Hour is typically the highest traffic volumes encountered during a weekday from 5:00 to 6:00 PM peak; adapted from **Florida's Mobility Performance Measures Program** http://www.dot.state.fl.us/planning/statistics/mobilitymeasures/mmbrochure.pdf .

Another concern is the inequity of a system that requires payment only after the level of service standard has been exceeded. New development freely consumes available road capacity, encouraging development in outlying areas. This places a disproportionate financial responsibility on developers seeking concurrency approval after available capacity has been consumed, resulting in market inequities. These and other unintended consequences, such as the regional transportation impact of local land use decisions, have surfaced over the years regarding the implementation of the existing transportation concurrency regulations in Florida.[8]

Since 1993, exceptions and alternatives from strict adherence to transportation concurrency have been enacted into law to accomplish other important growth management goals. Despite these reforms, there remains support for additional changes to concurrency.

The Act sought to remedy some of the issues with transportation concurrency. The Act eliminated the state mandate for transportation concurrency in qualifying areas within designated DULAs. Local governments have the option of continuing to apply transportation concurrency as a matter of local law. The DRI program, which provides a process for multi agency review of large developments, was also eliminated in these areas, as was the requirement for local governments to adopt and maintain state level of service standards for the SIS.

In addition, within two years of the effective date of establishing a TCEA, local governments are required to adopt into their local comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation. These plans also must comply with Chapter 2008-191, Laws of Florida, by including strategies to reduce greenhouse gas emissions and promote energy efficient land use patterns.

[8] Chapin, "Rethinking the Florida Concurrency Mandate," 2008.

THE MOBILITY FEE CONCEPT

What Is a Mobility Fee?

A mobility fee is a charge on all new development to provide mitigation for its impact on the transportation system. However, a mobility fee is not a substitute for site related improvements for safety, access and internal circulation, which may still be required under local land development regulations. These types of improvements are typically identified during site analysis review but would not typically be included in the land use and transportation strategies for mobility (i.e. mobility plans). Some examples include internal roads for new subdivisions, improvements for access to and from the site, and improvements to maintain safety (e.g. traffic signalization, acceleration/deceleration lanes adjacent to the development).

A mobility fee covering the true cost of transportation needs attributable to new development may be higher when compared to current impact fee rates. Studies to date indicate that current transportation impact fees do not cover all costs of transportation needs attributable to new development. A mobility fee applied to all new development may result in an increase in funding available for transportation. However, it is very important to note that revenues from mobility fees would only cover a small portion of Florida's mobility needs.

The following, from CUTR's *Evaluation of Mobility Fee Concept* report, illustrates an example of a mobility fee as compared to an impact fee:

> Based on adopted level of service standards, costs per vehicle mile of travel (VMT) had been as high as $500.[9] Single family dwelling unit example: Assuming 10 trips per day, an average of 7 VMT per trip: (10 x 7)/2 x $500 = $17,500 per single family home. This amount is usually credited 20-30% to account for other revenues (i.e., motor fuel taxes) that may be attributed to the development over time. Assuming a 25% credit, the transportation costs for a single family home in some areas of Florida may be $13,125. Since development within a TCEAs is not subject to level of service standards, the cost per vehicle mile may decrease, or be replaced by funding for transit. The state average county transportation impact fee for a single family unit (3 bedroom, 2,000 square feet on 10,000 square foot lot) was $2,937. Collier County adopted the highest rate at $8,884 and Monroe County the lowest at $430.[10]

[9] Discussion with Bill Oliver, Tindale-Oliver & Associates, Inc., August 2009.
[10] Antonio Apap and Dana L. Cicheskie, *Do Impact Fees Pay for The Infrastructure Costs Required by New Developments?* Journal of Business & Economic Research 6.7 (2008), p. 73.

As a charge on new development, the mobility fee has characteristics of an impact fee. Implementation of a mobility fee may involve adherence to the "dual rational nexus test"[11] established in Florida case law, unless otherwise provided by the Legislature.

Although a mobility fee is similar to an impact fee in that it is a charge on new development for its impacts on transportation facilities, the mobility fee as proposed in this report would be different from an impact fee in significant ways, including:

- A mobility fee would apply on at least a countywide basis;
- A mobility fee would require a high level of intergovernmental coordination;
- A mobility fee would be sensitive to vehicle or person miles traveled encouraging shorter trips and reduction of total travel thereby promoting compact and mixed-use development;
- A mobility fee would fund multi-modal transportation improvements for roadways, transit, bikeway, pedestrian walkways (including capital projects, system efficiency and congestion management improvements/strategies and transit capital and operating costs);
- A mobility fee could provide a charge for recouping a new development's share of transit operating costs for a short term period; and
- A mobility fee would be distributed among all the governmental entities responsible for maintaining impacted transportation facilities.

Impact fees are not typically designed to vary by location; the charges are the same across the board based on development type (e.g. single family, multi-family, commercial). Typically, impact fee revenues are allocated toward the capital costs of roadway improvements, with only a small portion of these revenues directed toward transit, bikeway, pedestrian and other system efficiency and congestion management strategies. Finally, impact fees are very rarely distributed to state governmental entities responsible for maintaining the impacted roadways.

While a comparison to impact fees is useful, it is important to consider that a mobility fee is envisioned to replace proportionate-share and proportionate fair-share payments. This is important since payment of an impact fee does not guarantee that a development satisfies concurrency.

When instituted, a mobility fee should be structured to allow identification of the fee based on a simple table varying by location, magnitude and type of development.

The Mobility Fee Approach

A first step to creating a mobility fee is establishing cooperative agreements among local governments and transportation agencies to coordinate land use and transportation mobility planning efforts and

[11] This test requires that there be: 1) a reasonable connection between the need for transportation improvements and the growth generated by new development; and 2) a reasonable connection between the expenditure of fees collected and the benefit to the development.

establish improvement priorities. The fee would be applicable to all new development; however, developments that have been approved under the existing transportation concurrency systems may at their option and with local government consent, retain their current approvals or "opt in" under the new mobility fee system.

The mobility fee approach builds on existing comprehensive planning efforts to coordinate land use and transportation facilities and services and to ensure a financially feasible five-year schedule of capital improvements. The goal of this approach is to produce a sustainable transportation system, coordinated with land use, in an effective, predictable and equitable manner. As required by the Act, the approach would advance the following objectives:

- Provide for mobility needs through an interconnected and accessible transportation system that considers all modes of travel;
- Discourage urban sprawl and reduce greenhouse gas emissions by providing incentives to promote compact, mixed-use, and energy efficient development;
- Coordinate the planned transportation system with growth areas defined in the future land use element;
- Ensure that new development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts; and
- Offer flexibility to target mobility fees to planned transportation facilities and services based upon a prioritized improvement schedule that fairly distributes the fee among the governmental entities responsible for maintaining the impacted system.

The mobility needs of urban centers, such as Hillsborough County or Jacksonville-Duval County, differ greatly from those of rural counties and their municipalities. The approach for establishing a mobility fee is designed to accommodate the diverse needs and planning resources across the state. Each county or multi-county area will have the ability to define its own needs and improvement priorities and its own approach to establishing the fee. For example, if mobility fees were to apply to rural counties, they may choose to enact the fee with technical assistance from DCA, FDOT and/or other governmental partners. Major urban counties may choose to develop the fee through their local government staff, MPO or other existing collaborations.

The mobility fee approach has the potential to be more equitable than proportionate-share and proportionate fair-share mitigation. Under existing transportation concurrency, new development is required to mitigate its impacts on a facility by facility basis only after capacity has been exceeded. Alternatively, a mobility fee would recoup the cost of transportation system demand generated by all new development. Each new development would be charged a mobility fee based upon the transportation service it consumes, in effect, treating transportation as a commodity.

The mobility fee approach would improve the coordination of the local government future land use element with the transportation element. This approach would shift the focus of providing

transportation facilities and services for new development away from permitting for concurrency onto the planning requirements in adopted comprehensive plans and capital improvement schedules.[12]

The mobility fee approach will change how governments measure the quality of service of the transportation system.[13] Peak hour level of service measures cannot be maintained. Urban areas have and will continue to have congestion during the peak periods.[14] Different measures should be developed that address network performance from a transportation system perspective, regardless of mode. Transportation research[15] currently underway is focused on integrating transportation system-level performance programs to determine network performance. FDOT's Quality/Level of Service Handbook details appropriate alternatives for measuring multimodal transportation level of service. Such measures, other than roadway level of service during peak hours, could be used to monitor transportation system performance.

Further, the flexibility to spend mobility fees on transportation improvement priorities, coupled with land use and transportation strategies that are coordinated among local governments offers potential for improved mobility, reduced congestion and more efficient movement of people, goods and services. Congestion management strategies (e.g. incident management, intersection operations improvements, service patrols, automated signing) can produce significant improvements in transportation system efficiency.

Transportation funding through existing concurrency proportionate-share/proportionate fair-share payments and impact fees only represent a portion of the overall funding solution. Similarly, mobility fees alone will not be adequate to address transportation funding deficiencies and infrastructure needs that exist in Florida today. Funding shortfalls are due to many other factors affecting growth. Even if we apply a mobility fee to all new development, it is only one part of the funding solution for addressing transportation mobility needs.

Other sources of revenue will be needed to adequately fund Florida's mobility needs. These sources, for example, may include use of local option taxes, backlog authorities, municipal services taxing units or a local option utility or user fee. A transportation utility fee or user fee is a recurring source of revenue that could be structured to equitably reflect the average estimated use of transportation facilities and services by all users of the system, and may warrant further review and consideration. Predictable,

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[12] In current practice, the ability to meet transportation levels of service (LOS) for concurrency is evaluated and addressed during site plan review and permitting, but not later than building permit.

[13] LOS standards in local government comprehensive plans establish a minimum performance measure for transportation facilities and services and are currently used to determine whether available transportation capacity is adequate for new development. They are required pursuant to Chapter 163.3180, Florida Statutes, for local facilities and Rule 14-94, Florida Administrative Code, for the Strategic Intermodal System, Florida Intrastate Highway System and roadways funded through the Transportation Regional Incentive Program.

[14] Why Florida's Concurrency Principle For Controlling New Development By Regulating Road Construction Does Not - And Cannot - Work Effectively, Anthony Downs, Published in the Eno Transportation Foundation's Transportation Quarterly Winter 2003, pp. 13-17.

[15] National Cooperative Highway Research Program, Project 08-67.

recurring revenue sources with a broad base of payers are better suited to fund ongoing costs such as transit operations and maintenance.

Governance Structure

To facilitate administration and predictability, mobility fee programs and corresponding rate schedules should be established on a countywide or, at the option of participating local governments, at a multi-county level. Local governments could jointly conduct the countywide fee study. The mobility fee schedule would identify appropriate variations in rate by area type (e.g. urban, suburban fringe, transitional, rural) and development type.

MOBILITY FEE PROGRAMS AND CORRESPONDING RATE SCHEDULES SHOULD BE ESTABLISHED ON A COUNTYWIDE LEVEL

To achieve an equitable mobility fee system, it is important that all local governments within a county participate in a mobility fee program through the execution of an interlocal agreement among all local governments. These interlocal agreements would specify the partners in adopting the fee, which would include the FDOT and other key transportation planning agencies, such as MPOs, and transportation providers, such as transit agencies. Local governments would collect and distribute the mobility fee in accordance with the procedures included in the agreement(s).

The Role of the Mobility Plan

DCA is undertaking rulemaking to guide the development of land use and transportation strategies in TCEAs to support and fund mobility. Should mobility fees be implemented statewide, mobility plans will need to be developed to provide a legal basis for establishing a mobility fee.

Methodology for Determining the Mobility Fee

The Basic Calculation Approaches

Two basic approaches may be used to calculate the mobility fee: "improvements-based" and "consumption-based." The improvements-based approach charges each new development its portion of the cost of a specific set of improvements necessary to accommodate future growth. The consumption-based approach charges each new development based on the value of the increment of a transportation facility or service need generated by that development. The value of each increment is determined based on recent transportation improvements and is typically reflected as an average cost per unit of transportation service consumed (such as a lane mile of roadway or hour of transit service).

Both methods are calculated to be proportionate to the development impact. In both cases, costs are adjusted to account for anticipated funding from other sources, which avoids double charging. Finally, neither method charges new developments for backlog.

Use of a consumption-based calculation ensures that development pays only for the cost of transportation facilities to serve it. Vehicle miles of travel used in calculating the fee can be determined based upon typical average trip lengths in defined planning areas such as urban, suburban fringe, transitional, rural preservation and conservation areas. Higher trip lengths in transitional and rural areas may result in a higher fee for a development located in these areas, as compared to the same development within more densely developed areas.

Currently, the best method to determine average trip length is to use existing large scale travel demand computer models. In Florida, urban areas use the Florida Standard Urban Transportation Model Structure (FSUTMS). Trip lengths or vehicle miles of travel may be obtained by running FSUTMS. These estimates could be updated by actual traveler surveys.

Average trip lengths per land use may be compiled in tables for use in estimating trip length for a proposed development. Trip length tables will simplify administration of the fee by minimizing the need to use complex travel studies for each new development. Trip length tables should be updated using FSUTMS at least every five years. Methods used to determine average trip length have been widely documented in impact fee literature.

In CUTR's "Evaluation of the Mobility Fee Concept" Report,[16] detailed calculations are provided for both roadway and transit consumption-based fees. The calculated fees for roadway consumption may be used for all person or vehicle miles of travel generated by the development and the mobility fee collected may be expended on adopted transportation priorities, regardless of modes.

[16] Center for Urban Transportation Research, *Evaluation of the Mobility Fee Concept"* November 2009

FLORIDA MOBILITY FEE STUDIES

A study was commissioned by DCA with CUTR. Phase 1 of the study explored policy options for a mode neutral revenue source in the form of a mobility fee. It set forth a conceptual method for instituting a mobility fee sensitive to vehicle miles of travel (VMT), or a similar measure of transportation use. Phase 2 of the research, completed in June 2009, involved testing and refinement of the working concept through hypothetical application in Alachua County, Florida. FDOT participated and provided technical expertise in both Phase 1 and 2 of the CUTR study.

The University of Florida (UF), Center for Multimodal Solutions for Congestion Mitigation (CMS), in cooperation with FDOT, developed a study focused on techniques for measuring VMT that are sensitive to community type, location and land use mix. This UF study is a detailed statistical analysis and may take more than a year to provide practical guidance. In the meantime, techniques to determine VMT sensitive to community type, location and land use mix will be developed using existing tools such as large scale transportation models (FSUTMS) and traveler surveys.

As the CUTR/DCA mobility fee study was being completed, the 2009 Community Renewal Act became law, adding new considerations relative to a mobility fee. DCA and FDOT concluded that further research on a mobility fee was needed to address these considerations. FDOT funded Phase 3 of the study with CUTR in July 2009 to continue working with DCA and FDOT on the research needs of the Act.

All of CUTR's reports are available from DCA webpage on mobility planning at http://www.dca.state.fl.us/fdcp/dcp/MobilityFees/index.cfm

A technical working group of individuals with expertise in impact fees, concurrency management and transportation impact assessment was assembled to provide input into the study, many of whom participated in the initial CUTR/DCA study and/or the UF/FDOT study. A diverse Stakeholders Working Group that had been formed by DCA and FDOT during the fiscal year 2008-09 study was also continued to obtain feedback on the study concepts. Throughout this research, the mobility fee working concept has continued to evolve taking into consideration the recommendations of the technical working group and in response to the issues raised by Stakeholders throughout the process.

STAKEHOLDER AND TECHNICAL WORKING GROUP INVOLVEMENT

During the development of this mobility fee report, there has been a significant focus on ensuring the opportunity for participation by all interested and affected parties. There has been outreach to both the technical community and representatives of parties involved in and affected by the land development process. The coordination began early in the study process, prior to the Act, and continued throughout the various phases of the study. The following summarize these outreach efforts.

Technical Working Groups

Technical Working Groups were established for both the UF and the CUTR studies. These groups included professional and technical individuals, and state agency staff directly involved in mobility issues. Each group met several times during the course of the individual studies, providing technical guidance to enhance the output of the study.

With the Act and the initiation of Phase 3 of the CUTR study, another Technical Working Group was established to help guide the effort. The group included technical personnel from local governments, consultants representing public and private sectors, regional transportation authorities and state agencies.

The Phase 3 Technical Working Group had more than a dozen meetings between July and November, 2009. The meetings were conducted via teleconference. The information gained from all of these discussions has been extremely valuable in the development of the report and recommendations.

Stakeholder Working Group

As a part of the initial mobility fee effort by CUTR, DCA in coordination with FDOT identified a group of twenty individuals around Florida to participate as Stakeholders. Members had considerable knowledge of growth management and transportation planning, representing groups likely to be impacted by the implementation of a mobility fee. The Stakeholders met in January and June of this year to review the progress of the Mobility Fee Studies being developed by the agencies.

With the Act, the role of the Stakeholders became more critical and time sensitive. A schedule was developed to hold monthly meetings (August 14, September 25, October 9 and November 9) to present information to the Stakeholders and receive comments, concerns and recommendations from them.

The Consistent Message from Stakeholder and Technical Working Groups

Stakeholders and Technical Groups have consistently suggested that the state begin the implementation of a mobility fee through pilot projects. This would allow the state to identify and avoid unintended consequences before statewide application. Additionally, the stakeholders consistently recommended that adequate funding be provided to meet all of Florida's mobility needs.

More information including meeting summaries of each of the Stakeholders meetings can be found on DCA's webpage on mobility fees at http://www.dca.state.fl.us/fdcp/dcp/MobilityFees/index.cfm

RECOMMENDED PRINCIPLES FOR A MOBILITY FEE

A mobility fee is just one of many potential sources of transportation revenues to address the mobility needs of Florida's communities. All new development would be subject to a mobility fee; however, developers who have relied on existing transportation concurrency approvals may, with consent of the local government, retain their current approvals or opt in under the new mobility fee system.

In addition to addressing the transportation impacts of all new development, payment of a mobility fee would replace proportionate-share/proportionate fair-share. Local governments could continue to assess impact fees. Where local governments opt to retain their existing impact fee programs, a credit toward the payment of a mobility fee should be required where the local impact fee would charge development for the same impact addressed by the mobility fee.

Neither mobility fees nor impact fees are based on existing transportation backlogs and deficiencies attributable to existing development. Other funding alternatives such as utility fees or user fees may be authorized in statute to address existing transportation deficiencies and backlogs. A recent example is the provision authorizing backlog authorities enacted in 2007 by the Florida Legislature (section 163.3182, Florida Statutes). A mobility fee combined with a transportation utility fee or user fee would move toward a more complete approach to funding Florida's mobility needs.

A number of guiding principles have been identified and vetted by the agencies, stakeholders and other interested parties in evaluating the mobility fee approach. Should the Legislature adopt a mobility fee approach in Florida, the following principles would provide a guiding framework.

