Session #3

Streamlining Traffic Mitigation Fees

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Abstract

The City of Lacey rewrote the ordinance governing collection of fees to mitigate development impacts on the transportation system. Previously developers submitted traffic generation and distribution reports prepared by qualified traffic engineers. The impacts were reviewed and the mitigation required at each site in the City were iteratively negotiated. This process required substantial investment by the developer and the City. Funds collected could only be used on the specific project for which they were collected.

In developing a new ordinance, the City requested public input. Roundtable discussions included builders and developers. The application of mitigation fee formulas to commercial and residential projects, as well as trip generation and distribution methodology, were discussed in these sessions.

The final ordinance included trip generation reductions for commercial property and a per trip mitigation fee cap for residential properties. The ordinance also allows the City to pool money from various projects for a single project under certain circumstances, and mitigation fees can be collected for projects already built until the project costs are fully amortized. An additional result of the roundtable discussions is that the City developed a trip distribution map for each Traffic Analysis Zone (TAZ). A proposed development can use this distribution, or in the alternative may hire a traffic engineer to develop an alternative distribution to be negotiated as was done under the previous ordinance.

All of these tools are based on existing information. Trip distributions were plotted using the City's transportation model assembled as part of the Transportation Comprehensive Plan. All projects to be mitigated are listed in the City's Six-Year Transportation Improvement Plan.

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Background

Lacey is located at the southern end of Puget Sound between the City of Olympia and the Nisqually River. It is the second largest city in Thurston County with a population of 27,570. An additional 29,575 people live within Lacey's Urban Growth Boundary.

Interstate 5 runs through Lacey and two freeway interchanges are within the City limits. The busiest arterial is Martin Way with average daily traffic of 36,449 vehicles.

Lacey devotes $300,000 per year from the City's general fund toward transportation capacity improvement projects. The six-year Transportation Improvement Plan (TIP) identifies $62M in required projects. The $60M difference must be funded by grants, private financing, or debt. Approximately $26.5M of the TIP projects are currently funded.

The Old Way

Lacey developed and passed a traffic mitigation fee and transportation infrastructure ordinance (Lacey Municipal Code 14.21) as required by the Growth Management Act in the Revised Code of Washington (RCW) 36.70A. The City required any development generating more than 20 peak hour vehicle trips or sending 10 additional trips through a potential project to submit a traffic impact analysis prepared by a qualified traffic engineer. This analysis was reviewed and critiqued by City staff and returned for incorporation of comments. Eventually, through a series of meetings, phone calls, and correspondence, the impacts were agreed to. The time required to reach agreement varied widely; from several days to two months or more. Each "project site" through which more than 10 trips passed required mitigation to be paid based on the following formula:

> (Trips - 10) * (Project cost/projected capacity[(1)])
>
> [(1)] "Projected Capacity" was a consistent denominator based on the roadway classification and typical ultimate configuration after future improvements.

The first 10 trips through each project were essentially free. This provision was included to ensure that large developers would receive the same discount provided to smaller developments which did not generate sufficient trips to require a traffic impact analysis.

In addition to traffic mitigation fees, the Washington Growth Management Act requires the City to establish the acceptable Level of Service (LOS) and to certify that the infrastructure necessary to maintain the established LOS is in place at the same time as growth generates new volumes/users. The common term for this requirement is "concurrency", indicating that infrastructure must be concurrent with growth. The City and the Regional Transportation Planning Organization (RTPO) established Level of Service (LOS) standards for the transportation system. In Lacey, a LOS of 'E' is

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acceptable for urban core areas (typically consisting of dense retail and commercial) and LOS 'D' is required for all other areas. Any degradation to the LOS is identified during the traffic analyses. If the TIA for a development indicates that the LOS will be degraded below the established standard, triggering the concurrency requirement, the development will not be approved unless the developer agrees to construct adequate improvements to restore an acceptable LOS as a condition of approval. The result is a disproportionate burden on any property which delays development until existing transportation capacity is depleted.

Additional constraints on the City under the previous ordinance were that mitigation fees paid for a project could only be applied to that specific project and after project construction mitigation fees could no longer be collected. Under these constraints, a facility could be expected to fail to meet the established LOS long before adequate funding was available to construct additional capacity. No developments could be approved unless the proponent agreed to fund the entire remaining project shortfall, and no additional mitigation fees for a failed project site could be collected because the concurrency provisions of the GMA precluded the City from approving additional developments.

