
**EXECUTIVE SUMMARY
MAYOR AND BOARD OF ALDERMEN**

Submitted By: Cherian Eapen, Manager, Traffic Engineer – Eng. Dept. **Date:** 2/20/2019

Presented By: Cherian Eapen

Other Staff Present:

Zack Kershner, Director of Public Works
Tracy Coleman, City Engineer
Joe Adkins, Deputy Director for Planning
Gabrielle Collard, Division Manager of Current Planning
Rachel S. Depo, Assistant City Attorney

Meeting Dates

Workshop: 10/3/2018
 2/6/2019 (General Procedures)
 2/13/2019 (Schools)
 2/27/2019 (Water and Sewer)
 3/6/2019 (Roads)

Agenda Item: Discussion of the City’s Adequate Public Facilities Ordinance (APFO)-Roads

Background Information:

General

In October 2018 Staff initiated a discussion of the City’s Adequate Public Facilities Ordinance (APFO) as the first in a series of workshops focusing both on the general application of the ordinance and on the individual components of the APFO.

This workshop will focus on the APFO testing exemptions and requirements for Roads under Section 4-5 (General Exemptions), Section 4-11 (Certificate of adequate public facilities for roads or CAPF-R), Section 4-16 (Mitigation), and Section 4-17 (Escrow funds for road and intersection improvements) of the ordinance as well as Section 1203 (Traffic Impact Study Guidelines) of the Land Management Code (LMC). These sections provide guidelines on how APFO shall be tested for roadway infrastructure adequacy considering various exemptions and regulatory/technical requirements.

1) Purpose

As noted in Section 4-2 (Applicability) of the ordinance, except as provided for in Section 4-5, the requirements of Chapter 4 applies to every new or pending development within the City. Specifically, the objective of APFO testing for Roads is to determine the capacity and adequacy of intersections and roadway segments within an area of impact determined for a specific development, to ensure that the transportation infrastructure within this area is adequate to serve future demands placed on the system by the development at build-out.

 *Should the APFO testing requirements for intersections and roadway segments be expanded to include adequacy tests for pedestrian, bicycle, and transit infrastructure as well?*

2) General Exemptions (Section 4-5) and Roads Exemptions (Section 4-11(a), (b))

As noted at previous APFO workshop sessions, Section 4-5, General Exemptions, exempts the following from APFO testing:

- a. all City projects,
- b. residential development that does not add new units,
- c. small residential developments (five or fewer dwelling units),
- d. any non-residential development for which a final site plan has been unconditionally approved and which has received an allocation through a water contract executed prior April 15, 2007, and
- e. any residential development with allocation contracts executed prior to April 15, 2007.

The above General Exemptions are further clarified within Section 4-11, APFO testing for Roads, sub-section (a), by noting that a development is exempted from testing if:

- a. a preliminary or final subdivision plat, final site plan, or master plan for the development was unconditionally approved prior to April 15, 2007,
- b. the development generates 15 or less new peak-hour trips, or
- c. the development is to be constructed entirely on a lot of record as long as the development does not require more than 20% increase in road capacity over the existing development and consists solely of one or more of the following:
 - i. The change of use of a structure existing as of April 15, 2007;
 - ii. The renovation, with no addition of square footage, of a structure existing as of April 15, 2007;
 - iii. The construction of an addition of five thousand (5,000) square feet or less to a structure existing as of April 15, 2007;
 - iv. The demolition of a structure existing as of April 15, 2007 and replacement with a structure no more than five thousand (5,000) square feet larger than the one demolished.

Additionally, Section 4-11(b)(1)(B) of the ordinance exempts the following highway segments from testing:

- a. I-70;
- b. I-270;
- c. U.S. 15; and
- d. The section of U.S. 40 between I-270 and U.S. 15.

All other road segments, including county and state roads, are subject to the requirements of this section.

And, per Section 4-11(b)(1)(D) of the ordinance, if the City APFO adequacy threshold criteria specified in Section 4-11(b)(1)(A) (i.e., LOS D) cannot be achieved without alteration or removal of existing structures, the Planning Commission may (in its sole discretion) conclude that the existing roads and intersections are adequate so long as the Planning Commission finds that the developer has incorporated as much mitigation as reasonably possible.

 *Should the APFO exemptions be revised to exempt only public projects and developments that are within the de minimus threshold (less than 5 peak-hour trips) so that incremental traffic impacts from developments that may otherwise negatively impact the system can be regulated?*

3) Process

As part of the planning, engineering, and design review process of a non-exempt development or redevelopment, as determined through the APFO Testing Application for the development, the traffic consultant for an applicant is required to initiate the process of preparing a Traffic Impact Study (TIS) for the development first through the submission of a TIS Scoping Form.

Per Section 1203 of the LMC, a development is required to submit the TIS when the proposed development is estimated to generate more than 50 peak-hour trips on a weekday and 100 peak-hour trips on a weekend day. The traffic study parameters are then determined through a collaborative effort (involving Frederick County and Maryland State Highway Administration staff, as needed, depending on the location of the development site) and using guidelines and standards set within Section 1203 of the LMC, as required by Section 4-11(b) of the ordinance. The DRAFT TIS prepared by the applicant is then reviewed by staff for impact on the built and planned/unbuilt transportation infrastructure by the proposed development. The review determines the adequacy of intersections and roadway segments based on adopted City procedures and standards/thresholds under build-out conditions, and proposal by the applicant to mitigate impacts, if any. The review process is completed with the acceptance of a final TIS that meet the regulatory requirements, upon which either a Full (non-conditional) or a Provisional (conditional) Roads Certificate is issued to the applicant to advance the development forward for Planning Commission Workshop. If the final TIS cannot meet the adequacy thresholds with mitigation, the Certificate of adequacy is then denied.