Principles for the Mobility Fee Approach

- Ensure all new development provides mitigation for its impacts on the transportation system in approximate proportionality to those impacts, and new development should not be required to pay for existing system backlogs and deficiencies;
- Be transparent and predictable in its application;
- Be structured and implemented on at least a countywide basis and may be extended to include multi-county areas;
- Be designed to provide for mobility needs including at a minimum roadways, transit, bikeways, pedestrian walkways, and where applicable other transportation facilities;
- Be able to fund multi-modal transportation improvements, including capital projects, system efficiency and congestion management strategies and transit operating costs that support the provision of transit service for new development;
- Fairly distribute the mobility fee among the governmental entities responsible for maintaining the impacted roadways and other transportation facilities necessary to provide for mobility;
- In order to promote compact, mixed-use and energy efficient development a mobility fee should:

    - Be sensitive to vehicle or person miles traveled and vary by location and development type;
    - Have a fee structure that encourages shorter trips and reduction of total travel (as well as reduction of greenhouse gas emissions); and
    - Have a fee structure that charges more per trip in areas where long distance travel is unavoidable.
- Allow for some level of local/regional flexibility in the implementation of mobility fees:
    - The land use and transportation strategies, multi-modal improvement priorities, methodologies and intergovernmental procedures for mobility fees may vary from county to county**;**
    - Allow the continuation of current, alternative approaches for implementation of mobility fees; and
    - Should be authorized in the comprehensive plan of each local government within the county.

Principles for Governance Structure

In establishing a mobility fee , it is important to clearly define relationships between the governmental and transportation entities. At a minimum, each local government within a county should participate in the mobility fee.

- The "Building Blocks" for creating this system are:
    - Enter into memorandum of agreement to identify partners (e.g. each local government in the county and agencies providing transportation services) and formulate an interlocal agreement that establishes the process to prepare the mobility fee;
    - Develop land use and transportation strategies to support and fund mobility (i.e. mobility plans);
    - Develop methodology for calculation/distribution of mobility fees;
    - Coordinate with transportation plans of partners;
    - Execute interlocal agreement;
    - Each local government adopts comprehensive plan amendments to establish the land use and transportation strategies to fund mobility; and
    - Adopt land development regulation to establish the mobility fee.
- Principles for the interlocal agreement:
    - Coordination is required through the execution of an interlocal agreement – parties to agreement include the county, all cities within the county and transportation agencies providing service within the county, and may include other state/regional agencies;
    - A single interlocal agreement for each county-wide area is recommended; and
    - The interlocal agreement may be executed by resolution, ordinance or other official action of the parties and contents should include:
        - Parties to the agreement and an effective date;
        - Procedures for coordinating and updating the agreement;
        - Procedures for coordinating land use and transportation strategies among partners ;
        - Identification of performance measures for evaluating mobility;

- Identification of planning areas and/or service areas for applying the fee and establishing project priorities;
- Procedures for establishing project priorities for funding among the partners;
- Method for determining the fee and distribution of funds among the partners;
- Process to resolve disputes; and
- Provisions for adopting, updating and amending the land use and transportation strategies as local comprehensive plan amendments.

Principles for Land Use and Transportation Strategies (i.e. Mobility Plans)

The land use and transportation strategies to support mobility provide the basis for determining the mobility fee. In developing the mobility plan, the following principles should apply:

- The land use and transportation strategies should be coordinated countywide and include land use strategies that support and address multi-modal transportation (i.e. roads, transit, bike and pedestrian facilities and other transportation facilities where applicable) to ensure mobility;
- Focus planning efforts on achieving an efficient multi-modal transportation system within and across jurisdictions in a county and may include a multi-county area;
- Identify transportation priorities for mobility, anticipated revenues available to fund priorities, including the revenues anticipated from mobility fees and other sources;
- Provide a cost basis for establishing the mobility fee;
- Amend comprehensive plan elements for land use, transportation, capital improvements and intergovernmental coordination;
- Coordinate with existing transportation plans.

Principles for Methodology

In developing a mobility fee, the following principles would apply to the calculation, distribution and collection of these fees:

- ***Basic Calculation Approaches***
  - In developing mobility fees, either consumption or improvements-based methods are acceptable, a combination of these methods or some other approved professionally acceptable methods may be utilized.
- ***Mobility Fees Collection/Distribution***
  - Collected through development permitting, as is the case with current impact fees or proportionate fair-share/proportionate-share mitigation;
  - Expended for countywide and local improvements identified in the land use and transportation strategies; and
  - Fairly distributed among partners responsible for transportation improvements, such as by 1) proportionally distributing collected fee to agencies responsible for maintaining the facilities based on amount of travel demand anticipated – then spent on plan priorities, or 2) within service areas in order of mutually agreed-upon priorities.

- ***Other Considerations***
  - Where local governments opt to retain their existing impact fee programs, a credit toward the payment of a mobility fee should be required where the local impact fee would charge development for the same impact addressed by the mobility fee (i.e. development does not pay twice for the same impacts); and
  - Site related improvements for safety, access and internal circulation, which are required under state permits or local land development regulations, should not be included in the mobility fee calculation.

LEGISLATIVE OPTIONS

The following options are provided for consideration. The options were evaluated with the help of the stakeholders and interested parties and some advantages and disadvantages are identified below. The agencies stand ready to assist with drafting specific legislation.

Options	Advantages	Disadvantages
1. Mobility Fees Required Statewide Each local government must enact a mobility fee by a date certain. Although this is a statewide option, it does **not** mean the state will mandate a uniform fee schedule. Rather, the fees will be determined and implemented by individual or multiple counties based on the principles recommended in this report.	• Statewide application resulting in a consistent statewide framework. • Less complex and more transparent than the current transportation concurrency review process. • Addresses equity issue – all development pays for impacts. • Strengthens requirement for intergovernmental coordination for land use and transportation planning. • Encourages compact, mixed-use and energy efficient development, while discouraging "leapfrog" development and urban sprawl.	• Administratively challenging, especially for smaller/rural local governments. • No ability to identify or prevent unintended consequences. • Implementation before demonstrating the mobility fee system will achieve desired results.
2. Mobility Fees Required only in Dense Urban Land Area (DULA) Counties and Conditionally Authorized Statewide as a Local Option DULA *Counties* and the cities therein must enact a mobility fee by date certain. All other opt in counties and their participating cities may adopt a mobility fee. Mobility fees are part of the funding for the mobility plans required in	• Focuses implementation on areas where most of the congestion exists and concurrency has proven to be problematic. • Focuses implementation on urban areas, which have more planning resources and staff. • Local flexibility for all other counties to implement mobility fees.	• Could encourage additional sprawl development in non-mobility fee areas. • Non-mobility fee areas not required to focus on mobility planning.

transportation concurrency exception areas (TCEAs).		
3. Mobility Fees Authorized in Pilot Counties, Report Back to Legislature for Further Action Non-pilot counties and their participating cities may pursue mobility planning and associated fees. DCA and FDOT provide technical assistance to pilot counties. Report to the Florida Legislature.	• Stakeholder support • Allows identification of unintended consequences before statewide implementation. • Allows focused technical assistance, collaboration with local governments and time to evaluate multiple approaches for mobility plans and fee methodologies.	• Delays use of a mobility fee outside of pilot counties. • Inequity of existing transportation concurrency system not immediately addressed • A period of uncertainty for local governments and developers.

IMPLEMENTATION PLAN

In developing a strategy for implementing a mobility fee in Florida, regardless of the option chosen the agencies and local governments will need to, at a minimum, undertake the following activities.

Local Government Activities:

- The participating county and cities within the county enter an interlocal agreement to establish the framework for a mobility fee program.
- The local government implementing a mobility fee must amend its comprehensive plan to include:
  - A mobility plan identifying land use and transportation strategies as well as funding sources for implementation;
  - Intergovernmental coordination;
  - Multi-modal improvements priorities;
  - Preparing the mobility fee program (e.g. supporting studies, fee methodology calculation); and
  - Modification of transportation concurrency management policies.
- The local governments adopt land development regulations to implement the mobility fee, including establishing the amount of the fee.

State Agency Activities (DCA and/or FDOT):

- Prepare model interlocal agreements:
- Revise Chapter 9J-5, Florida Administrative Code, to establish requirements for transportation and land use strategies to support mobility planning and fee program.
- Evaluate alternative performance measures for mobility, including an analysis of changes to level of service standards and initiate rulemaking, as necessary.
- Provide technical assistance to local governments.

If Option 3 is chosen (Pilot Counties), the following additional state agency implementation activities will be necessary:

- Monitor and evaluate pilot counties.
- Develop specific recommendations for phased implementation, including best practices for:
  - Calculating the fee;
  - Interlocal agreements; and
  - Mobility plans, including multi-modal mobility planning strategies.
- Establish a schedule for phased implementation, including a timeframe for each local government to adopt a mobility fee.

ECONOMIC CONSIDERATIONS

The Act states: "The final joint report shall also contain, but is not limited to, an economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector." The following are many of the expected economic effects of a mobility fee.

It is anticipated the mobility fee approach will replace proportionate fair-share mitigation (sub-DRI) and proportionate-share mitigation (DRI). Local transportation impact fees could be a component of the mobility fee. If impact fees are folded into the mobility fee, this would avoid double-charging. Mobility fees will only mitigate transportation infrastructure impacts from new development. As noted on page 22, other sources of revenue will have to be used to fund other transportation needs. However, this report makes recommendations only with regard to mobility fees.

Unless the fees outside urban centers accurately reflect the long distance travel required, coupled with strong comprehensive planning elements encouraging dense activity urban centers, cheaper land and public works improvements (e.g. sewer, water, roads) will outweigh the incentives for desired growth patterns and sprawl would continue.

Because a fee on new development will fluctuate with economic cycles, it may be difficult to rely on consistent revenue streams from a mobility fee.

Local government will still experience funding shortfalls particularly for operation and maintenance of a multi-modal public transportation system. Mobility needs in Florida go beyond what is demanded by new development. Compact, mixed-use development is dependent on alternatives to the single-occupancy vehicle. The flexibility to spend mobility fees on transportation improvement priorities, coupled with coordinated land use and transportation strategies, offers greater potential for improved mobility, reduced congestion and more efficient movement of people and goods. Congestion management strategies (e.g. incident management, intersection operations improvements, service patrols, automated signing) can produce significant improvements in transportation system efficiency.

The ability of mobility fees to support ongoing transit operating costs is limited, as these costs are large, recurring, and funded primarily by other sources (e.g. federal and state grants). Therefore, local governments may need other mechanisms for funding these mobility needs. The Legislature has already authorized a number of local option taxes for transportation purposes including motor fuels taxes and sales surtaxes, which can be used for this purpose.

Potential Costs and Benefits

As with all new programs, one must look at the potential benefits as well as the costs. Mobility fees would have a mix of benefits and costs. Some of the important economic questions raised during the study are:

State Government Costs and Benefits

Potential state costs to implement a mobility fee include:

- Developing implementation processes and procedures;
- Providing technical assistance to local governments;
- Performing mobility plan review and comprehensive plan reviews;
- Preparing best practices for interlocal agreements and transportation and land use strategies;
- Developing processes and procedures for monitoring mobility planning effort;
- Coordinating plan horizons of local governments and various transportation planning agencies; and
- Re-assessing state transportation measures of effectiveness (such as level of service (LOS) standards) will result in staff time and money spent.

Potential state benefits of implementing a mobility fee include:

- Mitigation funding would be more predictable;
- A portion of the increase in mitigation funding would be spent on or toward relieving impacts to the state system; and
- Coordination on transportation planning between state and local governments.

Local Government Costs and Benefits

While local governments may incur increased administrative costs during the initial implementation of a mobility fee, long term administrative costs should be less than current costs for managing their transportation concurrency management system. The existing regulations require many individual traffic studies on the front end and once a development is approved, local governments spend considerable resources to maintain large spreadsheets for tracking trips on all roadway links of the jurisdiction, by year and by development.

To establish a mobility fee system, extensive inter-governmental review and coordination will be necessary. Under the mobility fee system, the large scale transportation studies will be done in advance. Mitigation costs will then be determined by the size, type and location of the proposed development. The developer can determine the mitigation cost by a simple look up table. This system negates the need for intricate tracking of trips by development. This will produce another reduction in costs.

This coordination is needed to achieve agreement on fee rates, distribution and the necessary processes. However, when systems are in place, costs will decrease and ease of administration will increase.

Potential local government costs to implement a mobility fee include:

- Preparing a mobility fee plan coordinating and establishing countywide mobility planning, including cost of developing plan amendments, land development regulations and interlocal agreements;
- Implementing interlocal agreements, including processes and procedures;
- Amending comprehensive plans to coordinate countywide land use and transportation planning;
- Coordinating activities with local governments, and other planning and transportation agencies;
- Preparing the mobility fee program (e.g. supporting studies, fee methodology calculation); and
- Performing updates on a regular basis.

Potential local government benefits to implementing a mobility fee include:

- Common countywide or larger area fee structures may reduce need for individual fee studies and updates; and
- Decreased need for review of transportation studies and proportionate-share mitigation agreements associated with transportation concurrency management.

Private Sector Costs and Benefits

The mobility fee approach favors development that locates in accordance with local government comprehensive plans. This should result in expedited local development approval within desired urban center locations.

Potential costs to the private sector include:

- Just like for governments, there will be an “adjustment cost” associated with transitioning to a new process; and
- A mobility fee would be assessed to all new development, and would probably increase mitigation fees paid to develop in certain areas outside of urban centers.

Potential benefits to the private sector include:

- Increased equity of required mitigation (i.e. all new development is required to contribute its fair share rather than only when triggering a transportation system deficiency);
- Increased predictability of mitigation costs; and
- Decreased time associated with development approval when located within planned growth areas.

Introduction to

Perspectives on the 2009 Growth Management Legislation

by Susan L. Trevarthen

Known as the "Community Renewal Act," Senate Bill 360[1] was signed into law by Governor Charlie Crist on June 1, 2009. This bill is a major change to Florida growth management law and, as such, deserves careful review.

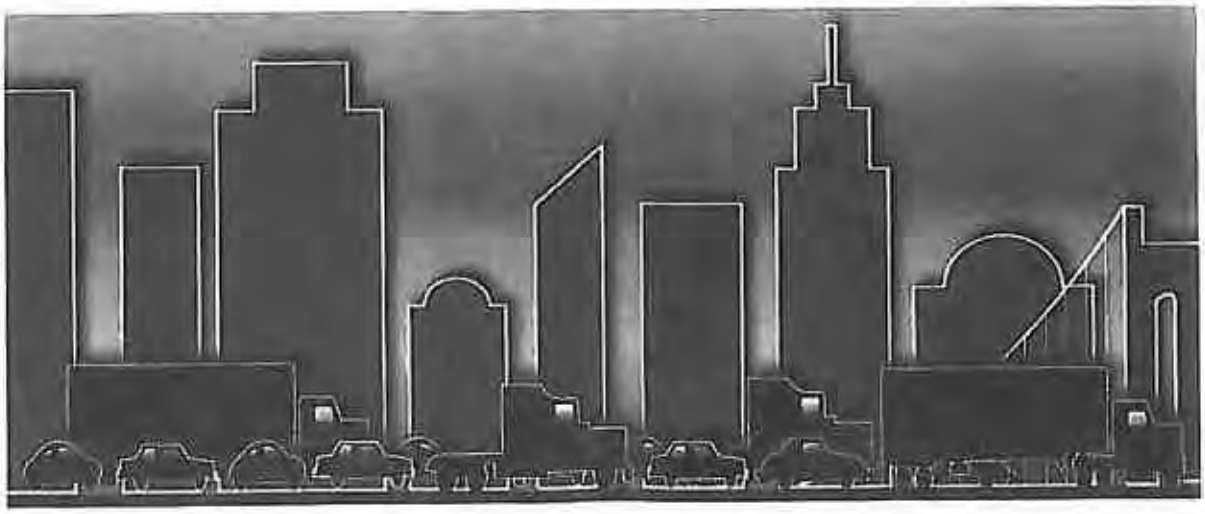
Two sections of The Florida Bar — City, County and Local Government Law and Environmental and Land Use Law — have collaborated to inform Florida attorneys of its key provisions and provide perspectives on the implications not only of this bill, but also of additional legislative changes that are likely to be considered during the 2010 session. The sections solicited leading attorneys to provide development (Wade Hopping and Carl Roth), third party (Richard Grosso), and local government (Vivien Monaco and Susan Trevarthen) perspectives on the bill.

Summary of Senate Bill 360

Before these perspectives, though, this feature will first provide a very brief summary of the bill's provisions.[2] The act recedes from some of the requirements of the 2005 growth management legislation, while creating exemptions from state-mandated transportation concurrency mandates and all development of regional impact (DRI) review for "dense urban land areas" (DULAs) that contain the majority of the state's population in an effort to spur economic development. While the act contemplates the future creation of a statewide mobility fee, there is no guarantee that one will be adopted by a future legislature and no certainty as to its methodology or components. The act also provides for extensions of certain permits for two years.

Specifically, the act contains the following:

- **Permit Extensions:** The act extends Department of Environmental Protection and Water Management District permits with expiration dates from September 1, 2008, through January 1, 2012; DRI buildout dates and deadlines to start and finish mitigation associated with phased projects; and related local development order and building permits, for two years.[3]
- **Definitions:** The term "existing urban service area" is renamed as "urban service area" and expanded.[4] The term "dense urban land area" or "DULA" is added and defined.[5]
- **Transportation Concurrency Exception Areas (TCEAs):** The act creates TCEAs for municipalities that are DULAs, urban service areas, and large counties that are DULAs but do not have urban service areas (except Miami-Dade and Broward counties).[6] The act's designation of a TCEA "does not limit a local government's home rule power to adopt ordinances or impose fees." When reviewing comprehensive plan amendments within TCEAs, the requirement to achieve and maintain level-of-service standards for transportation is deemed to be met.[7]
- **Transportation Methodologies:** For those developments that will continue to be subject to DRI and concurrency review, the same levels of service must apply to both.



• **Mobility Fee:** The act advances this concept by a) requiring OPPAGA to submit a report to the Florida Legislature by February 1, 2015, on how the SB 360 TCEAs have been implemented and what effects they have had on mobility and congestion, and b) directing DCA and the Florida Department of Transportation (FDOT) to establish a methodology for implementing a mobility fee and file a joint report[8] on the methodology by December 1, 2009, including recommended legislation and a plan to implement the mobility fee as a replacement for transportation concurrency.

• **Financial Feasibility of Capital Improvements Element (CIE) and Intergovernmental Coordination Element (ICE):** The deadline for "hard" financial feasibility review of the CIE is extended to December 1, 2011. The ICE must specify the regional dispute resolution process and must include mediation or a similar process.

• **Public School Concurrency:** Waivers for low-growth areas are modified, and penalties for noncompliance revised. If a school district includes portable/relocatable classroom capacity in its inventory of student stations, those classrooms may count as available capacity for the first three years of school concurrency implementation. Construction of a charter school is added to the list of proportionate share mitigation options.

• **Impact Fees:** The 90-day delayed effective date for impact fee ordinances does not apply if the effect of the ordinance is to "decrease, suspend or eliminate" the fee. Under the act, the 90-day notice requirements now appear to apply to "increased" fees as well as new fees.

• **Security Cameras:** The act prohibits locally adopted standards for security cameras for lawful businesses that require the expenditure of money to enhance local police services (other than those in publicly operated facilities).

• **Concurrent Zoning Approvals:** The act allows applicants to request that the local government consider a zoning change that "would be required to properly enact the provisions of any proposed plan amendment" transmitted concurrently with the plan amendment.

• **Plan Amendment Processing:** The exception from the twice a year limitation on plan amendments for the CIE update was reworded, and a new exception was created for — and streamlined process applied to — any amendment that designates an urban service area as a SB 360 TCEA and area exempt from DRI review.