The Change Process

The concurrency provision of the Washington Growth Management Act was cited by the Lacey Hearing Examiner upon examination of the Traffic Impact Analysis (TIA) for a development which routed more than ten trips to the intersection of Marvin Road and Interstate 5 (I-5). This freeway interchange includes a city street on the north leg (Marvin Road), a state highway on the south leg (State Route 510), and the interstate highway running east-west.

The TIA for this development indicated that any additional trips lowered the LOS E, and the LOS established by ordinance for this interchange was D. In essence, the hearing examiner found that no development routing more than 10 trips to this freeway interchange could proceed until capacity improvements were financially guaranteed. At that time it was anticipated that the needed improvements would cost approximately $12 million. No federal or state funds were available to expand this interchange (ca 1995). This de facto development moratorium affected several hundred acres and several large developments which had already paid approximately $15M to extend water and sewer service to their parcels.

The inability to continue to collect fees after a project is built created an extreme financing problem for the interchange improvements at Interstate 5 and Marvin Road (State Route 510). One option was to debt finanance the construction, but the City had no way to generate revenue for loan repayment since mitigation fees were not collected after project completion. Another option was to lower the LOS. This was undesirable because large areas served by the needed project is zoned industrial and commercial, and includes a free trade zone. Lowering the LOS would reduce freight mobility and hinder the City's efforts to attract development to these areas.

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A third option was private financing for the project. The City was asked by several property owners to establish a Local Improvement District (LID) to fund the transportation improvements required to provide an adequate LOS and allow them to develop their land. A LID is a mechanism by which the City finances the project with municipal bonds and the benefiting property owners repay the bonds via property assessments over 15 years. Washington state law is quite specific regarding assessment of property owners for improvements. A property's value must increase by more than the costs of improvements as a result of constructing such improvements. This increase in appraised value is termed "special benefit". This requirement applies to each parcel individually. In addition, if for any reason a property is not required to reimburse the full proportionate share (based on proportionate special benefit) of costs, the shortfall must be specifically paid by another entity.

The initial analysis of the benefit district revealed that the area would be large; even huge. The freeway interchange serves all of eastern Thurston County as far as the City of Yelm, which is 13 miles from the freeway. It was impractical to form a LID that large, but to except parcels which received benefit is not fair nor is it allowed by state law. An additional concern was the inequity of assessing all properties within the LID boundary, even if they generate fewer than 10 trips, while exempting similarly benefited properties outside of the boundary which generate fewer than 10 trips.

The "crisis" which the City faced in developing a financial plan for construction of a new freeway interchange within all of the constraints of state law and the existing transportation mitigation fee ordinance was the impetus behind the complete revision of the transportation mitigation fee ordinance. There were two other areas of the City in which LOS had failed, also. The City Council passed resolutions to guarantee that these areas will be mitigated in accordance with GMA requirements, but it was becoming apparent that the existing process would probably not generate the funds required to meet the 6-year deadline which the GMA imposed.

Other areas of the City were also experiencing LOS and concurrency concerns. Many large developments were submitted with phases structured such that Phase I did not send more than 10 trips through any area where LOS was a concern or per trip mitigation fees were high. The result was that the City was not collecting adequate mitigation fees to improve the transportation system and many parcels were unable to develop because all capacity had been allocated. Development was still occuring and additional trips were continuing to degrade the LOS of the transportation system.

The City recognized that this was an opportunity to improve customer service while revising the process for computing and collecting transportation mitigation fees. Major complaints from the development community regarding the City's traffic mitigation process included: projects took too much time to be approved, they were paying too much money for traffic engineering, and they could not determine what the traffic mitigation

costs would be prior to buying land. All of these complaints were compounded by the iterative negotiation process to settle on traffic impacts.

Informal discussions between City staff and developers revealed that most developers were willing to pay their fair share for necessary transportation projects. It was agreed to initiate a formal process for revision of the City's ordinance which included input from developers, builders, and traffic engineers.

