



MEMORANDUM

The Department of Community Development

Planning

455-3900

To: Planning Commission
From: Tom Martin, AICP, City Planner
Subj: Institutional Districts Ordinance
Date: January 23, 2013

At the January 9, 2013, Planning Commission meeting a public hearing was conducted concerning the creation of Institutional Districts. After the public hearing, the Planning Commission discussed the comments on the draft ordinance provided January 8, 2013 by Mr. Rick Youngblood, Lynchburg District Transportation Planning Manager for the Virginia Department of Transportation (VDOT). Planning Commission directed staff to provide a written response to each comment and to meet with representatives from VDOT and Liberty University to discuss the submitted comments.

On January 15, 2013, City staff convened a meeting with representatives from VDOT, and Liberty University. Representatives in attendance were: Kim Payne, City Manager; Bonnie Svrcek, Deputy City Manager; Walter Erwin, City Attorney; Kent White, Director of Community Development; Marjette Upshur, Director of Economic Development; Dave Owen, Director of Public Works; Lee Newland, City Engineer; Donald DeBerry, City Traffic Engineer; Rob Fowler, Zoning Administrator; Tom Martin, City Planner; Jerry Falwell, Jr., Chancellor, Liberty University; David Corry, General Council, Liberty University; Herschel Keller, Council, Liberty University; Robert Guercia, Lynchburg District Acting District Administrator, VDOT; Jorg Huckabee-Mayfield, Lynchburg District, Director Transportation and Land Use, VDOT; Rick Youngblood, Lynchburg District Transportation Planner, VDOT and Gerry Harter, Lynchburg Area Traffic Engineer. At the meeting, City staff provided an overview on the background of the Institutional Districts Ordinance, outlined the City's understanding of VDOT comments and discussed City staff's position on the comments.

VDOT provided nineteen (19) individual comments related to the draft ordinance. All of the comments were not related to transportation and the remaining can be placed into four (4) areas:

1. Traffic impacts based on Level of Service (LOS) standards.
2. Master plan not required for IN-2 Districts.
3. Traffic study not required for IN-2 Districts.
4. Impacts of incremental growth.

City staff understands that large institutions such as Liberty University are unique in the timing and funding mechanisms by which they expand. This uniqueness presents a challenge when attempting to apply typical zoning and traffic analysis requirements. Large institutions also provide significant positive regional impacts. These impacts include but are not limited to: Education, Culture, Recreation and the Regional Economy. Just as large institutions provide positive impacts they also present impacts related to the regional transportation network. These impacts are often difficult to understand, and this has resulted in the need for a different solution other than requiring impacts to be mitigated solely by the institution.

During the meeting, VDOT was asked several times what specific language changes they would recommend to the ordinance to address their concerns. VDOT reiterated that their comments did not constitute a requirement; rather VDOT was more interested in garnering a better understanding of expected growth at Liberty University to assist with regional transportation planning efforts. Although funding for significant transportation improvements is currently unlikely, having information included in regional plans could result in state and or federal funding, as it becomes available.

After a positive discussion, it was determined that the solution could only be built upon partnerships, relationships and continued communication between Liberty University, VDOT and the City. The mechanism for this to occur currently exists, in the form of the Metropolitan Planning Organization (MPO) and the supporting Transportation Technical Committee (TTC) which focuses on regional transportation issues. It was agreed that adding a representative from Liberty University to the MPO and the TTC would be a better method of planning for and mitigating regional transportation impacts rather than adding requirements to the current ordinance draft.

While there is agreement that substantial changes to the draft ordinance are not the best solution, planning staff has prepared the following responses to the comments provided by VDOT as directed by the Planning Commission:

1. Page I, definition of LOS: LOS is not a scale that measures the amount of traffic that a roadway or intersection can accommodate-that would be "capacity".
RESPONSE: The definition for Level of Service (LOS) is proposed for revision upon input from the City's Transportation Engineer, Donald DeBerry and is based upon FHWA HRT-04-091, August 2004, Chapter 7. The proposed revised definition is:

"Level of Service (LOS) – A scale that measures the amount of traffic that a roadway or intersection can effectively and efficiently accommodate, based on such factors as volume, capacity, queues and delay. LOS is graded on a scale of A thru F, where LOS-A is free-flowing traffic and LOS-F is a condition where traffic flow is unstable and excessive delay and queuing is expected."

The ordinance is drafted under the premise that a LOS of D or above is acceptable for roadways serving institutions in the IN-1 District.