• **Land Development Regulations (LDRs):** LDRs shall "maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in unincorporated areas."[9]

• **Developments of Regional Impact (DRI):** The act exempts developments within a "dense urban land area" from DRI review.[10] Exempt development orders for projects must be mailed to DCA if they exceed 120 percent of any DRI threshold that would otherwise be applicable, and DCA can appeal such orders if they are inconsistent with the comprehensive plan. ❑

The following articles on growth management legislation are sponsored by the City, County and Local Government Law Section, James L. Bennett, chair, and Jewel W. Cole, editor, and the Environmental and Land Use Law Section, Paul H. Chipok, chair, and Gary K. Oldehoff and Kelly Samek, editors.

[1] CS/CS/SB 360, Ch. 2009-96, Laws of Florida.

[2] Just before adoption, the act was amended to include the provisions of the affordable housing bill. This feature focuses on the impact of the bill on growth management generally, and does not address these affordable housing provisions.

[3] The extension is not applicable to certain permits: permits under programmatic or general Army Corps of Engineers permits, permits in significant noncompliance with the permit conditions, and extensions that would delay or prevent compliance with a court order. The act requires notification prior to December 31, 2009. Later enacted regulations can be applied if there is an immediate threat to public health or safety, and the property owner must secure the property.

[4] An "urban service area" is a) a built up area where public facilities and services, including but not limited to roadway and central water/sewer facilities, currently exist or are committed in the first three years of the capital improvement schedule of the plan; and b) for those counties that are "dense urban land areas" (see below), the nonrural area of a county with a charter rural area designation, or areas identified in the comprehensive plan as urban service areas or urban growth boundaries on or before July 1, 2009.

[5] A "dense urban land area" is a) a municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000; b) a county, including its municipalities, which has an average of at least 1,000 people per square mile of land area; or c) a county, including its municipalities, which has a population of at least 1 million. The bill provides for publication of a list of "dense urban land areas," which includes Miami-Dade, Broward, Palm Beach, Orange, Seminole, Hillsborough, Pinellas, and Duval counties, as well as the cities within these counties and many more municipalities across the state.

[6] Other municipalities and counties are provided a streamlined process to create a TCEA for previously or newly designated urban areas. Existing contracts, agreements, and development orders related to concurrency are preserved.

[7] Also, certain job creation projects certified by the Office of Tourism, Trade and Economic Development may receive a waiver of transportation concurrency.

[8] The report must include "an economic analysis of the implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector."

[9] The prohibition does not apply to properties within a coastal high hazard area under §163.3178 or where the county determines that there is not sufficient infrastructure to serve the property.

[10] Existing DRIs in these areas can rescind if all of the mitigation requirements have been satisfied. A pending DRI application in these areas is permitted to opt out of DRI review. If the "dense urban land area" status is subsequently lost, the act provides that pending applications may remain exempt from DRI review if the developer is "continuing the application process in good faith or the development is approved." The DRI exemptions do not apply to Areas of Critical State Concern (§380.05), the Wekiva Study Area (§369.316), or within two miles of the Everglades Protection Area (§373.4592(2)). The existing list of DRI exemptions is slightly modified, and the impacts of the exempt use must be included in the DRI review unless it involves certain OTTED funding agreements.

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A Perspective from the Development Community

by Wade L. Hopping

It seems to be almost universally accepted that Florida's transportation concurrency system does not work. It creates economic winners and losers. It encourages developers to seek existing transportation capacity on the road system wherever possible in order to manage their costs, sometimes in locations where public policy otherwise seeks to discourage development. And it encourages cities, counties, the Department of Transportation (DOT), and developers to "game the system," breeding disrespect for how we pay for development-created impacts to our transportation system.

These are not only my conclusions: The 2009 Florida Legislature found that "the existing transportation concurrency system has not adequately addressed the transportation needs of this state in an effective, predictable, and equitable manner, and is not producing a sustainable transportation system."[1] The legislature set the stage for "fixing" this problem by directing the Department of Community Affairs (DCA) and DOT to complete their current studies on a new mobility fee to replace transportation concurrency. It required that the mobility fee provide for mobility needs, ensure that new development provides mitigation for its impacts, and "promote compact, mixed-use and energy-efficient development."[2] Implicit in this last command is that a mobility fee takes into account, in some way, vehicle miles or people miles traveled.

Adoption of a mobility fee will not be simple or painless. Nevertheless, it is consistent with the fact that developers in the private sector would prefer certainty and are willing to pay for their new impacts to the transportation system. However, they are neither obligated nor capable of paying for years and years of neglect and backlog on the road system or for financially unrealistic level-of-service standards that have been adopted for many roads. Developers should be asked to pay once for their transportation impacts so they can get on with business. They should not be hit with multiple fees and exactions, or be asked to pay more than one time for the same impacts.

The heart of the challenge in arriving at a policy framework for a mobility fee will be addressing and reconciling several somewhat conflicting goals while respecting the well-developed body of law that governs such matters:

- Adopting a fee high enough to replace both transportation concurrency and local government transportation impact fees so developers only pay once for new impacts while providing sufficient funding to mitigate transportation impacts.
- Adopting a fee with a locational price structure that encourages urban infill, discourages unbridled rural development and is consistent with the legislature's command for local comprehensive plans to foster "energy-efficient land use patterns" and "greenhouse gas reduction strategies."[2]
- Adopting a fee that meets the dual rational nexus test,[4] protects private property rights, and avoids the ridiculously excessive amounts that some developers have been asked to pay in recent years.

These goals will have to be addressed in the course of answering many practical questions about the policy framework for a mobility fee. Some of those questions follow.

Who Should Pay a Mobility Fee?

One of the toughest questions may be who should pay. Should the mobility fee be universal for every new "development"? I suggest that every "developer" should pay for his or her new transportation impacts. That would include public-sector developers. Such a position would be consistent with Florida's long-standing statutory definition of "development," which does not distinguish between public- and private-sector developers.[5] The hardest part of this calculation will be to ensure that all new development pays an appropriate amount.

To Whom Should Mobility Fees be Paid?

The fee should be paid to the local government with the responsibility to provide the transportation facilities being paid for within the dual rational nexus test for impact fees already established in law. Paying the money to the local government, such as a city or county, can be very straightforward and should depend on location issues, such as where the development and the transportation facilities to be improved are located. The real problem will come because of extra-jurisdictional or "spillover" impacts among several jurisdictions. The legislature needs to provide a way to resolve disputes between local governments, DOT, and various regional entities. The law authorizing a mobility fee also needs clear guidelines to ensure that facilities are built.

Should a Mobility Fee Encourage Compact Urban Development?

While current DCA thinking is that compact urban development is superior to suburban or rural development, the cost of urban development is generally much higher. Land values are higher. Limitations on space and other factors, such as a requirement to take down old buildings

during redevelopment, make the cost of urban development much greater. Nevertheless, compact urban development can help the state meet its planning goals. One practical way to address this concern might be for mobility fees to use a "zone" system — like taxi fares — for 1) existing urban areas; 2) areas where future urban development is encouraged and suburban areas; 3) rural areas where job centers and future urban growth are planned; and 4) rural areas where preservation of agricultural values and conservation are encouraged, consistent with private property rights. Price differentials could encourage development in zones one, two, and three while discouraging development in zone four.

Should There Be Other Public Policy Adjustments to the Mobility Fee?

Decisionmakers will be asked to waive the mobility fee for workforce housing, high-quality new job projects, economic development projects, and other environmentally and economically desirable projects. Over time it may be desirable to give fee breaks for particular types of projects favored by public policy, but I suggest that this not be done until the new system is adopted and fully functional on a statewide basis.

It will be tempting to try to completely reform Florida's antiquated transportation funding system as part of the effort to remedy the failure of transportation concurrency. This would be a mistake. The focus should be on cleaning up the mess we created with transportation concurrency and existing transportation impact fees, all within the body of constitutional law which has developed on such matters. We should create a new system in which every developer who puts new trips on the roads and creates other demands on the transportation system pays a reasonable amount for those impacts. We need a simple, straight-forward, and reasonably priced mobility fee. □

[1] Ch. 2009-96, §13(1)(a), Laws of Fla.
[2] *Id.* at §13(1)(b).
[3] Fla. Stat. §163.3177(6)(a) (2009).
[4] *Contractors and Builders Ass'n of Pinellas County v. City of Dunedin*, 329 So. 2d 314 (Fla. 1976).
[5] Fla. Stat. §380.04 (2009). *See also* Fla. Stat. §163.3180(4)(a) (2009) ("concurrency requirement as implemented in local comprehensive plans applies to state and other public facilities and development to the same extent that it applies to all other facilities and development").

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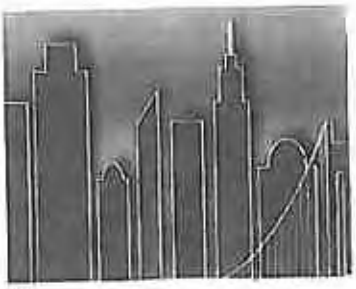
The Public Interest Perspective on SB 360

by Richard Grosso

The environmental community sought a veto of SB 360 because its grossly over-broad definition of "dense urban land area" promotes development in rural areas; it substantially repeals the regulation of developments of regional impact (DRI), and represents a huge public subsidy — through either tax dollars or quality of life — for the transportation impacts of development.

Developments of Regional Impact

The exemption of "dense urban land areas" (DULA) from DRI review is an overbroad legislative fiat that will cause significant amounts of rural and farmland to be labeled as DULAs because they lie within a local government with an average density of 1,000 people per square mile, which even itself is too low to be a true urban infill area. This will promote urban sprawl. The bill may be vulnerable to attack on separation of powers grounds, as it grants the exclusive authority to the legislature's Office of Economic and Demographic Research to determine which jurisdictions qualify, authorizing Department of Community Affairs (DCA) only to publish that list on its Web page. Since this entity is not a state agency subject to F.S. Ch. 120, challenges to errors in this determination may well be precluded.



DCA may challenge projects that exceed 120 percent of the applicable DRI threshold, but only on the basis of inconsistency with the comprehensive plan. This will deprive local residents of the protections of the DRI law for most large scale or regional projects. Limiting DCA's challenges to the substance of the more limited and general comprehensive plan policies (which were not written to address DRIs), instead of the more detailed and rigorous DRI rules, is problematic. Moreover, intergovernmental coordination policies in comprehensive plans are widely known to be among their weakest elements and, therefore, do not provide the same type of guidance as DRI review.

This substantial reduction in DRI requirements could cause major inconsistencies in development decisions by different local governments. A local government with a strong growth management philosophy could still find itself overrun with traffic from projects approved by adjacent local governments. There could be an increase in plan amendment challenges filed by adjacent local governments concerned about the impacts of density and intensity increases on their infrastructure or protected areas.

Alternative State Review Process for Plan Amendments

The bill provides an "alternative state review process," which may be used by any local government to designate an urban service area. This process, coupled with the removal of schools and recreation areas from the public services required, enlarges the geographic scope of rural areas that can be called urban and, therefore, developed outside of the rigorous DRI review process.

Concurrency Changes

The DCA has recognized that developers "will be relieved of transportation mitigation and development of regional impact requirements in many areas of the state. However, increased transportation congestion and the potential for a patchwork of home rule alternatives to transportation concurrency will degrade quality of life and the attractiveness and predictability of the development process in the state."[1] Whether concurrency is automatically repealed or can be enforced if a local government chooses to maintain its existing ordinances is one of the major ambiguities created by the bill. One impact on local advocates will be the prospect of asserting their views of what the bill means in the face of opposing interpretations asserted by the local building industry. With many local government lawyers likely to respond that they do not know what the bill means, and the specter of lawsuits by the regulated community, these battles may be uphill ones for advocates.

Another issue created by the concurrency changes is the impact on hurricane evacuation routes and coastal high hazard areas. If the bill is interpreted to require local governments to eliminate transportation concurrency in these areas, can they still limit traffic impacts so as to maintain safe evacuation times? Will the regulated industry argue that limits on traffic in coastal hazard areas or along evacuation routes are illegal concurrency provisions in disguise?

Local governments concerned about the potential impacts of an interpretation that precludes concurrency requirements might consider approaching traffic impacts as part of a re-evaluation of the densities and intensities allowed in their future land use maps. The bill did not limit a local government's ability to reduce densities and intensities based on any of the factors in F.S. §163.3177(6)(a)(2009), including the availability of infrastructure, the character of the land, growth projections, or other factors.

Adopting Plan Amendment and Zoning Changes Concurrently

The bill requires local governments to "consider an application for zoning changes that would be required to properly enact the provisions of any proposed plan amendment." Presumably, this means any required zoning change must be considered at the same time as the transmittal and adoption of any plan amendment. The term zoning changes is not defined and could conceivably apply to many or all development orders. This has the potential to reduce the planning function to little more than a permitting/development order function. Instead of amendments to future land use maps being viewed as fundamental legislative policy decisions about whether, for instance, to urbanize a certain part of a local government, the tendency will be to jump right to "how" to develop. Also, with a plan amendment (legislative action) and a rezoning (quasi-judicial action) pending for approval at the same time, the ability of all parties to navigate the rules that allow full ex parte discussions on plan amendments, but not development orders, will be a challenge.

Whose Economy Is Being Stimulated?

Beyond the obvious transfer of the direct financing requirement for roads to local governments and away from developers, the bill waives the 90-day notice requirement for reductions, eliminations, or suspensions of impact fees, but not for increases. It is unclear why the legislature believed taxpayers can afford to subsidize new development to an even greater extent than is already happening. Some claim the bill was needed to improve Florida's economy, but the laws being waived existed during the height of the building boom and presented no impediment to growth. The resultant over-building and mortgage crisis is a primary source of Florida's economic troubles. The notion that the granting of easy new development approvals will improve the state's economy, while so many developers with existing approvals are choosing not to build, cannot be taken seriously.

Looking Forward

Growth management reform is needed — to reduce process, increase substance, better protect ecosystems, preserve rural and farmlands, make plans clearer, and work better for residents. A study committee could result in smart growth management reform, but would only be as good as the resulting legislation, and it is valid to ask whether the legislative process is likely to produce a substantially improved approach. ☐

[1] FDCA 2009 Policy Analysis SB 360ER (May 20, 2009) (p.26).

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A Look at Senate Bill 360 from a County Perspective

by Vivien J. Monaco

The first thing that counties, along with other local governments and various interest groups, have to consider in dealing with Senate Bill 360 is the meaning of the law. The legal interpretation or statutory construction of its provisions will affect a county's response to and implementation of the legislation. Only eight of Florida's 67 counties meet the definition of "dense urban land area" (DULA),[1] and two of those (Broward and Miami-Dade) are exempt from the legislatively designated transportation concurrency exception areas (TCEAs).[2] The non-DULA counties' responses to the legislation will depend, in part, on how the municipalities within those counties react to Senate Bill 360 and the provisions relating to legislatively designated TCEAs.

Another provision of the law that has generated significant discussion throughout the state is the automatic two-year extension of certain permits.[3] Some lawyers believe that the sentence, "[t]his extension includes any local, government-issued development order or building permit," means that the two-year extension applies only to local government-issued development orders or building permits associated with permits described in the previous sentence (permits issued by the Department of Environmental Protection or a water management district). Others think that the two-year extension applies to *all* local government-issued development orders or building permits. Additionally, some attorneys believe that "development orders" mean local government development orders for developments of regional impact (DRIs) under §380.06(15), while others argue that the more expansive definition of development orders in §§163.3164(7) and 380.031(3) applies. The interpretation will govern which permits are extended by the authorizing local government.

One way of dealing with this ambiguity might be for a county (or municipality) to authorize two-year extensions of any development orders it might issue by ordinance under the local government's home rule authority. At least one county has considered this approach.

The meaning of the provision in SB 360 that designates TCEAs in DULA counties and municipalities[4] has also been the subject of some disagreement and confusion throughout the state. Florida's Department of Community Affairs (DCA) has taken a strong position on the interpretation of the legislatively designated TCEAs in SB 360.[5] Under DCA's interpretation, local governments with legislatively designated TCEAs must actively amend their comprehensive plans and concurrency management ordinances to implement those TCEAs. Most DULAs are proceeding under DCA's interpretation regarding the legislative designation of TCEAs, and are maintaining their current concurrency management systems. However, SB 360 requires local governments that have TCEAs designated by the legislation (or designated by local government option using new provisions in SB 360) to adopt into their local comprehensive plans within two years, strategies to support and fund mobility.[6] This means that each DULA local government (except for the two DULA counties exempt from the TCEA designation) must adopt a mobility plan into its comprehensive plan by July 8, 2011. Many local government attorneys believe that the legislatively designated TCEA must also be adopted into the comprehensive plan when the mobility plan is adopted, while others think that local transportation (or road-based) concurrency is still an option.

Non-DULA counties are also affected by the DULA municipalities within those counties. At least some DULA municipalities believe that the legislatively designated TCEA is self-executing, and that SB 360 effectively proscribed the enforcement of transportation concurrency within the legislatively designated TCEAs. Depending on what type of development is approved in DULA municipalities that interpret the TCEA provisions as self-executing, the non-DULA county may face deterioration in its adopted levels of service on county and state roads.

Non-DULA counties may also face these same types of issues from a DULA municipality located within the county or an adjacent DULA county if the DULA has a pending development that would have been subject to DRI review prior to the effective date of SB 360. Under SB 360, that development will more than likely not be subject to DRI review,[7] thus, leaving the non-DULA county without an opportunity to enter the review process and negotiate to reduce the impacts the development located in the DULA jurisdiction may have in the adjacent non-DULA jurisdiction. The pending lawsuit filed by seven municipalities and one county makes the implementation of SB 360 even more problematic for counties and municipalities. One of the counts of the complaint for declaratory and injunctive

relief asks the court to declare SB 360 unconstitutional as a violation of the Florida Constitution's single-subject requirement.[8] The other count of the complaint asks the court to declare the law unconstitutional as a violation of the prohibition in the Florida Constitution against unfunded mandates.[9] If the court finds that SB 360 violates the single subject rule, the entire law would be invalid.[10] If the court finds that portions of SB 360 violate the constitutional prohibition on unfunded mandates but not the single-subject requirement, it is possible that the court could sever the offending provisions.

As a practical matter, local governments that have begun to implement the law may decide to defer implementation of SB 360 until either the courts or the legislature (by new legislation) provide more clarity. At least one county has already done so. Written notifications for permit extensions will be accepted by that county until the end of the year and held on file awaiting judicial or legislative action.

So where do counties go from here? The ambiguities in the language of Senate Bill 360 created uncertainty over the meaning of some of its provisions, and the pending litigation on its constitutionality adds to that uncertainty. For those counties with legislatively-designated DULAs, the comprehensive plan amendment process required by Senate Bill 360 (at the very least, the adoption of strategies to support and fund mobility) will cost time and money. Is that effort wasted if the law is found unconstitutional? What if the legislature reenacts the growth management provisions of Senate Bill 360, but with changes to some of its key provisions?

One observation planning professionals and others have made for some time now is that transportation concurrency has failed as a growth management tool and communities should be moving toward more compact pedestrian and transit-oriented development. These trends dovetail into the SB 360 requirement of adopting mobility strategies into local government comprehensive plans.

