

DATE: January 27, 2015
STAFF: Karen Cumbo, Director of PDT
Rick Richter, Director of Infrastructure Services

WORK SESSION ITEM
City Council

SUBJECT FOR DISCUSSION

Status of the Adequate Public Facilities Ordinance.

EXECUTIVE SUMMARY

The purpose of this item is to discuss the status of Land Use Code (LUC) Section 3.7.3 - Adequate Public Facilities Ordinance (APF) in order to review the APF requirements and identify the next steps in exploring revisions to the ordinance.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Discussion of next steps.

BACKGROUND / DISCUSSION

In 1997, the City adopted Section 3.7.3 of the Land Use Code in order to establish an ongoing mechanism that ensured that public facilities and services needed to support development are available concurrently with the impacts of such development. Ordinances governing “concurrency” of public facilities such as transportation, utilities, and others generally operate in conjunction with specific land use requirements related to development. In Fort Collins, APF provisions are in addition to other requirements for infrastructure that are needed to serve a particular development. For transportation, the adoption of the APF Ordinance was intended to strengthen an already existing Street Oversizing Program (SOP) that was established in 1979. The SOP continues today and is a capital expansion fee program that collects revenue from new developments specifically to mitigate communitywide traffic impacts. The SOP collects revenues intended to be used for the design and construction of arterial and collector streets citywide, and is in addition to obligations for local street improvements needed for development. The system improvements necessary to build the Master Street Plan are intended to be funded by a combination of funding sources including City of Fort Collins Capital Funding (to address existing deficiencies and broader, system-wide improvements not directly related to development) and developer contributions (to address new impacts as identified in Traffic Impact Studies). Developer contributions are addressed by collecting Street Oversizing fees at the time of development and by requiring certain road improvements to be built by the developer at their cost. The collection of Street Oversizing fees cannot be used to address existing deficiencies that are not related to development.

There have been questions raised about the implications of the APF ever since it was adopted. Staff files include memos and notes from 2000, 2003, 2007, 2013, and 2014. A memo was sent to Council in September 2014 that recommends consideration of these issues:

- Updating of the Street Oversizing Program to verify the basis for assessing the proportional cost of transportation improvements (including new standards for sidewalks, landscaping, etc.);
- Evaluation of how redevelopment and infill impacts on public facilities differ from “greenfield” development and incorporate the differences into new requirements;
- Evaluation and drafting of alternative compliance methods like demand management strategies or other methods that would reduce the need for traditional infrastructure improvements;

- Identification of a funding/financing strategy for the construction of existing deficiencies and costly projects such as the above-grade crossing at Vine and Lemay or Timberline and Lemay improvements. A strategy is needed since a portion of these improvements were needed at the time the APF Ordinance was enacted; however a current funding source has not been identified. Because the need for these long-standing projects is not entirely tied to development impacts, financial responsibility cannot be assigned solely to development.

ATTACHMENTS

1. Memo re: Adequate Public Facilities, September 11, 2014 (PDF)


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MEMORANDUM

TO: Mayor and Councilmembers

THRU: Darin Atteberry, City Manager *DA*
 Jeff Mihelich, Deputy City Manager *J.M.*

FROM: Karen Cumbo, Directory, Planning, Development and Transportation *KC*

SUBJECT: Adequate Public Facilities Ordinance

DATE: September 11, 2014

Bottom Line: The City's Adequate Public Facilities (APF) Ordinance requires developers to ensure that their proposed development does not cause the Level of Service (LOS) to fall below established standards for transportation, storm drainage, electricity, water, wastewater, and fire/emergency services. The City's ordinance does not limit a developer's responsibility to a "proportionate share" of the improvements, which creates a situation where a particular project, regardless of size, would be denied unless the needed improvements are built. These improvements could be out of scale with the impact of any individual project. This has resulted in significant barriers to implementation of the City's comprehensive plan, CityPlan. Staff recommends that the City develop an approach similar to the concurrency management system established in the state of Washington.