2. Page I, 1 a. It is unclear how the creation of Institutional Districts will create development standards to "minimize off site impacts such as ... traffic." No provision appears to do this and there is no actual requirement for the mitigation of impacts through transit or pedestrian (or other) improvements even in the Concept Plan (1.2.b).

RESPONSE: Development Standards for IN-1 Districts are listed in Section 35.1-38.3d. The IN-2 Districts could benefit from clearly indicating setbacks, etcetera are similar to that of B-5, General Business Districts. Again, the ordinance is drafted under the premise that a LOS of D or above is acceptable for serving institutions located in the IN-1 District. In order to maintain this level of service a variety of methods could be used, such as pedestrian, bicycle, mass transit, park and rides, access management. These improvements would be

indicated in the TIA submitted with the rezoning application for IN-1 Districts. Section 35.1-38f states that improvements necessary to maintain a LOS D and directly attributable to the institution would be the responsibility of the institution.

For IN-2 Districts please see response to number 11.

3. Page 2, definition of residence or residential: the definition exempts for setback purposes any properties owned, leased, or used by the institute-but any use other than "owned" suggests that it is temporary and so could create future problems or issues with setback once the lease (or "use") has terminated and could impact future property values.

RESPONSE: Comment not related to transportation.

4. Page 2, concept plan with 2-year projection: a concept plan of only two years duration is extremely short for something that exempts a vast majority of uses from approval. Why are IN-1 institutions required to submit a Conceptual Plan when IN-2 institutions are not? It would seem that an IN-2 institution (due to its size) has a greater potential to have off-site impacts than an IN-1 institution.

RESPONSE: Early in the City's conversations with institutional stakeholders, it was explained that planning beyond two (2) years for institutions is speculative, due to funding. Stakeholders expressed that planning beyond the two (2)-year horizon for them was futile, and desired to not be regulated or made to go to the expense of preparing plans beyond a two (2)-year period. The current draft does not require IN-2 institutions to prepare a concept plan. This is due to the different nature of large scale institutions and their location being in areas primarily of a "non-residential" nature.

5. Page 2, permitted and accessory uses do not have to be shown in concept plan: how would a reviewer know if adequate transportation (and other infrastructure) is available to serve the development if the actual planned or expected uses are not shown?

RESPONSE: The concept plan would not have to show location of specific uses; however, the TIA or traffic study required in Section 35.1-38.3b(2)b would require the institution to project the amount of growth that would degrade LOS below "D". While the concept plan would not need to be specific in where the growth would occur, the TIA would need to account for it.

6. Page 3, traffic study regarding below LOS D: This would only apply to LOS E or LOS F, which can cover a broad range of V /C ratios. In fact, at LOS F, the level of the F is vitally important-and V /C ratio, delay, or a similar measure should be used instead. This also should apply to other mentions of TIS (pages 5 and 9).

RESPONSE: See response to number 1.

7. Page 3, permitted by right and conditional uses: new access points to residential city streets are listed as requiring a conditional use permit, but what about access points to other streets or highways?

RESPONSE: The Zoning Ordinance is only relevant to what is regulated by the city. If an institution proposed a new connection to a state maintained road or highway, they would be required to obtain and meet permitting requirements of VDOT.

8. Page 3, standards: the height requirement (I assume, building and sign height limitation) is equal to distance from adjacent residential use-so if it is not adjacent to residential use it is unlimited?

RESPONSE: Comment not related to transportation.

9. Pages 4 and 5, new concept plan required if proposed development lowers LOS below D: Does the city require the submission of a TIA with each site plan/construction approval? If not, who is going to determine if LOS is reduced below D? (Also, the requirement is for "city streets" when it should be for "public streets and highways".)

RESPONSE: *The draft ordinance proposes a "Transportation Impact Analysis" (TIA) at the time zoning to IN-1 is requested. This TIA would state the amount of development that could occur prior to the LOS being degraded below a LOS "D". A separate TIA with each site plan submittal would not be required. The City's Technical Review Committee (TRC) reviews all site plan submittals and would determine the point at which site plan approval would exceed development indicated in the TIA that would degrade LOS below "D". We are generally in agreement to include the terms "public streets" and "highways", provided that VDOT understands we have no regulatory control over State right-of-way.*

10. Page 4e. It is unclear what would trigger the requirement for a site plan, or whether the plan is required for the entire campus or a single project interior to it. The relationship between the site plan and concept plan is unclear. How would a site plan generate the information in 1 and 2?