Regardless of what happens with SB 360 in the courts or the legislature, counties and cities may be well served (and better serve their residents) by looking at comprehensive mobility planning. Local governments that begin this process now will be better able to deal with development and redevelopment in ways that reduce demands on vehicle-based transportation and help meet the future requirements for reduced greenhouse gas emissions. And if in doing so, those local governments meet the requirements of the existing SB 360 or a revised version of the growth management portion of it, then maybe something good can come from the confusion. ❑

[1] *See* 2009 Fla. Laws Ch. 96, Section 2, §163.3164 (34); Division of Community Planning, 2009 List of Local Governments Qualifying as Dense Urban Land Areas, www.dca.state.fl.us/fdcp/dcp/Legislation/2009/CountiesMunicipalities.cfm.

[2] 2009 Fla. Laws Ch. 96, §4, §163.3180 (5)(b) 5 and 6.

[3] 2009 Fla. Laws Ch. 96, §14.

[4] 2009 Fla. Laws Ch. 96, §4, §163.3180 (5)(b) a-c.

[5] *See* Notice to Local Governments of Transportation Options Under Senate Bill 360 for Transportation Concurrency Exception Areas in Dense Urban Land Areas, www.dca.state.fl.us/fdcp/dcp/Legislation/2009/Notice.cfm.

[6] *See* 2009 Fla. Laws Ch. 96, §4, §163.3180(b) 4.

[7] *See* 2009 Fla. Laws Ch. 96, §12, §380.06 (29).

[8] *See* FLA. CONST. art. III, §6 ("Every law shall embrace but one subject and matter properly connected therewith . . . ").

[9] *See* FLA. CONST. art. VII, §18.

[10] *See, e.g., State v. Thompson*, 750 So. 2d 648, 648-49 (Fla. 1999).

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Municipal Perspectives on Senate Bill 360, Version 2.0

by Susan L. Trevarthen

With 2009's SB 360,[1] where a municipality stands depends on where it sits. Florida's 412 municipalities vary by age, size, population, geography, culture, and urbanization. Like a kaleidoscope, the implications of this statute shift as one refocuses the lens.[2] This makes it difficult to generalize about any "municipal" viewpoint, and difficult for municipalities to speak with one voice to the Florida Legislature about growth management legislation. Despite this diversity of circumstance, it is possible to identify common municipal concerns with SB 360. These concerns were substantial enough to motivate the Florida League of Cities (and the Florida Association of Counties) to urge Governor Crist to veto the bill.

Protection of Home Rule

All municipalities have home rule powers under the Florida Constitution[3] and seek to protect those powers from encroachment. The ban on security camera regula-

tion is a clear preemption, as is the requirement that all land use map amendments within a TCEA be deemed to meet roadway level of service standards and the permit extension provision.[4] Such preemptions are objectionable to municipalities because they fail to recognize that municipal governing bodies are closer to the people, and are better situated to determine what is best for their diverse communities than is the Florida Legislature.

The permit extensions are especially challenging because the statutory language is poorly worded and likely to be the subject of litigation. Permit holders who wish to utilize the extensions receive development rights that are unclear because they are not properly documented. Municipalities are left to improvise a method of processing and properly documenting the notifications of extensions, and are exposed to litigation risk from all sides.[5]

The act generally recognizes the home rule authority of local governments in relation to the new transportation concurrency exception areas (TCEAs). However, it is unclear whether the designation of TCEAs in DULA municipalities is preemptive or empowering.[6] While some municipalities eager to overcome specific concurrency problems have opposed the suggestion that they must act to implement the repeal of concurrency, this position allows municipalities the freedom to arrive at the best solution for their situation and assure that it is clearly documented.[7]

Unfunded Mandates

There is also broad municipal agreement that state government should not be placing requirements on local government without providing funding to meet state objectives.[8] Within two years of a TCEA being designated under the act, affected local governments "shall" adopt comprehensive plan amendments and transportation strategies "to support and fund mobility" within the TCEA.[9] SB 360 removes the developer's mandated role in addressing mobility concerns in DULAs, while likely increasing congestion. This potentially places DULA municipalities in the uncomfortable position of being forced to raise local sources of revenue to fund the transportation facilities that may be demanded by their constituents and to address this requirement to fund mobility. In a time of constrained resources, it will be challenging for municipalities to "fund mobility"; the available tools may not be sufficient to address the need.

Concern Over Hometown Democracy

While not universal, the Florida League of Cities and most municipalities oppose Amendment 4 to the Florida Constitution on the 2010 ballot, known as Hometown Democracy. SB 360 adds fuel to the fire of that movement, as evidenced by the numerous articles recently published that base their arguments for Hometown Democracy on the enactment of SB 360.[10]

Concurrency, Impact Fees, and Exactions

The debate over SB 360 has evidenced a lack of appreciation for the differences between concurrency, exactions, and impact fees. They all can add to the cost of development, but are analytically distinct.

Concurrency regulates the timing of development. It is not an infrastructure finance mechanism. It created problems because of the major backlog of roadway needs that existed before concurrency and the lack of available funding with which to meet this need. Also, Florida local governments were creative in finding ways to say yes, and lacked the resources to address the resulting increases to backlogs. Another part of the problem was an over-focus on suburban-style roadway networks, little attention to other modes of travel, and neglect of land use planning and zoning for uses that support alternative modes.

A developer facing a concurrency failure could try to buy out of the concurrency problem or get creative with the analysis. Alternatively, it could confront the issue directly by modifying the project scope to match the available capacity, delaying all or part of the project until capacity became available, or developing in a different location where capacity existed.

Exactions are individually assessed conditions of approval that may or may not relate to a concurrency failure. Sometimes negotiated with the developer and sometimes abused, exactions are governed by a well-developed body of case law.[11]

In contrast, impact fees are legislatively developed and uniformly imposed and ensure that all developers participate in financing infrastructure. The major issue with Florida's use of impact fees has been the political difficulty of setting them at the true cost of growth. Because the portion of the cost that is not covered by impact fees has not always been covered by other funds, more backlogs have inevitably resulted. The development industry must accept its share of the blame for this situation, because it has aggressively lobbied against and attacked local governments who have tried to set impact fees at full cost.

The adequacy of the "mobility fee" as an alternative cannot be assessed until a specific methodology is proposed. The issues of most importance to municipalities will be who gets the proceeds, who controls who gets the proceeds, whether the formula is equitable among governments, whether proceeds will be adequate to meet the needs, whether the new system is stable over time, and whether the methodology will be adopted without political compromise. If mobility fees follow the path of many impact fees, by setting the rate at a fraction of the full cost, they are sure to fail.

If mobility fee revenues to local governments fall short of infrastructure needs, ad valorem taxpayers will have to make up the difference (and the municipal or county commissioner may be the one to pay the political price). In this era of tax reform, even ad valorem revenue may be insufficient to compensate, leaving communities to gridlock, with all of its environmental, economic development, and quality of life consequences.

Conclusion

Senate Bill 360 is a significant revision to the 1985 Growth Management Act. Municipal attorneys are faced with difficult interpretation and implementation issues,

and the potential that additional legislation or litigation will moot them. Future legislative efforts would benefit all growth management stakeholders by focusing on the clarity of any new or "glitch" legislation and the associated implementation issues and, further, by respecting home rule. ❑

[1] Ch. 2009-96, Laws of Fla.

[2] Relevant factors include the DULA status of municipality, DULA status of its neighbors and county, level of buildout, annexation potential, capacity on roadways, control of overcapacity roadways, and political support for or opposition to growth management.

[3] Fla. Const. art. VIII, §2(b).

[4] See Fla. Stat. §§163.31802 and 163.3180(5) (2009), and Ch. 2009-96, §14.

[5] If a municipality deems a requested extension to be improper, it could be sued by the permit holder. If it accepts the extension, it could be sued by competitors, neighbors, or other third parties who oppose the development project.

[6] If these designations are self-executing without further municipal action, then the statute has swung from mandatory concurrency to a prohibition on concurrency, without stopping in the middle at the point of municipal choice and control.

[7] For example, Broward County developed and implemented a system of concurrency based on transit rather than traditional roadways in 2004, which was found in compliance.

[8] See *City of Weston, et al. v. The Honorable Charlie Crist*, Case No. 2009 CA 002639 (2d Jud. Cir.), *available at* www.clerk.leon.fl.us/index.php?section=2&server=cvweb&page=cvimage/high_profile/index.asp (challenging SB 360 as an unfunded mandate and for violation of the single subject rule).

[9] See amendments to Fla. Stat. §163.3180(5), (2009).

[10] See, e.g., Dara Kam, *Anti-development "Hometown Democracy" Amendment Has Enough Signatures for 2010 Ballot, Supporters Say*, Palm Beach Post, June 08, 2009; Jon Thaxton, *Growth Bill Tramples on Local Government*, Herald-Tribune, June 7, 2009 ("With the passage of SB 360, . . . support for Hometown Democracy is growing rapidly"); and John Hedrick, *My View: People Need Veto Power of Hometown Democracy*, Tallahassee Democrat, July 26, 2009.

[11] See *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987); *Dolan v. City of Tigard*, 512 U.S. 374 (1994).

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Transportation Concurrency in Dense Urban Land Use Areas After Passage of the Community Renewal Act of 2009

by Cari L. Roth

Since the beginning of state-mandated comprehensive planning in 1985, local government comprehensive plans in Florida were required to ensure that public facilities and services be available concurrent with the impacts of development.[1] The application of this concurrency principal specifically to transportation has been one of the most challenging practical implications of the requirement and one of the most expensive for the development community and local governments. One of the hallmarks of the Community Renewal Act of 2009 is the creation of statutory exceptions to these transportation concurrency requirements by the creation of "automatic" transportation concurrency exception areas (TCEAs) in dense urban land use areas (DULAs.)[2]

Controversy has arisen over the authority and obligations of local governments in which these statutory TCEAs are created. The act also stated: "The designation of a transportation concurrency exception area does not limit a local government's home rule power to adopt ordinances or impose fees."[3] The Department of Community Affairs, in a published opinion, has opined that the statutory TCEA designation in the legislation is not effective to eliminate transportation concurrency in TCEAs until — and only if — the local government amends its comprehensive plan and land development regulations to remove transportation concurrency provisions.[4] Others, including the legislators who had leadership roles in the passage of SB 360, believe that no local action is necessary to effectuate the TCEA implementation.[5] The controversy begs for legislative clarification, and, more broadly, clear legislative intent on the areas of the growth management requirements where the legislature seeks uniformity in application, and those areas where local diversity in response to legislative requirement is allowable or desirable.

The cardinal rule of statutory construction is, "when a statute is clear and unambiguous, courts will not look behind the statute's plain language for legislative intent or resort to rules of statutory construction to ascertain

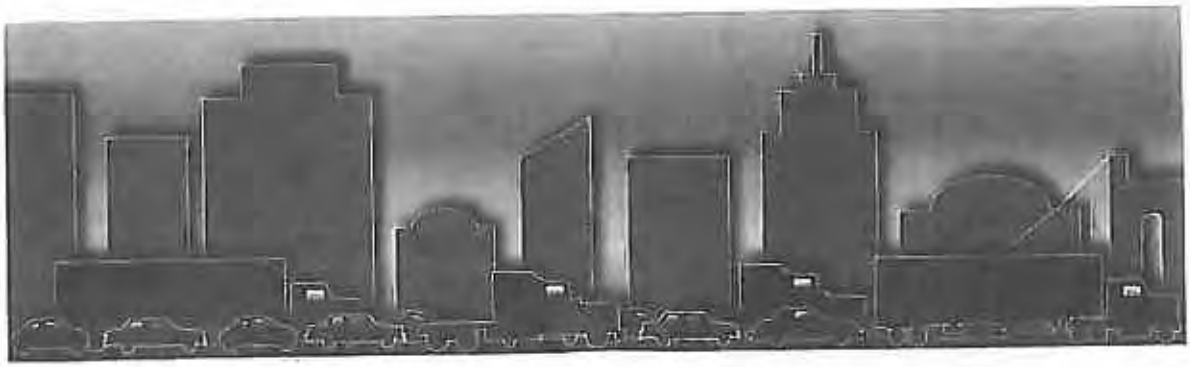
intent."[6] The statute states unambiguously that the "following *are* transportation concurrency exception areas."[7] There are no qualifiers or preconditions requiring local action in the legislation for the statutory TCEAs. Since the legislature also specifically stated that the home rule authority of local governments to adopt ordinances and impose fees is not limited by the designation of a TCEA, does this statement create the ambiguity that would trigger a more extensive judicial examination of legislative intent? Does the home rule provision authorize a local government to do what state mandate previously required it to do but now excuses from compliance? Or, put another way, does the home rule provision limit the immediate and consistent implementation of statutory TCEAs?

Absent the home rule statement in the act, the principles of statutory construction would clearly dictate that statutory TCEAs are effective upon the publication by DCA of the jurisdictions meeting the population and density requirements to be DULA.[8] If a court were to go beyond the clear statements in the statute to examine legislative intent, the first place to look to divine legislative intent is the words of the statute itself.[9] The concurrency exception statute begins with an expression of legislative intent. In the act, the legislature reaffirmed the acknowledgement that the concurrency mandates often discourage urban infill and redevelopment and adds intent provisions supporting transportation alternatives to road expansion.[10] The statutory TCEAs are focused in defined DULAs to encourage such urban redevelopment.[11] The staff summary of the bill notes that the goal of the bill is to stimulate economic development and promote development in urban areas.[12]

Options are provided, and have been provided since 1993, for local governments to create transportation concurrency exceptions areas, but never before has there been designation, at a statutory level, of a TCEA. The statutory designation of TCEAs was accompanied by two exemptions for two areas that would otherwise be designated TCEAs by the provision.[13] Generally, when express exceptions are made in a statute, the inference is that no others were intended or may be implied.[14] Also, the cases require an examining court to try to harmonize the provisions of a statute and not render part of that statute meaningless.[15] There is a strong argument that allowing local governments to ignore the statutory TCEA creation potentially renders that section moot by local government inaction.

The examination of legislative intent grows murkier when case law on the application of home rule authority is examined. There is not room in this brief article to examine this interplay in depth, but readers are directed to the recent excellent piece by Judge James Wolf and Sarah Harley Bolinder in a recent issue of this publication.[16] In reviewing whether an action is permitted under home rule, the courts have generally favored self-government, but each analysis needs to address whether the legislature has preempted a subject, either expressly or by implication, and whether the local action expressly conflicts with state law. The legislature has not expressly preempted the area of transportation planning or exactions. But, whether a local replication of concurrency in light of the statutory creation of a TCEA is an impermissible conflict with the statute is a closer question. The local action must not frustrate the purpose of a state statute. The two must be able to coexist without conflict to allow the local government regulation to stand.[17] Statute clearly creates a comprehensive, mandatory scheme for ensuring transportation impacts are addressed concurrently with development. The DULA communities were not merely excused from the concurrency mandate. Rather a new category of exception areas was created for them. The new statutory TCEAs are intended to promote urban infill and economic activity, and the application of transportation concurrency in the DULA communities was found to frustrate these goals. We are, though, without guidance from the legislation on the extent of what a local government may do short of continuing to do what the statute previously mandated.

DCA wisely notes there is likely to be confusion and controversy in the general public and interested parties if the statutory TCEAs are recognized without further local action to eliminate transportation concurrency from the comprehensive plan and ordinances. However, confusion and controversy is likely without local action as well. If a local government can continue to impose concurrency in a DULA under home rule authority, do any of the statutory provisions intended to bring some necessary flexibility to the requirement apply (proportionate share payments, prohibition on the payment for backlogged facility upgrade costs, allowable lag time between development approval and a facility improvement)? Local application of concur-



rency without these adaptations of the strict application of concurrency would have the opposite impact of the expressed intent in creating the statutory TCEAs.

The legislature took an important step in addressing some of the obstacles transportation concurrency creates for promoting desirable development by the creation of statutory TCEAs. There are still many issues associated with transportation concurrency, not the least of which are the impacts on neighboring jurisdictions outside the TCEAs that will feel the impact of traffic created by encouraged development in the TCEA. It may unfairly burden desirable development outside the TCEA for the same reason.

Traffic congestion is an important issue to the citizenry of Florida, but transportation concurrency will continue to frustrate local efforts to emerge from our current economic doldrums unless the tension between the ideal of free flowing roads and the limits on both developer and local government ability to fund that ideal is addressed. Any reform must recognize the incredible diversity of Florida's communities and the desires of the citizenry within them while providing clear guidance on legislative intent. ☐

[1] Ch. 85-55, §6, 1985 Fla. Law 215; *see also* Ch. 86-191, §7, Fla. Law 1415, 1418.

[2] Ch. 09-96, §§2, 4, Fla. Law 4, 4-5, 9-14 (codified at Fla. Stat. §163.3180(5)(b)1 (2009)). Local governments also have the *option* to create TCEAs under Fla. Stat. §163.3180(5)(b)2, 3, 7 (2009).

[3] Fla. Stat. §163.3180 (5)(f), (2009).

[4] Department of Community Affairs, Notice to Local Government of Transportation Planning Options Under Senate Bill 360 for Transportation Concurrency Exception Areas in Dense Urban Land Areas (2009), *available at* www.dca.state.fl.us/fdcp/dcp/Legislation/2009/Notice.cfm.

[5] Letter from Michael S. Bennett, Fla. S. & Dave Murzin, Fla. H.R., to Thomas Pelham, Secretary, DCA (June 24, 2009).

[6] *Cherry v. State*, 959 So. 2d 702 (Fla. 2007).

[7] Fla. Stat. §163.3180(5)(b)1 (2009) (emphasis added).

[8] Fla. Stat. §163.3164(34) (2009).

[9] *Kasischke v. State*, 991 So. 2d 808 (Fla. 2008); *Continental Casualty Co. v. Ryan Inc. Eastern*, 974 So. 2d 368 (Fla. 2008).

[10] Fla. Stat. §163.3180(5)(a) (2009).

[11] Fla. Stat. §163.3164(34) (2009).

[12] Fla. S. Comm. on Comm'y Aff., *Session Summary of Legislation Passed* at 47, *et. seq.* (2009), *available at* www.flsenate.gov/publications/2009/senate/reports/summaries/pdf/community.pdf.

[13] Fla. Stat. §163.3180(5)(b)5-6 (2009).

[14] *State Road Dep't. v. Levato*, 192 So. 2d 95 (Fla. 4th D.C.A. 1966); *Biddle v. State Beverage Dep't*, 187 So. 2d 65 (Fla. 4th D.C.A. 1965).

[15] *Martinez v. State*, 981 So. 2d 449 (Fla. 2008).

[16] James R. Wolf & Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemption and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).

[17] *See Shetler v. State*, 681 So. 2d 780 (Fla. 2d D.C.A. 1996), *rev. denied*, 680 So. 2d 424.