Background: The City adopted an APF Management System to "ensure that public facilities and services needed to support development are available concurrently with the impacts of such development" (LUC 3.7.3(A)). This is operationalized in Fort Collins primarily in the Street Oversizing Program (SOP), which establishes fees based on transportation impacts (see Attachment 1). The SOP recognizes that not all traffic impacts can be attributed to new development, and the program includes an annual General Fund contribution. In addition, some "mega-projects" such as the Vine/Lemay railroad overpass were not included in the SOP formula, at least partly because the need for the Vine/Lemay overpass was related to the location of the railroad switching yard and the community's desire to buffer the residents of Andersonville and Alta Vista neighborhoods (Attachment 2).

The City is now in the position of rejecting proposed developments because the traffic from those developments could be the tipping point to reduce the required levels of service at intersections. Staff is recommending that the City suspend the existing APF provision in order

to avoid requiring any more than a proportional share contribution or requiring a single developer to fund the entire cost of an off-site improvement in order to get approval.

State of Washington Experience: Like many other states, Washington passed a Growth Management Act (the “Act”) in 1990 that requires local governments to establish concurrency management systems for transportation, and it has been successfully implemented. Under the Act, concurrence means that improvements must be in place at the time of development or that a financial commitment is in place that demonstrates they will be in place in six years. The Act requires that local jurisdictions have a program and funding source to correct existing deficiencies and bring existing transportation facilities and services up to locally adopted standards. A developer may not be required to pay for improvements to correct existing deficiencies, and if a developer elects to pay for an improvement that increases capacity beyond their expected demand, the excess costs must be credited back to the developer (Washington Municipal Services Research Center). Transportation demand can also be mitigated with other strategies such as ridesharing, project redesign, phasing, etc. Local jurisdictions in Washington are also discouraged from designating land uses (for development) unless there is a realistic financial plan to provide the improvements to serve those uses. Local governments in Washington have flexibility in establishing standards, and can make a choice to accept congestion rather than limit development, but not on a project by project basis.

Current Fort Collins situation: The City of Fort Collins has adopted a comprehensive land use plan (CityPlan), and several sub-area plans, including plans for the northeast and southeast portions of the City’s Growth Management Area (GMA). Although much of the City’s current growth is redevelopment of neighborhoods in the center of the City, opportunities for economic growth and affordable housing are constrained in the eastern areas because of the significant and longstanding infrastructure needs in those areas. This includes the Mountain Vista Area in the northeast, the Mulberry corridor, and other important gateway areas. The infrastructure needs, including several large transportation projects, are not attributable to current growth needs. For example, the Vine/Lemay grade-separated crossing mentioned above has been of concern to the City since 1982. Other projects, such as Prospect Road from I25 to the Poudre River, are impacted more by regional transportation demands than new development.

Staffs from transportation and land use departments have met with representatives from Utilities and the City Attorney’s office for several months. City staff recommends that the City’s APF ordinance be suspended to address these issues:

- Review the Street Oversizing Program as the appropriate basis for assessing the cost of transportation improvements (including sidewalks, landscaping, etc.) to developments based on their proportional impacts;
- Explore how redevelopment and infill might generate different impacts and needs for transportation facilities than “greenfield” development.

- Provide some flexibility for “alternative” compliance through demand management or other strategies to reduce the need for traditional infrastructure.
- Identify a financing strategy for the construction of “existing deficiencies” and mega-projects such as Vine/Lemay. The annual General Fund contribution to the Street Oversizing Fund addresses some of this gap for the improvements that are included, but this program has never been fully funded, limiting its funding capacity. The Vine/Lemay overpass is not included in the SOP formula.

The Vine/Lemay intersection is not the only project affected by the APF stalemate; it is just the largest and most complicated. The current study of options for that project (overpass, underpass, at grade) is almost complete, so we will have some data to inform that “exception” approach in the very near future.

Suspension of the APF ordinance does not eliminate or reduce any fees or obligations to build public improvements to serve a particular development. All requirements are addressed in other sections of the Municipal Code and the Land Use Code, and will not be affected by suspension of the APF requirements.