RESPONSE: *The draft ordinance provides the following definition of "concept plan":*

Concept Plan – A generalized, illustrative plan indicating how off site impacts such as traffic, water and sanitary sewer availability/capacity, lighting and noise are mitigated and providing an assessment of existing and future development of the institution's campus, including buildings, parking areas, recreational facilities, open space and access points to city streets. In addressing off site impacts related to traffic, the city encourages the institution to include improvements for sustainable alternatives such as: provisions for bus service, sidewalks and pedestrian crossings, pedestrian trails and bicycle trails, connected internal site circulation or park and ride lots which could, if implemented, improve the Level of Service (LOS) standards on city streets serving the institution.

Concept plans are related to the entire campus of the institution.

The draft ordinance states that a new concept plan would be required when the TRC determines that in approving a site plan, LOS would degrade below "D", adequate water and sewer infrastructure is unavailable or a period of five (5) years has passed since approval of the previous concept plan. The TRC reviews all plan submittals and would have prior knowledge of any development which had occurred on the campus of the institution.

11. It is unclear how the City expects to address slower and more gradual traffic growth such as growth generated by student population increases. For example, the current ramp that backs into Route 460 eastbound is due to slow and gradual University/LCA growth and not large event specific activities such as a football game.

RESPONSE: *Large institutions may be located within the city limits; however, they have "regional" significance in terms of benefits. Just as the region benefits from the institution, a regional solution is required in dealing with impacts to the region transportation network. It is expected that any solutions would not be realized without input and funding from the City, VDOT and the institution. The solution needs to be a partnership or partnerships that do not solely impact the institution in the form of zoning regulations.*

12. Page 5. F.2. What is meant by "grate understanding"?

RESPONSE: Comment not related to transportation. Thank you for identifying the scriveners' error.

13. Page 6, permitted uses includes nonconforming uses which can then be expanded by right (not even require a conditional use permit). This is fairly permissive and this portion plus the discussion on pages 14-20 should be reviewed by regional outdoor advertising agent. Regarding the wayfinding sign exemption, it may be clearer to say that wayfinding signs placed on private roads are exempt. Any signage that is placed on public roads or is intended to be viewed by drivers on public roads will need to be approved by the governing agency.

RESPONSE: The nonconforming use language has been reviewed by the City Attorney, Walter Erwin. The Sign Ordinance only permits signs located on private property, not within public right-of-way. Signs placed within City owned right-of-way would be subject to approval by the City Council and/or the City Manager. Signs placed within State controlled right-of-way would be subject to approval by VDOT.

14. Page 6. C1.2. Appears to suggest that permitted uses can be expanded *ad infinitum* without consideration of traffic impacts.

RESPONSE: See response to comment number 11.

15. Page 6 through 9, list of permitted uses: this list appears to be largely permissive and includes many uses that would not typically be associated with an "institution" as defined in the introduction to IN-2 and that can generate fairly high levels of traffic such as arenas, automobile service stations, commercial amusements, drive in theaters, residential not related to institution, restaurants (including drive-in), trucking terminals, and wholesale or produce markets. While some of these require special use permits, many do not.

RESPONSE: Large institutions located in non residential areas have numerous supporting accessory uses that may or may not be directly related to the institution. Imagine a neighborhood within a community.

16. Page 9, master plan: a master plan may be submitted but is NOT required and even then, is only limited to 5 years of development. As locality comprehensive plans can be up to 20 years in outlook, this does not make sense, especially given the wide latitude of non-related uses that the land can be put to by right. There should be a requirement to capture overall growth.

RESPONSE: See response to number 4.

17. Page 9 d.3. The study should include, but not be limited to, the itemized study features.

RESPONSE: Although VDOT was requested several times to suggest ordinance language, it has not been provided.

18. Page 9, TIS requirement: TIS required for new entrance to "city" street. Do Rte 460 and Rte 29 count as "city streets?" Again, prefer the use of "public street or highway" instead.

RESPONSE: We are in generally agreement to include the terms "public streets" and "highways", provided that VDOT understands we have no regulatory control over State right-of-way.

19. Page 14, landscaping flexibility: landscaping required may be "disbursed" within the area-note, the intended term is "dispersed" I believe.

The City of Lynchburg, Virginia

RESPONSE: Comment not related to transportation. Thank you for identifying the scriveners' error.