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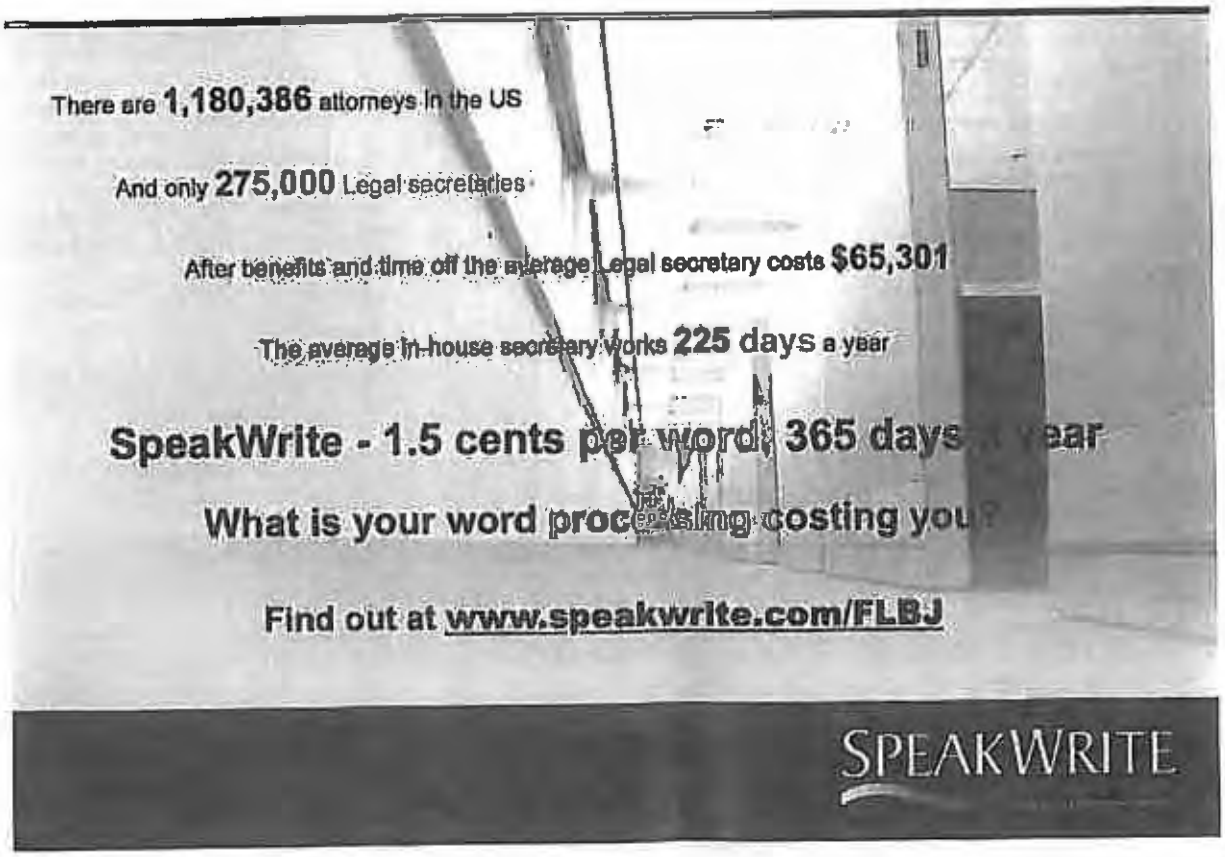

TAMPA BAY AREA REGIONAL TRANSPORTATION AUTHORITY
LAND USE WORKING GROUP MEETING
JOINT MEETING WITH ONE BAY TECHNICAL TEAM/RPAC
JANUARY 8, 2010

PRESENTATION ITEM 2

Agenda Items

One Bay Recommendations & Next Steps

Presenter

Avera Wynne, Planning Director, Tampa Bay Regional Planning Council

Summary

One Bay is the regional visioning initiative for the Tampa Bay region. The outcome of the One Bay scenarios process was used as one of many informational resources in the development of TBARTA's Master Plan, under the guidance of the Land Use Working Group. The One Bay Recommendations and next steps will be presented by the One Bay Technical Team.

In continuing the ongoing One Bay dialogue, stakeholders have been asked to provide technical input regarding a few key areas, including:

- Identifying strategies or objectives for each recommendation.
- Identify goals, strategies, and policies within local plans that are supportive of One Bay and any that may be in conflict.
- "Ground truthing" the One Bay scenario map with local plans and visions.

To provide input and obtain more information about One Bay and the Regional Planning Advisory Committee, visit **www.tbrpc.org/onebaytechteam** and **www.myonebay.com**. Leadership behind the One Bay effort is an equal partnership of five regional organizations: Tampa Bay Regional Planning Council, Tampa Bay Estuary Program, Southwest Florida Water Management District, Tampa Bay Partnership Regional Research & Education Foundation, and Urban Land Institute Tampa Bay District Council.

One Bay will host a Summit in mid-April to roll out the recommendations and convene the region's leadership for implementation.

Attachments

- ❑ Preliminary Recommendations for Implementing the One Bay Regional Vision, Updated January 4, 2010

Preliminary Recommendations for Implementing the One Bay Regional Vision

Updated 01-04-10

Below are draft ideas for strategies and concepts that will assist in implementing the One Bay recommendations. This is what we have gathered so far, but we are continuing to seek assistance in expanding and revising this list of ideas. Please provide us with any strategies or specific activities that One Bay could support to further these recommendations.

A. Promote transit and transit-oriented development

- Support the implementation of the Tampa Bay Area Regional Transportation Authority (TBARTA) Master Plan.
- Support the use and implementation of the Tampa Bay Area Regional Transportation Authority (TBARTA) Transit-Oriented Development (TOD) Resource Guide.
- Promote transit supportive mixed-use residential development in close proximity to services to reduce dependence on automobile use and encourage the placement of transit shelters where feasible (Sarasota County Comprehensive Plan Housing Policy 1.6.7).
- Implement measures to increase the overall ridership of transit systems (Hillsborough County Comprehensive Plan Transportation Objective 2.1).
- Support the use of concepts such as transit supportive development areas and overlay zoning districts that will promote transit-oriented development and transit ridership (Polk County TPO).

B. Encourage compact and mixed-use development

- Develop incentives to encourage mixed-use developments which include residential land uses to locate in and/or adjacent to designated Regional Activity Centers and activity nodes which are recognized within local government comprehensive plans (SRPP, Policy 5.17).
- Ensure that suitable sites and infrastructure exist for high-wage primary employers (Pinellas County ED).

C. Encourage preservation of open space and agricultural land

- Establish and enforce land use policies that keep development from encroaching upon environmentally sensitive areas.
- Strengthen transfer of development rights programs and regulations.
- Encourage development within urban service areas.
- Encourage the preservation of agriculture as a viable long- and short- term use of land and an asset of the region's economy (Pasco County Comprehensive Plan Future Land Use Objective 2.2).
- <u>Identify and monitor critical environmental lands to promote awareness and facilitate policy-making decisions about the region's natural systems. Continued wetland, lake and river monitoring and analysis, continued regulation to minimize wetland impacts and emphasis on outreach and water resources planning are included in the tasks for achieving this (SWFWMD 2011-2015 Strategic Plan).</u>
- <u>Develop plans for acquisition, conservation and restoration of selected ecosystems and management the completion of the plans to ensure protection, recovery and function of</u>

these systems. Implementation strategies include the development/implementation of restoration projects and partnerships, operation of structures to optimize water levels for natural system benefits, and promotion of conservation through recreation and education opportunities (SWFWMD 2011-2015 Strategic Plan).

D. Support increased diversity in residential housing options for families and individuals

- Establish and promote policies and programs that provide a variety of housing-type choices for residents of all ages and socioeconomic backgrounds.
- Analyze demographic, employment, and market forecasts to better understand the housing needs of local areas.
- Preserve the unique character of established communities by employing land development regulations that promote design and construction of a variety of different housing types that blend in with adjacent or nearby neighborhoods.

E. Support environmentally sustainable growth and protection of water resources

- Support Southwest Florida Water Management District (SWFWMD), Tampa Bay Water and Peace River Manasota Regional Water Supply Authority efforts to increase the development of alternative water supply sources to ensure groundwater and surface water sustainability.
- Maximize use of reclaimed water to offset potable-quality water supplies by increasing storage capacity, promoting interconnects, improving efficiency and supporting research, monitoring and public education (SWFWMD 2011-2015 Strategic Plan).
- Enhance water efficiencies to reduce demands on water supplies. Strategies for accomplishing this include water conservation education, research and implementation of conservation techniques and practices, including water conserving rate structures, and financial incentives (SWFWMD 2011-2015 Strategic Plan).
- Develop and implement programs, projects and regulation, such as Florida-friendly landscaping principles, basin management action plans and water quality partnerships, to maintain and improve water quality (SWFWMD 2011-2015 Strategic Plan).
- Support continued implementation of the minimum flows and levels (MFLs) program to ensure maintenance of the hydrology necessary to prevent significant harm to natural systems (SWFWMD 2011-2015 Strategic Plan).
- Continued support for the implementation of floodplain management programs to maintain storage and conveyance and to minimize flood damage. Strategies for achieving this include promoting public awareness of floodplains, identifying floodplain management value associated with land acquisition opportunities, implementing the District's watershed management program to collect/analyze data and developing and distributing accurate floodplain information (SWFWMD 2011-2015 Strategic Plan).
- Encourage "green" housing design standards that will enhance livability and sustainability (City of Tampa Comprehensive Plan Objective 26.13).
- Develop a Regional Energy Strategy (RES) establishing goals for the region to become more energy efficient, increase use of renewable energy sources, and enhance the region's energy infrastructure to meet the growing demand.
- Develop a Regional Climate Action Plan (RCAP) that will include an inventory of regional greenhouse gas emissions, establish emissions reduction targets, and identify policy and planning methods to meet the targets.

F. Promote economic development through sustainable job creation

- Expand the quantity and quality of job opportunities through the promotion of a diversified economy (Tampa Bay Economic Development District Comprehensive Economic Development Strategy (CEDS), 2007).
- Develop and sustain strategies to promote the establishment of new target industries and quality jobs (Tampa Bay Economic Development District Comprehensive Economic Development Strategy (CEDS), 2007).
- Analyze the region's transferable proficiencies, skills, competencies, and expertise that we can use to characterize our advantage in the market place. Use this to develop a regional brand that differentiates Tampa Bay from its economic competitors (Pinellas County ED).
- Conduct an analysis of economic competitiveness (targeted industries). Then we can encourage an integrated collection of targeted industries that capitalize on region's assets (Pinellas County ED).
- Enhance and preserve our superior quality of life to attract high-quality knowledge workers (Pinellas County ED).
- Increase the educational level and improve the skills of the region's workforce to match our targeted industries (Pinellas County ED).
- Invest in Innovation – support research universities, technology commercialization, technologically advanced infrastructure (Pinellas County ED).
- Strengthen relationships between academia and the private sector to support research and development, commercialization and an innovative business environment (Pinellas County ED).
- Encourage high-quality entrepreneurial and small business development through incubators, accelerators and access to capital (Pinellas County ED).
- Develop effective tools to recruit and retain targeted industries (Pinellas County ED).
- Promote a competitive business climate and a highly responsive and efficient government structure (Pinellas County ED).
- Support the "Super-Regional" planning effort to increase global competitiveness (Tampa Bay Partnership).

General

Reorganize the One Bay Recommendations and Strategies around three themes: Natural Environment; Built Environment; and Mobility. This organization structure can mirror the national regional planning initiative that is called the *Partnership for Sustainable Communities*. This organization will line up with the federal departments that are responsible for the partnership: Environmental Protection Agency (EPA); Housing and Urban Development (HUD); and Transportation (DOT). This will also help align the One Bay actions with the federal Place-Based Policy agenda.

TAMPA BAY AREA REGIONAL TRANSPORTATION AUTHORITY
LAND USE WORKING GROUP MEETING
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JANUARY 8, 2010

PRESENTATION ITEM 3

Agenda Item

Transit Oriented Development (TOD) Guiding Principles and Model Policies

Presenter

Jennifer Willman, Jacobs/TBARTA

Summary

By agreeing on Guiding Principles, local jurisdictions can take the first step as a region to become more supportive of transit and prepare for TOD, and make it easier to work towards common goals region-wide, especially where transit projects cross jurisdictional boundaries. The intent is for TBARTA to use the TOD Guiding Principles as part of the evaluation process to determine which projects should be proposed for federal funding. The Comprehensive Plan Model Policies for TOD have been prepared for local jurisdictions, and can be tailored to meet their specific needs. The Guiding Principles and Model Policies will be included in the TBARTA TOD Resource Guide to provide standard regionwide criteria likely to be beneficial working with the Federal Transit Administration. A draft outline of the Resource Guide is attached.

At the last meeting on November 19, 2009, the draft Guiding Principles and Model Policies were discussed. Several comments were received from Land Use Working Group participants between October 3, 2009, and November 20, 2009. These comments are attached, and were incorporated for review by the TBARTA Citizens Advisory Committee (CAC) Land Use Subcommittee at their meeting on December 16, 2009. The Subcommittee agreed to move the Guiding Principles and Model Policies forward with revisions, as shown in the drafts dated December 28, 2009. These documents will be presented to the CAC and Transit Management Committee on January 13, 2010, the TBARTA Executive Committee on January 15, 2010, and the TBARTA Board on February 19, 2010.

Attachments

- ❑ Draft TOD Guiding Principles, December 28, 2009
- ❑ Comprehensive Plan Model Policies for TOD, December 28, 2009
- ❑ Comments Received October 3, 2009 to November 20, 2009
- ❑ Transit Oriented Development (TOD) Resource Guide DRAFT Outline January 4, 2010

Citizens Advisory Committee
Land Use Subcommittee

December 28, 2009

DRAFT Transit Oriented Development Guiding Principles

TBARTA's Vision

A world class transportation network for the Tampa Bay region that will connect people and places, move goods and services, enhance the quality of life, and offer transportation options that are safe, sustainable, affordable, and efficient. We will act as a catalyst for a vibrant economic future through leadership, collaboration, and partnerships.

What is Transit Oriented Development?

Transit Oriented Development (TOD) focuses on creating compact neighborhoods with housing, jobs, shopping, community services, and recreational opportunities, all within easy walking distance (¼ mile to ½ mile) of a transit station. It is a land development pattern communities can choose that is designed to maximize transit use with an emphasis on pedestrian and bicycle access to stations. Increasing the number of people who live and work within walking distance of transit is one of the most effective ways to increase ridership, and ensure the success of a regional system. TOD has enormous potential to help the Tampa Bay Area reinvest in communities to become more economically vibrant, sustainable and livable.

Why are TOD Guiding Principles needed?

By agreeing on TOD Guiding Principles, local jurisdictions can take the first step as part of a regional effort to become more supportive of transit and prepare for TOD. Using a common language among jurisdictions will unify the region with regard to TOD, and achieve success on a regional level by accomplishing two major objectives:

1) Make it easier to work towards common goals, especially where transit projects cross jurisdictional boundaries; and
2) Enhance TBARTA's ability to effectively compete for federal funding.

TBARTA will use the Guiding Principles as part of the evaluation process to determine which projects should be proposed for federal funding. Having standard regionwide criteria will benefit the region in competing for Federal Transit Administration (FTA) grants. The competition for federal funds requires documentation of supporting land use criteria relating to existing development, transit-supportive corridor policies, zoning regulations near station areas, and tools to implement land use policies, including engaging the development community and economic development strategies. Land use is a critical component and can be the deciding factor on whether funding is awarded to our region.

TBARTA urges all planning agencies to consider these Guiding Principles when adjusting their policies and regulations in order to help our region better compete for federal funds. The Guiding Principles can also help our region meet certain expectations relating to prioritization, corridor studies and the FTA land use criteria. These Guiding Principles are intended to serve as an important step in an evolving process for planning along corridors in the TBARTA Master Plan, resulting in TOD projects that support the goals of the community.

What are the TOD Guiding Principles?

Understanding that each station area in the Tampa Bay region will have its own unique character and that the station areas will vary with respect to layout, design, land use composition and function, the following principles are presented to provide an understanding of the essential elements and characteristics of TOD.

The Guiding Principles are grouped into four categories: Coordination, Economic Development, and Implementation; Land Use; Mobility; and Community Design. Policies and regulations that apply to fixed-guideway or limited stop transit service station areas should effectively:

Coordination, Economic Development, and Implementation

1) Plan for TOD in accordance with the requirements of the Federal Transit Administration New Starts planning and development process and evaluation criteria.
2) Recognize that each TOD is different, and each development is located within its own unique context and serves a defined purpose in the context of the corridor and the regional system.
3) Strive to make TODs realistic, economically viable, and valuable by conducting a location-based market analysis for development projections to identify land use mix and density/intensity of uses.
4) Consider Tampa Bay area's target industries when planning for the area of influence of the station area development, and create strategies for attracting those employers.
5) Introduce creative parking strategies, account for the actual costs of parking, and reduce parking requirements for most developments with the option of implementing new requirements over time.
6) Identify implementation strategies that include various mechanisms such as regulatory requirements, incentives, funding, public-private partnerships, joint/shared facilities, environmental remediation, and property aggregation.
7) Establish a method for preparing Station Area Plans, coordinated by government agencies, that engages multiple stakeholders including the public.
8) Specify that Station Area Plans will include existing conditions, neighborhood context, station area types, redevelopment vision, concept plan, market research and development projections, land use recommendations, zoning requirements, building design standards, site development standards, street cross sections, streetscape development standards, pedestrian and bicycle access plans, public infrastructure improvements, signage plan, public realm and open space plan, parking accommodations, and implementation plan.
9) Recognize the need for jurisdictions to work together toward common goals, and commit to mutually beneficial partnerships.
10) Convey how TOD benefits citizens, local governments, the environment, and private entities such as employers and developers, and financial institutions.
11) Ensure that the land use impacts of transit routes and station locations are considered throughout all steps in the transit planning process.

Land Use

1) Create compact development areas within a ½-mile walk of public transit and with sufficient density and/or intensity to support ridership.
2) Create easy to implement development zones with greater flexibility for mixing uses and higher density/intensity that are easier to implement than traditional requirements, and are able to respond to changing conditions.
3) Provide a variety of housing types for a wide range of ages and incomes.
4) Identify station area types that address transit technology, community character, density/intensity and mix of land uses, housing mix, and building heights.
5) Provide active uses such as retail and office on the ground floor of buildings, including parking garages.
6) Provide uses that serve the daily needs of residents, commuters, and visitors.

Mobility

1) Make pedestrian safety and ADA access the focus of the development strategy without excluding the automobile.
2) Create continuous, direct, convenient transit and pedestrian linkages, including walkways between principal entrances of buildings and to adjacent lots.
3) Provide park and ride lots where appropriate.
4) Accommodate multimodal local and regional connections for all types of vehicles, including trains, buses, bicycles, cars, ships, boats, aircraft, and taxicabs.
5) Balance mobility needs (e.g. frequency, speed) with the desire for economic development with regard to the location and number of stations.

Community Design

1) Use urban design to enhance the community identity of station areas and to make them attractive, safe and convenient places.
2) Create active places and livable communities where people feel a sense of belonging and ownership.
3) Include engaging, high quality public spaces that function as organizing features and gathering places for the neighborhood.
4) Ensure there are appropriate transitions in densities, intensities, and building heights between TODs and surrounding lower density development (e.g. single-family neighborhoods).
5) Strive to incorporate sustainable technologies in station design and operations, such as in lighting, signage, audio/visual, cooling, waste management, and stormwater systems.
6) Develop graphic wayfinding systems at station areas to assist visitors and tourists with navigation.

Land Use Working Group

December 28, 2009

DRAFT Comprehensive Plan Model Policies for Transit Oriented Development

Definition: Transit Oriented Development (TOD) focuses on creating compact neighborhoods with housing, jobs, shopping, community services, and recreational opportunities, all within walking distance (¼ mile to ½ mile) of a transit station and that achieve a functional integration with transit.

Goal: Create well-designed, livable communities where people can travel to a variety of places without using a car, provide direction for developing and redeveloping property around transit stations in a way that makes it convenient for people to use transit, and incorporate the land use and economic development criteria outlined in the Federal Transit Administration New Starts Planning and Development Process.