✓ *The overall APFO review process for Roads works well today and Staff therefore is NOT recommending any changes to the general APFO testing process.*

✓ *However, Staff recommends changes to specific language within the LMC to address inconsistencies between the testing threshold requirements for a TIS within the ordinance and information contained in Section 1203 of the LMC.*

◇ *Should the timing for APFO testing be redefined to be primarily at subdivision?*

4) Testing Thresholds/Determination of Adequacy (Section 4-11(b), Section 1203 of the LMC)

The adequacy requirements or review thresholds are currently set within Section 4-11(b) of the ordinance and require all analyzed roads and intersections to maintain a Level of Service (LOS) of D or better (i.e., either LOS A, B, C, or D) for adequacy on all evaluated road segments, for each turning movement at an intersection, and for the overall intersection. For each turn lane in the study area, the 95th percentile queue length is also required not to exceed the length of the existing or proposed turn lane. It is noted that a facility may in some cases still require mitigation where the LOS meets the criteria, but changes its category by two or more levels.

The exemptions to APFO testing, threshold to prepare a TIS for APFO testing, technical methodology to perform the analysis, etc. are outlined in Section 1203 of the LMC.

As noted before, in cases where an impact has been identified, but the criteria for adequacy cannot be achieved without alteration or removal of existing structures, the Planning Commission may (in its sole discretion) conclude that the existing roads and intersections are adequate so long as the Planning Commission finds that the developer has incorporated as much mitigation as reasonably possible. Within the already built and constrained areas in the City, this provision (Section 4-11(b)(1)(D) of the ordinance) leads to “waiver” from physical improvements since there are no viable options to mitigate impacts.

✓ *Staff is NOT recommending any changes to the APFO testing threshold levels or technical criteria.*

◇ *Should new APFO review standards or a peak-hour trip fee be adopted for developments or redevelopments that generate 5 or more, but 50 or less peak-hour trips?*

 *Should a “mobility” fee option based on peak-hour trips be required for developments or redevelopments within a defined area of Downtown or other defined/targeted growth areas within the City in-lieu of APFO testing for Roads, to eliminate “waivers”, with the fee targeted toward pedestrian, bicycle, and transit improvements within the defined area(s)?*

5) Mitigation/Use of Escrow Funds for Improvements (Section 4-11(d), Section 4-16, and Section 4-17)

A development may mitigate its impact as described in Sections 4-11(d) and 4-16 of the ordinance by developing a set of improvements that will directly address its impact. These include a Public Works Agreement (PWA) to financially guarantee and complete certain identified intersection and/or roadway improvements or a Mitigation Agreement (MA) that allows a phased mitigation plan that offsets the impact of a development with a set of identified intersection and/or roadway improvements.

In certain circumstances, an applicant may also mitigate the impact of a proposed development at an intersection or along a roadway by contributing a proportional or pro-rated share of the cost to implement an improvement project by the City as set forth in Section 4-17 of the ordinance. Approval for an escrow payment request, contribution amounts, availability of funds from already established escrows to complete the improvement, maintenance of the escrow accounts and refunds, etc. are guided by provisions within Section 4-17 of the ordinance. The establishment of any new escrow account must be approved by the Mayor and Board of Aldermen.

6) Looking Ahead

As movement of people and goods take new forms of mobility, the requirements for APFO testing for Roads may consider new mobility options that will become available to residents and businesses.

 *Should the City adopt new modes of travel and mobility options such as ride-sharing, self-driving vehicles, electric scooters, etc. within the APFO?*

Committee Recommendations if Applicable: N/A

Fiscal Impact: N/A

Recommendation: N/A

Supporting Documentation:

Director: _____ **Date:** _____

Concurrence Needed:

	Initials	Date	Email
<input checked="" type="checkbox"/> Legal:	_____	_____	<input type="checkbox"/>
<input type="checkbox"/> Budget:	_____	_____	<input type="checkbox"/>
<input type="checkbox"/> Finance:	_____	_____	<input type="checkbox"/>
<input type="checkbox"/> Purchasing:	_____	_____	<input type="checkbox"/>
<input type="checkbox"/> Public Works Operations:	_____	_____	<input type="checkbox"/>
<input checked="" type="checkbox"/> Engineering:	_____	_____	<input type="checkbox"/>
<input type="checkbox"/> Parks and Recreation:	_____	_____	<input type="checkbox"/>
<input type="checkbox"/> Planning:	_____	_____	<input type="checkbox"/>
<input type="checkbox"/> Police:	_____	_____	<input type="checkbox"/>
<input type="checkbox"/> Human Resources:	_____	_____	<input type="checkbox"/>
<input type="checkbox"/> Economic Development:	_____	_____	<input type="checkbox"/>
<input type="checkbox"/> Other:	_____	_____	<input type="checkbox"/>