The New Way

After a series of roundtable discussions which included parties who computed and paid traffic mitigation fees, the City proposed a new traffic mitigation fee ordinance. The 10-trips "free" threshold was eliminated after research revealed that only 4 short plats had been reviewed in the previous 4 years. A short plat is any development creating 9 or fewer residential lots. Other terms of the new ordinance included:

a) A residential per trip cap of $1,040 was established. This cap is escalated each July 1 based on the Construction Cost Index as reported by "Engineering News Record".
b) Commercial development pays mitigation on 50% of their trips. This was justified by:
    1) considering that most of these trips have been paid for "at the other end" by residential development,
    2) GMA and RCW 39.92 require that the City consider the future tax revenues generated by new development when analyzing impacts. It is also consistent with how neighboring jurisdictions assess traffic mitigation on commercial development.
c) A $500 trip mitigation fee for the Interstate 5 interchange at Marvin Road is established and this fee is not included under the residential cap or commercial discount. In other words, *every* trip going to the interchange pays $500.
d) The mitigated project list is the 6-year Transportation Improvement Plan.

In addition, the City agreed to provide a simplified alternative for establishing traffic mitigation. The City created a "traffic atlas" in which trips are generated from each Traffic Analysis Zone (TAZ) and a traffic distribution map is created for each TAZ. The distribution is based on the existing transportation model. The resulting percentages are applied to the traffic generation of any new development within that TAZ. Any project within a TAZ may apply this pre-distribution to their traffic generation. The City computes traffic generation for a project on request and a table is generated showing how many trips impact each project. No consultant is required and the proponent receives the tabulation of project traffic mitigation fees in one week or less. Any project generating fewer than 50 trips is eligible to use the simplified procedure.

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The new formula to compute traffic mitigation fees for a project is:

(# trips / projected capacity) * project cost

- # trips = the number of adjusted trips (50% for commercial) impacting project
- projected capacity = vehicle capacity at project completion based on typical configuration for street classification (minor collector, etc.)
- project cost = the planning estimate for the project included in the City Transportation Improvement Plan (TIP)

The residential cost cap is applied to the total trips generated. For example, if the total mitigation for a residential development generating 40 trips were $50,000, the cap would result in a total mitigation of $41,600. The fees collected are prorated to each project. For example, a project for which full mitigation would be $10,000 is allocated (41,600/50,000)*$10,000 equals $8,320 using the previous figures.

The new process also allows the City to pool project funds in order to construct improvements. If a development pays to mitigate 6 different projects, the development's total fees may be applied to 1, or fewer than 6, of those projects. Mitigation fees can also be collected after the project is completed because the new ordinance is pursuant to RCW Chapter 39.92, "The Local Transportation Act". This allows future mitigation fees for completed projects to be used to "repay" the incomplete projects from which construction funds were pooled or "borrowed".

Concurrencey still applies and the potential that a development will have to construct significant off-site transportation improvements exceeding a fair share remains. Under the new ordinance, a developer can recoup a portion of excess expenses from mitigation fees paid by others for the necessary improvements after the project is completed. For example; if a developer's fair share of a project is 20% and 80% of the project costs are required to be contributed due to concurrencey, the developer will receive 60% of future mitigation fees collected for that project (80% contribution - 20% fair share = 60% excess contribution).

How is it Working?

The new procedures have a high level of acceptance because it is simpler, quicker, and more predictable. This increased level of acceptance has occurred in spite of the fact that the City actually collects more in traffic mitigation fees than under the previous methodology.

One of the major complaints about the old system was that a developer would not know how much traffic mitigation would cost until they had purchased the land and were far into the Site Plan Review process. The new system, with pre-distributed traffic volumes and known per trip mitigation costs, allows a developer to generate a close estimate of traffic mitigation fees for proposals prior to obligating themselves to property purchases.

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A major advantage to the City is the ability to pool money amongst projects, thus creating adequate capital to actually complete projects within the 6-year time frame in which the collected funds must be spent. Also, future mitigation fees can be estimated and used as local match on grant applications. Staff time devoted to review and negotiation of traffic impact analyses has been significantly reduced; an important benefit to a personnel-limited agency. (The City of Lacey Engineering Division Transportation Section consists of two full-time employees and as many interns as we can get.)

The end result has been a win-win process in which the collection of traffic mitigation fees has improved the predictability of costs for developers and enhanced financial flexibility for the City.

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