COORDINATION & ECONOMIC DEVELOPMENT POLICIES

Objective: Develop and implement mechanisms for coordination among governmental agencies and the private sector to ensure the success of TOD and the related benefits.

The City/County shall…

1. Plan for TOD in accordance with the requirements of the Federal Transit Administration New Starts Planning and Development Process and evaluation criteria.
2. Balance mobility needs (e.g. frequency, speed) with the desire for economic development with regard to the location and number of stations.
3. Consider land use when evaluating transit corridor and technology alternatives.
4. Engage government agencies, the development community and citizens in station area planning efforts.
5. Promote the implementation of station area development through regulatory and financial incentives.
6. Promote public-private partnerships and joint development opportunities through station area development.
7. Coordinate/develop and implement an economic development and marketing strategy for stations areas.
8. Encourage the consolidation of small and/or fragmented lots to promote redevelopment.
9. Specify that Station Area Plans will include existing conditions, neighborhood context, station area type, redevelopment vision, concept plan, market research and development projections, land use recommendations, zoning requirements, building design standards, site development standards, street cross sections, streetscape development standards, pedestrian and bicycle access plans, public infrastructure improvements, signage plan, public realm and open space plan, parking accommodations, and implementation plan.

10. Include historic preservation, publicly owned land and public buildings in the existing conditions section of Station Area Plans.
11. Provide a mechanism to work together with neighboring jurisdictions towards common goals, and commit to mutually beneficial partnerships.
12. Create a mechanism to coordinate all agencies, including transit agencies, and the various governmental departments that can affect the success of TOD.

LAND USE POLICIES

Objective: Concentrate a mix of complementary, well-integrated land uses within walking distance (½ mile) of the transit station, and consider an area of influence up to one mile around the station.

Uses

The City/County shall…

1. Promote a range of higher intensity uses including residential, office, service-oriented retail and civic uses that supports transit ridership and takes advantage of the major public investment in transit.
2. Limit automobile-oriented uses, such as drive-through facilities or gas stations, within ½ mile of certain transit stations.
3. Require uses that attract/generate pedestrian activity, particularly at ground floor level.
4. Locate special traffic generators – such as cultural, educational, entertainment, and recreational uses – either within or adjacent to station areas.
5. Require mixed-use developments, with more than one use on site and within buildings in station areas.
6. Provide for a mixture of housing types, including workforce housing, in station areas.
7. Provide basic goods and services that meet the daily living needs of residents, commuters, and visitors (such as grocery, laundry, banking, fitness centers, and parks) in station areas.

Land Use Intensity

The City/County shall…

8. Encourage higher densities for new development, concentrating the highest densities closest to the transit station and transitioning to lower densities adjacent to existing single-family neighborhoods.
9. Require minimum (or target) density ranges for new residential development in station areas, in accordance with the Station Typologies and Station Area Plans.
10. Require minimum (or target) intensity ranges for new non-residential or mixed-use intensities in station areas, in accordance with the Station Typologies and Station Area Plans.
11. Require minimum (or target) employee to housing ratios in station areas, in accordance with the Station Typologies and Station Area Plans.
12. Encourage compact development around established activity centers, redevelopment areas, and regional transit stations.

13. Promote existing stable neighborhoods and designated historic structures and resources, and identify transition areas.
14. Target growth in areas that invest in regional and local transit improvements.
15. Ensure there is appropriate transition in densities, intensities, and building heights between TODs and surrounding lower density development (e.g. single-family neighborhoods).
16. Provide active uses such as retail and office on the ground floor of buildings, including parking garages.

MOBILITY POLICIES

Objective: Enhance the existing transportation network to provide functional and effective pedestrian, bicycle and transit connections.

Pedestrian and Bicycle System

The City/County shall…

1. Provide an extensive pedestrian system throughout the station areas that minimizes obstacles for pedestrians, provides connectivity with shorter walking distances, and provides protection from the elements where appropriate.
2. Eliminate gaps in pedestrian networks accessing station areas.
3. Establish pedestrian and bicycle connections between station areas and surrounding neighborhoods.
4. Design the pedestrian system to be ADA-accessible, safe, attractive, and comfortable for all users.
5. Design the pedestrian network to accommodate large groups of pedestrians, by requiring wide sidewalks and unencumbered walkways.
6. Use planting strips/street trees, on-street parking, and/or bicycle lanes to separate pedestrians from vehicles.
7. Provide bicycle parking and encourage bicycle amenities, such as bicycle repair, rental, and cyclist comfort stations.
8. Ensure the conversion of drainage swales to curb and gutter systems for stormwater management around station areas, to create a more pedestrian-friendly environment.

Street Network

The City/County shall…

9. Design streets to be multi-modal, with an emphasis on pedestrian and bicycle safety, access and circulation.
10. Set vehicular levels of service to reflect an emphasis on pedestrians and bicyclists.
11. Redesign existing street intersections with a greater emphasis on safe pedestrian and bicycle crossings.
12. Design an interconnected street network designed around a block system, with blocks at the appropriate maximum length for the station type.
13. Provide mid-block street crosswalks in urban, congested areas where there are long distances between signalized crossings.

14. Incorporate traffic calming and context sensitive design into the design of streets.Utilize the principles of Context Sensitive Design for new transportation projects and access management for pedestrian and bicycle travel.
15. Accommodate multimodal local and regional connections for all types of vehicles, including trains, buses, bicycles, cars, ships, boats, aircraft, and taxicabs.

Parking

The City/County shall…

16. Require a coordinated approach to vehicular parking for all developments within one mile of a station location.
17. Reduce regulatory parking requirements and establish parking maximums, to be phased in over time, when and where appropriate.
18. Discourage large surface parking lots within ¼ mile of urban or neighborhood stations, especially those greater than two acres.
19. Require well designed structured parking decks when and where appropriate.
20. Promote shared parking facilities.
21. Require large scale site plans and Planned Unit Developments to include a master plan for parking to reduce the number of spaces over time as transit system evolves.

COMMUNITY DESIGN POLICIES

Objective: Use urban design to enhance the community identity of station areas and to make them attractive, safe and convenient places.

Building and Site Design

The City/County shall…

1. Adopt building design guidelines based on street types as related to station locations and access by identifying pedestrian priority streets (fronts of buildings/doors and windows), and secondary streets (backs of buildings/blank walls/service areas).
2. Require that buildings are designed to front on public streets or on open spaces, with minimal setbacks.
3. Require that buildings are designed with windows and doors at street level instead of expansive blank walls, creating opportunities for pedestrians to interact with commercial uses while providing privacy for residential uses.
4. Require that building entrances are located to minimize the walking distance between the transit station and the building entrance.
5. Require that surface parking not be located in front of buildings, with the exception of on-street parking.
6. Require clearly delineated pedestrian paths through surface parking to transit stations.
7. Require that parking structures are designed to include active uses on the ground floor street frontage.

8. Encourage that buildings are the tallest and most intensely developed structures located near the transit stations with transitions in height and density/intensity approaching adjacent existing lower density/intensity neighborhoods
9. Require that unsightly elements, such as dumpsters, loading docks, service entrances, and outdoor storage, are screened from pedestrian pathways and transit routes.
10. Encourage the use of Crime Prevention Through Environmental Design (CPTED) principles.
11. Utilize Leadership in Energy and Environmental Design (LEED) and other sustainable design principles.
12. Strive to incorporate sustainable technologies in station operations, such as in lighting, signage, audio/visual, cooling, waste management, and stormwater systems.
13. Develop graphic wayfinding systems at station area to assist visitors and tourists with navigating the area.

Streetscape

The City/County shall…

14. Require that streetscapes are designed to encourage pedestrian activity.
15. Require elements such as street trees, pedestrian scale lighting, awnings, arcades, and benches are incorporated into streetscape design.
16. Recommend utilities be buried underground whenever possible.

Open Space

The City/County shall…

17. Require the creation of public open spaces around transit stations. (They act as development catalysts and serve as gathering spaces and focal points.)
18. Require open spaces be designed as centers of activity that include items such as benches, interactive fountains, and public art.
19. Encourage outdoor cafes and outdoor entertainment venues.
20. Require that surrounding buildings are oriented toward the open spaces.

Land Use Working Group

Comments Received
October 3, 2009 - November 20, 2009

Comments on TOD Model Policies & Guiding Principles

TBARTA Land Use Working Group (LUWG) participants were asked to review the DRAFT Model Transit Oriented Development (TOD) Comprehensive Plan Policies and TOD Guiding Principles, and provide comments by November 20, 2009. These comments are provided to the Citizens Advisory Committee (CAC) Land Use Subcommittee for review. Recommendations will be made to the TBARTA CAC and Board in January 2010. The following comments were received from LUWG participants between October 3, 2009, and November 20, 2009.

Model TOD Comprehensive Plan Policies

1. What do you like about the model Comprehensive Plan policies for the TOD Resource Guide ("toolbox")?

- They are informative, comprehensive and will provide guidance and a uniform approach to jurisdictions who utilized them.

- Simplicity.

- The right people, diverse professionals “built’ those. Staff with deeper knowledge and experience guided the process and helped ensure it fits within the necessary parameters.
    - This built ownership and acceptance
    - It made the product “real”
    - Hopefully makes broad support of jurisdictional senior administration officials and elected officials.

- Hits all major aspects of TOD written broadly enough and in a way that can be tailored to local guidelines.

2. How can the model TOD Comprehensive Plan policies be improved?

- Under Community Design Principles, it would be beneficial to mention concepts such as CPTED.

- I agree with the comments made at the LUWG meeting of 10/2, especially with regard to adding something about connectivity of the TBARTA system to long distance public transportation systems as well as to local feeder bus lines.

- #20 – add “small”… of small and /or fragmented…

- Add to Mobility Policies:
    - 8. Require the TOD to provide on-site convenient facilities or access to supporting transit types. Note: Staff may need to restate this concept to capture the intent.

- Under Coordination:
    - Need to address coordination of the timing of different planning steps w/ FTA/ transit planning process.
    - The flow chart from the presentation was very good on this – that timing and coordination is important to have in policy language.
    - Policy may also be needed on potential incentives – local government initiate rezoning of properties for example.

- #13, under land use intensity delete "and undeveloped areas"

- #15, under parking - what if a station is determined to be a park and ride?

- Under Community Design, add things for youth (active recreation – "not just fountains but interactive fountains")

- Land Use Intensity Bullets # 11 and 13
    - Do not preclude undeveloped areas – some are appropriate for development including transit stations
    - This is a jurisdictional issue not a TBARTA regional issue.

- Drive-through facilities or gas stations should be prohibited within ¼ mile of the station area.

- Develop a maximum allotment of parking spaces within ¼ mile of station.

- Pinellas County would recommend the following elaboration to the TOD definition:
    - TOD focuses on creating compact neighborhoods with housing, jobs, shopping, community services, and recreational opportunities, all within ~~easy~~ convenient walking distance (1/4 mile to ½ mile) of a transit station and that achieve a functional integration with transit.

- Land Use Policies:
    - A policy should be added to acknowledge that some land use and design features may need to be phased in over time as both the station area and transit system mature.
    - Station areas in Pinellas County will be located in more than one jurisdiction. There should be some overall coordination in developing station area plans within a county so that each plan is not developed in isolation of the others.
    - Rather than have a policy requirement for minimum densities and intensities for development in station areas, Pinellas County supports the more flexible

approach being taken by Tampa and Hillsborough County where they are identifying suggested project target densities by station area type.
    - In Policy 14, it is recommended that a specific reference to engaging the transit agencies be included.
    - A land use policy should be added to plan for and encourage transit supportive land uses where residents and employees can take care of everyday needs within the station area.

- Mobility Policies:
    - In 2008, Pinellas County adopted as part of the Comprehensive Plan several livable street and parking policies to promote walkability and provide more choices in travel modes throughout the County. These adopted policies will be compared to the TOD policies to see what amendments will be required to adequately support effective implementation of TOD.

- Community Design Policies:
    - The TOD design policies largely reflect provisions included in the Livable Communities Model Land Development Code approved by the Pinellas County MPO. Pinellas County will be using the Model Livable Communities Code as a basis for updating its land development code, including provisions for TOD.
    - The location of parking is an important design consideration that needs to be carefully considered. The draft TOD policies would restrict surface parking to the rear of buildings; however, some jurisdictions may consider parking to the side of buildings in some station typologies. Parking to the rear of buildings may be preferred, but a policy prohibition against considering other options may be too stringent.

3. What other comments do you have about the TOD Comp Plan policies or the Resource Guide?

- None.

- Make sure tourists are considered.

- Require a certain ratio of workforce housing per new residential project.

TBARTA Transit Oriented Development (TOD) Guiding Principles

1. **Do you anticipate your jurisdiction would support the TBARTA TOD Guiding Principles?**

   - Yes. TOD Guiding Principles will assist Hillsborough County in developing an efficient multimodal transportation system by increasing densities near transit stations, where many services would generally be located and minimize sprawl.

   - Pinellas County Economic Development is very supportive of TBARTA's efforts and looks forward to supporting the final Guiding Principles. However, there are a few matters which we would like for TBARTA to consider for its final draft.

   - Preparing for any type of job growth should not be a goal for the Tampa Bay Region. Creating hundreds of thousands of low wage jobs can hurt the overall "quality of life" and dilute the standard of living for the existing community. The wage level of the jobs created by contributory industries determines the quality of the economy. The higher the wages, the higher the standard of living is for most residents. Pinellas County's Economic Development mission to focus on high-wage targeted industry business expansion, creation and attraction is shared by other Tampa Bay counties but we tend to be more careful about working on future growth due to our built out nature.

   - Yes.

2. **How can the TOD Guiding Principles be improved?**

   - It may be beneficial to address, in some form, the challenges to implementing TOD projects. TOD projects have their benefits; however, there exists challenges such as getting people to relocate to a TOD, current land use patterns, spotty transit service, funding and financial feasibility, to name a few.

   - It is critical, especially in built-out environment such as Pinellas, to ensure that adequately zoned land is available for future business expansion. TBARTA should consider that station development would certainly occur in areas presently zoned for industrial and office development. In Pinellas County, a majority of the Future Land Use dedicated to industrial uses is located in the Gateway area and along the CSX rail. If station development occurs in these areas, the Guiding Principles would encourage the establishment of a mixed-use land use category with no policy to protect land for high-wage employment opportunities. We do not want to mean to preclude creating a mixed-use category for the station but we do wish to reinforce the need for principles that allow for manufacturing, office and/or R&D activities to occur in at least the same level as prior to the land conversion. At a minimum, it must be planned for that job creation to occur somewhere in the proximity.

   - Under the Economic Development Section Number 3, we support the principles to incorporate retail and variety of housing types into stations to create more livable communities, but it also needs to include a principle to allow for appropriate high-skilled, high-wage job creation to occur. This should also be noted under in item number 4

under Land Use, where it could include employment mix along with housing mix. TBARTA should consider that the incentives noted for implementation strategies be geared towards the same high-wage employment opportunities.

- Coordination # 3 – Add office and possibly industrial.

- Add # 8 – Add a policy about cross-interjurisdictional coordination.

- Add # 9 – Developer infrastructure to support increased density.

- Coordination, Economic Development, and Implementation, add:

  8) Ensure that TOD planning is closely coordinated among local jurisdictions, including those in different counties.

  9) When a TOD is designated on existing industrial land, ensure that the potential for accommodating high-wage employment is maintained or increased in the allowable mix of uses.

- Mobility, revise for clarity (assuming I've understood the intent of the principle correctly):

  4) ~~Help meet the intent of the transit service according to travel market types.~~ Ensure that transit service characteristics (e.g., frequency of headways, number of stops) are tailored to meet the needs of the various travel markets.

- Community Design, add:

  4) Respect the character of existing single-family neighborhoods.

  5) Ensure that there is appropriate transition in densities, intensities, and building heights between TODs and surrounding lower-density development.

- Use a "green" focus when implementing systems that support the guiding principles, such as solar fueled lighting.

- Rephrase bullet #1 "Recognize that <u>ALTHOUGH</u> each TOD is different….that there is much to be gained by establishing standardized baseline policies and principles that are common throughout the region.

- Under Community Design perhaps provide greater detail in techniques to achieve #2 – streetscape, building orientation, active ground floors, & form based codes as examples.

- Add something on roles and responsibility in different aspects of planning process will be defined in…Comp Plan language, inter-local agreement, LDC.

- I would like to suggest that the TOD guiding principles include the bicycle as a supportive travel mode to transit. The bicycle could easily increase a transit centers area of influence from the ½-mile walk radius to a 3-mile bike radius - significantly increasing

the population of potential transit users. Class 1 bicycle parking, bicycle lanes or extra-wide sidewalks, bicycles on transit vehicles, showers facilities at workplaces, should be required in community design characteristics both at the origins/destinations (e.g. office buildings, apartment/condo complexes, retail centers) as well as the transit stops/centers.

- It is anticipated that some station areas in Pinellas County will encompass more than one jurisdiction. Therefore, the 6th principle in the Coordination, Economic Development, and Implementation Section will require coordination among local governments when preparing Station Area Plans in these situations.

- Principle 4 in the Coordination, Economic Development, and Implementation Section should recognize that reduced parking requirements may need to be phased in over time as the transit system grows and matures and land use patterns change in response to improved transit service over time.

- Principle 7 in the Coordination, Economic Development, and Implementation Section should also specify that Station Area Plans include a plan to protect historic resources is any are located within the planning area.

- The first principle under Land Use should make reference to "sufficient density and/or intensity to support ridership."

- An additional principle should be added under Land Use to recognize that TOD should not compromise the integrity and viability of existing residential neighborhoods. At the same time, there should be good connections between transit, development within the station, and surrounding residential neighborhoods located outside the station area.

- Another basic principle under Land Use should be the provision of community amenities and transit supportive land uses (e.g. child care) to allow a reduction in driving.

- The Mobility Section should recognize the need to accommodate feeder bus access for certain of the station types.

- Under Number 2 in Economic Development, the Station Area Plans should include some type of site development cost analysis in additional to the market research and development projections. If the development community cannot find an adequate rate of return, we will have to consider if a subsidy is required to ensure high quality development.

- Under Number 4 in Economic Development, include environmental remediation.

- Under number 7 in Economic Development, include historic preservation and publicly owned land and buildings in the Station Area Plans examination of existing conditions.

- Under Mobility, provisions for bus and taxi access/facilities should be considered for inclusion. Also, handicap access should be considered both here and in Community Design.

- Under Community Design and considering our weather, we should also contemplate using urban design to make the station areas climate/weather comfortable in addition to attractive, safe and convenient. In addition to public spaces, other more active civic uses should be considered – like museums, arts centers etc. Perhaps minimum maintenance requirements should also be considered. This section might also be a place to consider renewable energy sources such as using photovoltaic panels for fans, signage, charging stations, etc.

- Our beach tourism industry is critical to Pinellas' future economy. Are there any specific planning mechanisms that need to be included for this unique commodity? Are there any principles that need to be developed regarding tourism in general? For example, station signage in foreign languages, signage/maps or similar items that would help tourists? While these examples may be too specific for the guiding principles, it would seem that some mention of tourism should be included.

3. What other comments do you have about the TOD Guiding Principles?

- Staff concurs that the TOD Guiding Principles should be general in order to speak a common language among jurisdictions. As written, they allow for flexibility and creativity.

- With Pinellas' plethora of cities and large unincorporated areas, there will surely be much local discussion about who is responsible for station development. At one of the LUWG meetings, there was some discussion that a "transit czar or champion" might help focus efforts and allow a single point of contact. Any advice that TBARTA could include about best practices on how to optimally manage the implementation of the guiding principles would be appreciated. Also, should there be any principles about the need for inclusion of the many stakeholders groups during station planning?

- We suggest that the guiding principles be kept as broad and flexible as possible so as to allow the development community adequate opportunity for investment. For instance, while reducing parking requirements is a critical goal, businesses may still have certain parking requirements. We need to allow our development community to respond to those needs, or it could mean less job creation the transit station area.

- Very well done.

- Seems to be apologetic about TBARTA's effort to unify region.

- The right people, diverse professionals "built" these. Staff with deeper knowledge and experience guided the process and helped ensure it fits within the necessary parameters.

- This built ownership and acceptance
- It made the product “real”
- Hopefully makes broad support of jurisdictional senior administration officials and elected officials.

- Maybe include some graphics and illustrations to help convey the message.

- Implementation plans should be flexible enough to respond to changes in market conditions.

- Coordination, Economic Development, and Implementation:

  Guiding Principle 2: Strive to make TODs realistic, economically viable, and valuable by conducting a location-based market analysis for development projections to identify land use mix and density/intensity of uses.

  ►Who will pay for these “location-based market analyses”?

  Guiding Principle 3: Consider the Tampa Bay area’s target industries when planning for the area of influence of the development, and create strategies for attracting those employers.

  ►Will agencies such as the Pinellas County Economic Development Department be involved in creating these strategies?

  Guiding Principle 7: Specify that Station Area Plans will include existing conditions, neighborhood context, station area type, redevelopment vision, concept plan, market research and development projections, land use recommendations, zoning requirements, building design standards, site development standards, street cross sections, streetscape development standards, pedestrian and bicycle access plans, public infrastructure improvements, signage plan, public realm and open space plan, parking accommodations, and implementation plan.

  ►Who will pay for these Station Area Plans? For Pinellas County, will these analyses fit into the PPC’s Special Area Plan requirements?

- Land Use:

  Guiding Principle 2: Create development zones with greater flexibility for mixing uses and higher density/intensity than traditional requirements that are easier to implement, and able to respond to changing conditions.

  ► How will these “development zones” fit in with the Pinellas Planning Council’s Countywide Rules?

Guiding Principle 3: Provide a variety of housing types for a wide range of ages and incomes.

►Wouldn't there be a tendency for housing prices to go up in these areas, thus negating the desire to foster affordable or workforce housing? How could that be prevented? Or would market conditions be allowed to work unchecked?

- Community Design:

Guiding Principle 3: Include engaging, high quality public spaces, to be organizing features and gathering places for the neighborhood.

► Based on the very first Guiding Principle listed above, shouldn't each TOD be treated uniquely, allowing for some to emphasize public spaces but others to emphasize other urban design details?

Transit Oriented Development (TOD) Resource Guide

DRAFT Outline 1/4/10

Introduction: TOD Guiding Principles

Chapter 1: New Starts Planning and Project Development Process

Chapter 2: Comprehensive Plan Model Policies

Chapter 3: Station Typologies

Chapter 4: Corridor Strategies

Chapter 5: Land Development Regulations

- Density/Intensity Standards
- Overlay Districts
- Design Standards
- Street Cross Sections

Chapter 6: Station Area Plans

- Process for Creating Station Area Plans
- Contents of a Station Area Plan
- Examples of Station Area Plans

Chapter 7: Joint Ventures and Public-Private Partnerships

- Development Agreement Examples

Chapter 8: Economic Development Tools and Strategies

- Incentives
- Parking Management

TAMPA BAY AREA REGIONAL TRANSPORTATION AUTHORITY
LAND USE WORKING GROUP MEETING
JOINT MEETING WITH ONE BAY TECHNICAL TEAM/RPAC
JANUARY 8, 2010

PRESENTATION ITEM 4

Agenda Item

Pasco County Transit Oriented Development (TOD) Planning Activities

Presenters

Justyna Buszewski, Pasco County Growth Management

Summary

Pasco County Growth Management staff has been working on a transit station area typology and Comprehensive Plan policies that support TOD. The goal is to create a land use planning framework to encourage, support and implement TOD in a manner that decreases auto-dependency and increases the economic viability, sustainability and livability of Pasco County. Transit Emphasis Corridors were identified based on Market Areas, with the focus on redevelopment and infill opportunities, and employment centers and Traditional Neighborhood Design (TND) communities with higher density housing. US 19, State Road 54 and Bruce B. Downs Boulevard/Interstate 75 are being considered for Transit Emphasis Corridors.

An overview of these planning activities will be presented. The Land Use Working Group is asked to review the Pasco County Transit Station Area Typology, and provide feedback about how they could be used in the TBARTA TOD Resource Guide.

Attachments

- ❑ Pasco County Draft TOD Future Land Use Policies, January 5, 2010
- ❑ Pasco County Draft Conceptual Stations within Transit Emphasis Corridor Map, January 5, 2010
- ❑ Pasco Station Center Types Matrix, January 7, 2010

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FLU GOAL 10 TRANSIT ORIENTED DEVELOPMENT

Creation of a land use planning framework encouraging, supporting and implementing transit-oriented development in a manner supporting and implementing the TBARTA and the One Bay regional vision of concentrated land use by decreasing auto-dependency and increasing the economic viability, sustainability and livability of Pasco County.

Objective 10.1 Transit Emphasis Corridor

A Transit Emphasis Corridor connecting activity centers within Pasco County and the Tampa Bay region.

Policy FLU 10.1.1: Pasco County Transit Emphasis Corridor is as depicted in FLU Map 2-23.

Policy FLU 10.1.2: The County shall encourage the use of mass transit in order to decrease the dependency of automobile trips.

Policy FLU 10.1.3: The County shall coordinate with (TBARTA), Pasco Metropolitan Planning Organization (MPO), Florida Department of Transportation, and other regional transit agencies regarding the provision of transit service and location of stations.

Objective 10.2 Transit Oriented Design

Development and redevelopment in the Transit Emphasis Corridor shall meet Transit Oriented Design principles including neighborhood context, connectivity, public realm improvements and site development standards.

Policy FLU 10.2.1: Pasco County shall adopt a Transit Oriented Design Ordinance by 2012.

Policy FLU 10.2.2: Pasco County shall establish design principles that concentrate a mix of complementary, well-integrated land uses within walking distance (1/2-mile) of anticipated transit stations.

Policy FLU 10.2.3: Pasco County shall encourage multi-use developments which include a mixture of uses on the same site.

Policy FLU 10.2.4: Pasco County shall encourage mixed-use developments with a mixture of uses within buildings.

Policy FLU 10.2.5: Pasco County shall encourage a mixture of housing types including workforce housing.

Policy FLU 10.2.6: Pasco County shall consider limiting automobile-oriented uses, such as drive-through facilities within the Transit Emphasis Corridor.

Policy FLU 10.2.7: Guidelines created by Pasco County shall address streetscape design to encourage pedestrian activity and safety.

Policy FLU 10.2.8: The TOD Ordinance shall address the transition to transit use and the evolution of development sites during that transition.

Objective 10.3 Land Use Patterns

Supportive Land Use patterns adjacent to stations and anticipated stations.

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Policy FLU 10.3.1: The Pasco County Transit Station Typology is as follows:

Station Type	Suggested Project Target Development Standards	General Land Use Allocation
Regional Commercial	FAR: 1- 2.25 Stories: 1-5 DU/acre: 20-30 du/ac	Commercial: 55% Residential: 10% Office: 35%
Regional Professional Service	FAR: 1- 3.6 Stories: 3- 12 DU/acre: 40-60 du/ac	Commercial: 20% Residential: 20% Office: 60%
Regional Mixed Use	FAR: 1- 5 Stories:2-10 DU/acre: 40-60 du/ac	Commercial: 25% Residential: 30% Office: 45%
Community Commercial	FAR: 0.3- 1.25 Stories: 1-5 DU/acre: 10-20 du/ac	Commercial: 45% Residential: 20% Office: 35%
Community Professional Service	FAR: 0.7- 2.5 Stories: 2- 8 DU/acre: 10-20 du/ac	Commercial: 20% Residential: 20% Office: 60%
Community Mixed Use- New Town/ Village	FAR: 0.6- 1.35 Stories: 1- 5 DU/acre: 20-30 du/ac	Commercial: 20% Residential: 60% Office: 20%
Community Business Commerce Park	FAR: 0.15- 0.50 Stories: 1- 2 DU/acre: 10-20du/ac	Commercial: 20% Residential: 20% Office: 20% Industrial: 40%
Park and Ride	FAR: 0.08- 0.40 Stories: 1- 2 DU/acre: N/A	Commercial: 50% Residential: N/A Office: 50%
Neighborhood	FAR: 0.6- 1.35 Stories: 1- 3 DU/acre: 20-30 du/ac	Commercial: 10% Residential: 80% Office: 10%

Policy FLU 10.3.2: Map 2-24 identifies the conceptual station locations within the Transit Emphasis Corridor.

Policy FLU 10.3.3: Figure 10-1 identifies the conceptual station typology for stations identified on Map 2-24. The classification of station types is conceptual. Final classification will only be made after preparation and approval of Station Area Plans, as identified in Policy FLU 10.3.5.

Policy FLU 10.3.4: TOD Floating Land Use Zone.
The station typologies identified in Policy 10.3.1 shall constitute a TOD Floating Land Use Zone. The density and intensity associated with the station typology shall be applicable only after:

(a) Completion of a Station Area Plan as described in Policy 10.3.5;

(b) Identification of a premium transit route in an approved Long Range Transportation Plan; and

(c) Approval by Board of County Commissioners in a public hearing after receiving a recommendation from the Local Planning Agency. Upon approval of the Station Area Plan, the Future Land Use Map shall reflect the station area impact location.

Policy FLU 10.3.5: Station Area Plans

(a) Station Area Plans shall be prepared prior to system construction and prior to or during design phase of the Transit Corridor to efficiently and effectively plan the land uses around proposed transit stations.

(b) Station Area Plans shall be based on detailed study to determine specific Station Area Plan boundaries, which will, at a minimum, include all areas within a 1/2 mile walking distance from the transit station. In determining the specific Station Area Plan boundaries

physical, environmental, and community features, boundaries and borders shall be considered.

(c) Regardless of how the Station Area Plan is funded, a public involvement program, including community stakeholders, public agencies, and private developers shall be part of the Station Area Planning Process. This process shall include community design and public workshops.

(d) At a minimum the Station Area Plan shall address:

- Station area typology and development/redevelopment vision
- Surrounding development pattern and community character
- Location based station area market analysis and assessment for near and intermediate development projections to identify intensity and land use mix within 0.5 mile of stations.

(e) Station Area Plans shall include the following design principles for the transit station impact area which consider the following:

- **Land Use**
    - Mixed Use Development (Vertical) and Mix of Uses
    - Density/Intensity Minimums (where appropriate) and Maximums

- **Building and Site Design**

    - Building Form, Setbacks, and Site Design
    - Building Heights
    - Transitions to/Compatibility With Surrounding Development Patterns
    - Alternative Development Standards (Vehicular/Bicycle Parking, Stormwater, etc.)
    - Public Parking
        - Create parking strategies that can reduce the parking requirements and promote shared parking opportunities.
    - LEED or Other Sustainable Design Principles
    - Roadway Typical Sections
    - Bicycle and Pedestrian Facilities
    - Public Realm, Streetscape, and Open Space
        - Public art, street trees, pedestrian scale lighting, arcades, awnings, Wayfinding signage, and benches
    - Guidelines based on street types: pedestrian priority streets (fronts of buildings/doors and windows), and secondary streets (backs of buildings/blank walls/service areas).
    - Requirement that buildings are designed to front on public streets or on open spaces, with minimal setbacks and with windows and doors at street level instead of expansive blank walls.
    - Building entrances should be located to minimize the walking distance between the transit station and the building entrance.
    - Require that surface parking is located in the rear of buildings, with the exception of on street parking.
    - Require that unencumbered pedestrian paths through surface parking to transit stations are provided.
    - Parking structures are designed to include active uses on the ground floor street frontage.
    - Encourage that buildings are the tallest and most intensely developed structures located near the transit stations.

- **Connectivity**
    - Require direct pedestrian routes within station areas. Sidewalk locations and widths should be based on the anticipated level of service needed within public rights of way 1/2 mile walking distance from all station locations.

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    - Encourage pedestrian plazas, and other amenities that will enhance the pedestrian environment in and around transit stations.
    - Encourage the development of bike lanes on arterial and collector roadways that provide connectivity with the Station Area.
    - Logical linkages to connect with the Ped/Bike Trail Systems

- **Policy**
    - Housing Mix
    - Workforce and Affordable Housing
    - Incremental Parking Reduction Policies
    - Land Use Flexibility
    - Station Development Evolution / Requirement Triggers and Thresholds

- **Implementation Strategies**
    - Regulatory
    - Public Private Partnerships
    - Joint/Shared Facilities
    - Capital Improvement Funding/Public Investment
    - Property Aggregation
    - Anchor Tenant Identification

Glossary

Transit Oriented Development- TOD focuses on creating compact activity centers with housing, jobs, shopping, community services, and recreational opportunities, all within easy walking distance (1/2 mile) of a transit station.

Transit Emphasis Corridor- Corridor with high quality premium modes of transit including but not limited to Light Rail or Bus Rapid Transit.

Premium Transit- High quality transit mode that typically includes Light Rail or Bus Rapid Transit.

Light Rail Transit (LRT) - LRT provides the opportunity for the passenger rail service to operate on corridors other than traditional heavy rail and integrate with to transit oriented development. LRT tends to run along its own right-of -way and are often separated from road traffic. With electric propulsion, light rail can operate more efficiently and reduce greenhouse gas emissions.

LRT stations are typically ½ mile to 1 mile apart. Service runs every 10 minutes or less during peak hours or 15 to 30 minutes at other times of the day.

Bus Rapid Transit (BRT) - Frequent service with a limited number of stops. BRT provides a service that is of a higher speed and quality than an ordinary local fixed route transit line. BRT is a high-capacity bus transport system often with its own right-of-way or dedicated lanes.

BRT stations are typically 2 to 4 blocks apart in urban areas, ½ mile to 3 miles in suburban areas. Service typically runs every 10 to 20 minutes during peak hours or 30 to 60 minutes at other times of the day.

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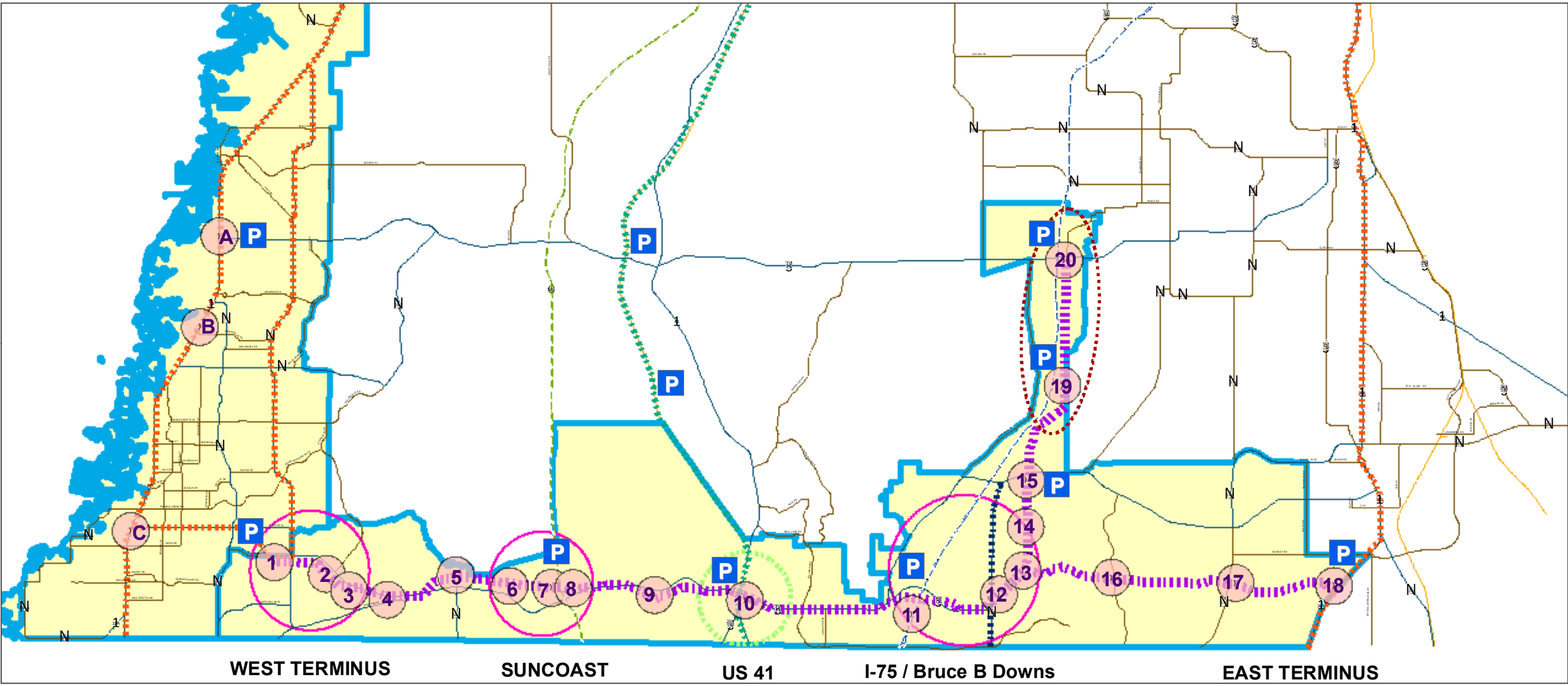
MAP 2-24 CONCEPTUAL STATIONS WITHIN TRANSIT EMPHASIS CORRIDOR



Legend

- Proposed Stop
- TBARTA / Light Rail
- Potential Rail Communter Line
- BRT/Light Rail Line
- Transit Emphasis Corridor Boundary
- Express Bus
- Rail Commuter Potential Service Area Expansion
- Major Regional Impact Area
- Beyond TBARTA Master Plan
- P — **Future Park-n-Ride Location (locations are generally at node/intersection. Exact locations to be determined and additional park and ride locations may be required.)**

TOD Floating Land Use

- Station Stop 1/2 Mile TOD Impact Area

*** Additional station may be placed within the major regional impact area where appropriate consistent with development pattern.**

Roads

TYPE

- Arterial
- Collector
- Interstate
- Toll

0 1 2 3 4

Miles

Pasco County PGM | 1.05.10 | QHU

Pasco Station Center Types

Center Type	Map Label	Stories Min	Stories Max	Stories Assumed	Ground Coverage	Building Footprint (sq. ft.)	Total Sq. ft.	Center Footprint	Percent Allocation DU	Percent Allocation Employment Ind	Percent Allocation Employment Com	Percent Allocation Employment Serv
Urban Center	UC	4	20	10	50%	21,780	217,800	1 sq mi	30%	0%	20%	50%
Regional Commercial	RC	1	5	3	45%	19,602	58,806	0.5 sq mi	10%	0%	55%	35%
Regional Professional Service	RPS	3	12	8	30%	13,068	104,544	0.25 - 0.5 sq mi	20%	0%	20%	60%
Regional Mixed Use	RMU	2	10	5	50%	21,780	108,900	0.5 sq mi	30%	0%	25%	45%
Community Commercial	CC	2	5	2	25%	10,890	21,780	0.25 sq mi	20%	0%	45%	35%
Community Professional Service	CPS	2	8	5	30%	13,068	65,340	0.25 - 0.5 sq mi	20%	0%	20%	60%
Community Mixed Use - Historic Town Center	HTC	1	5	2	50%	21,780	43,560	0.25 sq mi	20%	0%	25%	55%
Community Mixed Use - TOD - New Town	NT	1	5	3	45%	19,602	58,806	1 sq mi	65%	5%	15%	15%
Community Mixed Use - TOD - Village	V	1	3	2	45%	19,602	39,204	0.5 sq mi	38%	2%	30%	30%
Community Business Commerce Park	BCP	1	2	2	30%	10,890	21,780	0.25 sq mi	20%	40%	20%	20%
Neighborhood	NH	1	3	2	45%	19,602	39,204	0.125-0.25 sq mi	80%	0%	10%	10%
Park and Ride - Urban	PNR U	1	2	1	20%	8,712	8,712	80K sq ft	0%	0%	40%	60%
Park and Ride - Suburban	PNR S	1	2	1	20%	8,712	8,712	20K sq ft	0%	0%	50%	50%
Park and Ride - Parking only	PNR PO	0	0	0	0%	0	0	0	100%	0%	0%	0%

TAMPA BAY AREA REGIONAL TRANSPORTATION AUTHORITY
LAND USE WORKING GROUP MEETING
JOINT MEETING WITH ONE BAY TECHNICAL TEAM/RPAC
JANUARY 8, 2010

PRESENTATION ITEM 5

Agenda Item

Transit-Supportive Land Use Planning Activities in Region

Presenters

Land Use Working Group Participants

Summary

At the last meeting on November 19, 2009, some jurisdictions in the TBARTA region announced that they are moving forward with transit-supportive planning activities. The Hillsborough County City-County Planning Commission initiated amendments to Hillsborough County's and the City of Tampa's Comprehensive Plans relating to Transit Oriented Development (TOD) policies. Amendments include Station Area Typologies and Design Principles, and the creation of a TOD Future Land Use floating designation. The Planning Commission Public Hearing will be held on February 8, 2010, at 5:30 p.m.

Other jurisdictions are also moving forward with transit-supportive planning activities. Pasco County is working on Comprehensive Plan TOD policies and station area typologies for their Transit Emphasis Corridors. The Pinellas Planning Council will be updating and revising the County-wide Plan to be supportive of TOD and transit, looking at transit overlays and coordinating with the MPO's Livable Communities project.

LUWG participants will have the opportunity to provide a brief report to inform the group of transit-supportive planning activities occurring in the TBARTA region.

TAMPA BAY AREA REGIONAL TRANSPORTATION AUTHORITY
LAND USE WORKING GROUP MEETING
JOINT MEETING WITH ONE BAY TECHNICAL TEAM/RPAC
JANUARY 8, 2010

PRESENTATION ITEM 6

Agenda Item

TOD Station Typologies (survey voting)

Presenters

Jennifer Willman, Jacobs/TBARTA

Avera Wynne, Tampa Bay Regional Planning Council

Summary

The TBARTA Land Use Working Group (LUWG) is creating a TOD Resource Guide intended to help local jurisdictions prepare for the changes desired by the communities. This TOD Resource Guide can help set priorities, even the playing field across the region, and provide standard regionwide criteria likely to be beneficial working with the Federal Transit Administration (FTA). How well we meet the FTA's land use criteria relating to existing development, plans and policies, and zoning regulations will affect how well our region can compete for FTA funding.

At the August 27, 2009 LUWG meeting, break out groups started to discuss Station Typologies. Since then, the Hillsborough County City-County Planning Commission and Pasco County Growth Management have developed Station Typologies, and shared their work with the LUWG. TBARTA would like to help identify what is desired and appropriate for different stations types in the TBARTA region, and if the types that Hillsborough and Pasco have proposed for their Counties could apply regionwide.

As a reminder, Station Typologies are usually defined by:

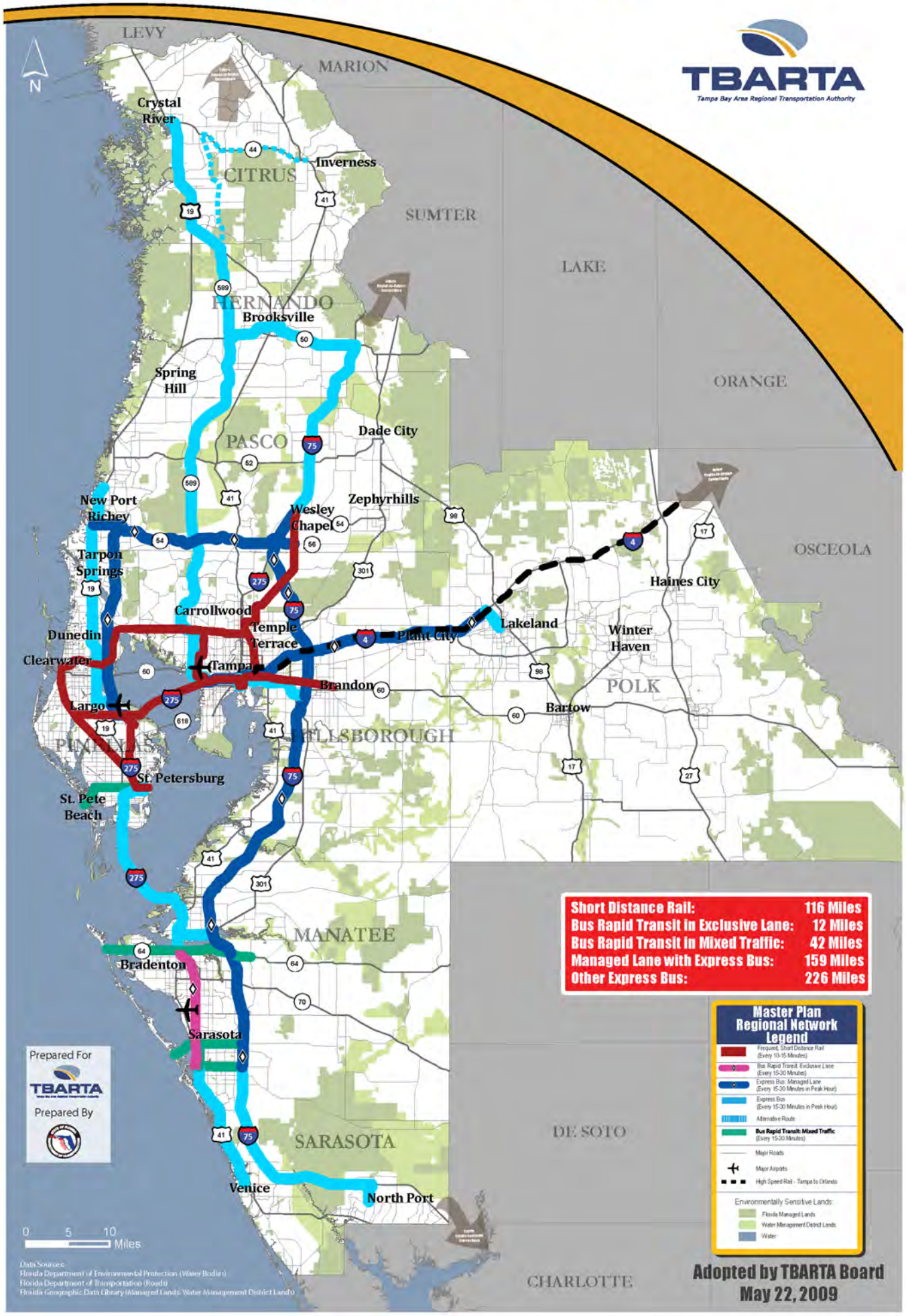
- Type of proposed transit (short distance rail, express bus, service hub)
- Type of existing development / redevelopment opportunities
- Desired mix of land uses (residential, office, entertainment, civic, etc.)
- Desired housing types (multi-family / small lot detached)
- Desired land use intensity / density (units per acre/Floor Area Ratio)
- Appropriate scale (building heights)
- Appropriate parking (structured / surface / shared).

The goal is to create a Station Typology that could be applied regionwide for the TBARTA TOD Resource Guide. Using an interactive audience response system at today's meeting, participants will vote for their preferences. Participants will be shown a variety of station types, and asked which types would be appropriate in various parts of the TBARTA region along corridors in the Mid-Tern and Long-Term Regional Networks. TOD design features, tools and strategies will also be discussed. Using this information, a TBARTA Station Typology matrix will be prepared for review at a future LUWG meeting.

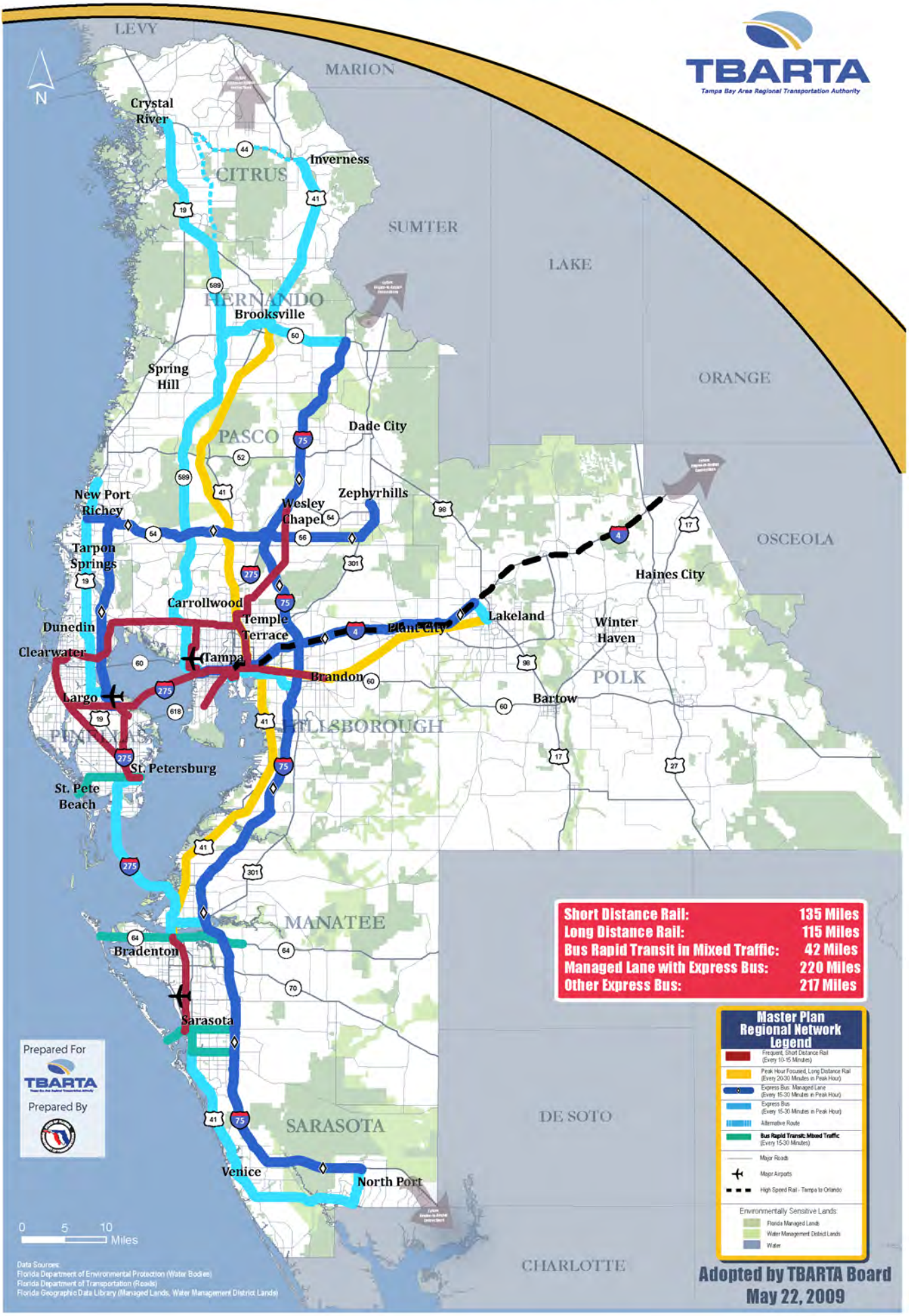
Attachments

- ❑ TBARTA Mid-Term and Long-Term Regional Networks

Mid-Term Regional Network



Long-Term Regional Network



TAMPA BAY AREA REGIONAL TRANSPORTATION AUTHORITY
LAND USE WORKING GROUP MEETING
JOINT MEETING WITH ONE BAY TECHNICAL TEAM/RPAC
JANUARY 8, 2010

ANNOUNCEMENTS

Agenda Item

Announcements

Presenter

Jennifer Willman, Jacobs/TBARTA

Avera Wynne, Tampa Bay Regional Planning Council

Summary

1. Next Joint Meeting for LUWG and One Bay/RPAC – March 5, 2010
2. One Bay Implementation Summit – Mid-April 2010
3. TBARTA Calendar

Attachments

- ❑ TBARTA Calendar

2010 TBARTA MEETINGS CALENDAR

Board meets on the last Friday of every month; CAC and TMC meets the preceding week on Wednesday of every month. (Exceptions: January, February, and May)

MONTH	CAC	TMC	BOARD	Other TBARTA Meetings
January	**January 13** 1:30pm to 4:00pm FDOT, District 7 Pelican Room	**January 13** 10:00am to 12:00pm FDOT, District 7 Pelican Room	**January 22** 9:30am to 12:00pm FDOT, District 7	**January 8** 8:30am CAC Operations Subcommittee Meeting USF Connect Building **January 8** 9:30am Land Use Working Group TBRPC **January 13** 11:00am CAC Land Use Subcommittee Meeting FDOT, District 7 Tarpon Room **January 15** 8:15am to 9:00am Executive Board Committee Meeting USF Connect Building **January 15** 9:15am (or directly upon adjournment of Board Executive Committee) Funding and Finance Committee Meeting USF Connect Building
February	**February 10** 1:30pm to 4:00pm USF Connect Building	**February 10** 10:00am to 12:00pm PSTA	**February 19** 9:30am to 12:00pm FDOT, District 7	**February 5** 8:30am CAC Operations Subcommittee Meeting USF Connect Building **February 12** 8:15am to 9:00am Executive Board Committee Meeting USF Connect Building **February 12** 9:15am (or directly upon adjournment of Board Executive Committee) Funding and Finance Committee Meeting USF Connect Building
March	**March 17** 1:30pm to 4:00pm USF Connect Building	**March 17** 10:00am to 12:00pm USF Connect Building	**March 26** 9:30am to 12:00pm FDOT, District 7	**March 5** 8:30am CAC Operations Subcommittee Meeting USF Connect Building **March 5** 9:30am Land Use Working Group TBRPC **March 17** 11:00am CAC Land Use Subcommittee Meeting USF Connect Building **March 19** 8:15am to 9:00am Executive Board Committee Meeting USF Connect Building **March 19** 9:15am (or directly upon adjournment of Board Executive Committee) Funding and Finance Committee Meeting USF Connect Building
April	**April 21** 1:30pm to 4:00pm USF Connect Building	**April 21** 10:00am to 12:00pm PSTA	**April 30** 9:30am to 12:00pm FDOT, District 7	**April 2** 8:30am CAC Operations Subcommittee Meeting USF Connect Building **April 23** 8:15am to 9:00am Executive Board Committee Meeting USF Connect Building **April 23** 9:15am (or directly upon adjournment of Board Executive Committee) Funding and Finance Committee Meeting USF Connect Building
May	**May 12** 1:30pm to 4:00pm USF Connect Building	**May 12** 10:00am to 12:00pm USF Connect Building	**May 21** 9:30am to 12:00pm FDOT, District 7	**May 7** 8:30am CAC Operations Subcommittee Meeting USF Connect Building **May 14** 8:15am to 9:00am Executive Board Committee Meeting USF Connect Building **May 14** 9:15am (or directly upon adjournment of Board Executive Committee) Funding and Financing Committee Meeting USF Connect Building

Last updated 1/4/10

June	**June 16** 1:30pm to 4:00pm USF Connect Building	**June 16** 10:00am to 12:00pm PSTA	**June 25** 9:30am to 12:00pm FDOT, District 7	**June 4** 8:30am CAC Operations Subcommittee Meeting USF Connect Building **June 18** 8:15am to 9:00am Executive Board Committee Meeting USF Connect Building **June 18** 9:15am (or directly upon adjournment of Board Executive Committee) Funding and Financing Committee Meeting USF Connect Building
July	Recess	Recess	Recess	Recess
August	**August 18** 1:30pm to 4:00pm USF Connect Building	**August 18** 10:00am to 12:00pm USF Connect Building	**August 27** 9:30am to 12:00pm FDOT, District 7	**August 6** 8:30am CAC Operations Subcommittee Meeting USF Connect Building **August 20** 8:15am to 9:00am Executive Board Committee Meeting USF Connect Building **August 20** 9:15am (or directly upon adjournment of Board Executive Committee) Funding and Finance Committee Meeting USF Connect Building
September	**September 15** 1:30pm to 4:00pm USF Connect Building	**September 15** 10:00am to 12:00pm PSTA	**September 24** 9:30am to 12:00pm FDOT, District 7	**September 3** 8:30am CAC Operations Subcommittee Meeting USF Connect Building **September 17** 8:15am to 9:00am Executive Board Committee Meeting USF Connect Building
October	**October 20** 1:30pm to 4:00pm USF Connect Building	**October 20** 10:00am to 12:00pm USF Connect Building	**October 29** 9:30am to 12:00pm FDOT, District 7	**October 1** 8:30am CAC Operations Subcommittee Meeting USF Connect Building **October 22** 8:15am to 9:00am Executive Board Committee Meeting USF Connect Building **October 22** 9:15am (or directly upon adjournment of Board Executive Committee) Funding and Finance Committee Meeting USF Connect Building
November	**November 17** 1:30pm to 4:00pm USF Connect Building	**November 17** 10:00am to 12:00pm PSTA	No Board Meeting this month.	**November 5** 8:30am CAC Operations Subcommittee Meeting USF Connect Building **November 5** 9:15am (or directly upon adjournment of Board Executive Committee) Funding and Finance Committee Meeting USF Connect Building
December	No CAC Meeting this month.	No TMC Meeting this month.	**December 10** 9:30am to 12:00pm FDOT, District 7	**December 3** 8:15am to 9:00am Executive Board Committee Meeting USF Connect Building **December 3** 9:15am (or directly upon adjournment of Board Executive Committee) Funding and Finance Committee Meeting USF Connect Building

Notes: Detailed meeting locations to be announced; see TBARTA Web Site for up-to-date information at: ***www.tbarta.com***
Florida Department of Transportation (FDOT) District Seven Office: 11201 N. McKinley Drive, Tampa, Florida 33612
Pinellas Suncoast Transit Authority (PSTA) Office: 3201 Scherer Drive, St. Petersburg, Florida 33716
Tampa Bay Regional Planning Council (TBRPC) Office: 4000 Gateway Centre Blvd., Suite 100, Pinellas Park, FL 33782
USF Connect Building: 3802 Spectrum Blvd., Tampa, FL 33612