



Recent Legislative Changes Pertaining to Land Development

By Marla M. Hough, PE
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I began my career as an engineering consultant in Southwest Florida 33 years ago focusing primarily on land development. There have been a lot of changes with regulatory agencies through the years pertaining to development.

Two of the biggest changes in recent years were brought about by legislative changes. They pertain to: 1) traffic concurrency and 2) Developments of Regional Impact and the Regional Planning Councils.

I'll start with traffic concurrency since that affects projects of all sizes and later go into DRI's which pertains only to large projects.

Traffic Concurrency

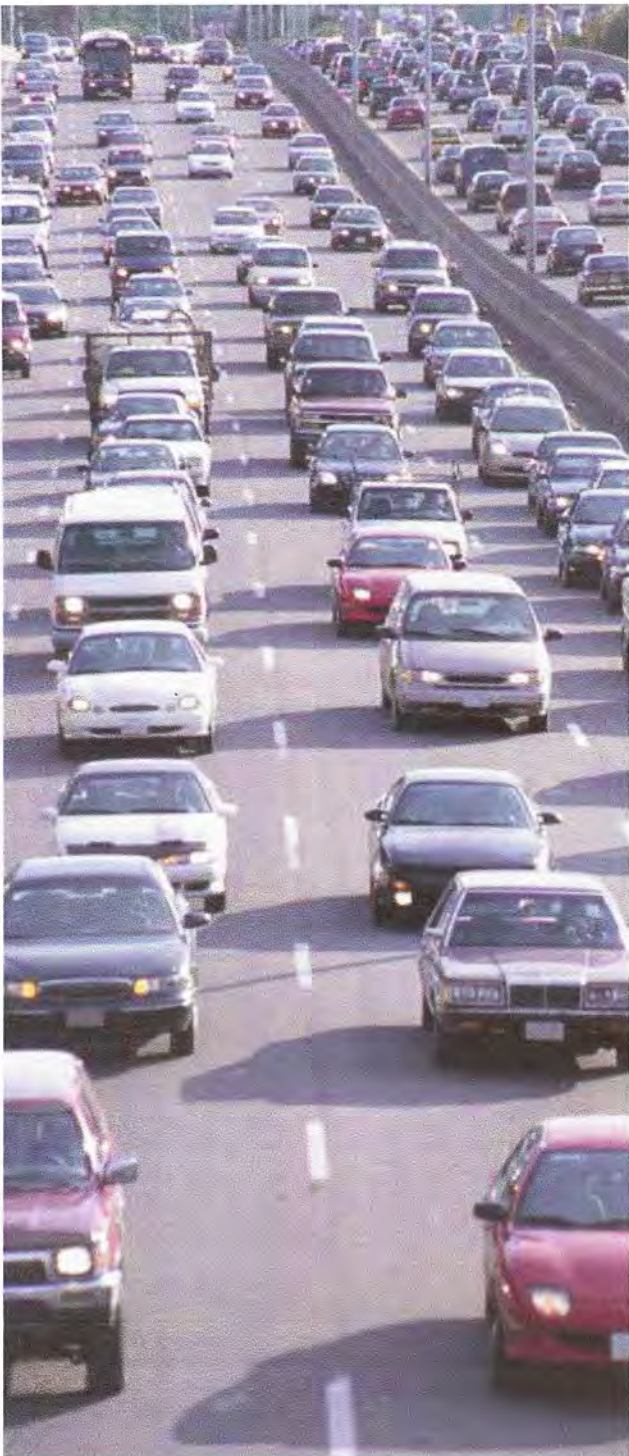
Traffic concurrency first started in Florida around 1989 at the State level with local municipalities implementing their own requirements to comply with the State requirements. Projects were required to analyze existing conditions on roadways and intersections, and also analyze proposed conditions with trips for their projects. If your project was constructed prior to conditions eroding below required levels of service, you did not need to contribute to offsite transportation improvements (other than paying required roadway impact fees.) If your project tied in after capacity was exceeded, then your project would be responsible for remedying the deficiencies before being allowed to proceed to construction.

In 2011 Traffic concurrency requirements were amended by Sections 15 and 16 of Florida House Bill 7207. With the new requirements, if your project is proposed after a deficiency already exists, it is not responsible for fixing the deficiency. If your project causes the deficiency, it is responsible for remedying the deficiency by making offsite transportation improvements based upon the project's proportionate share of the required improvement.

There are **other components in this law which resulted in numerous local agencies moving away from impact fees and towards mobility user fees.** The law states "If local governments adopt concurrency...local government is encouraged (but not required) to develop...long-term strategies that support multimodal solutions... assigning secondary priority to vehicle mobility and primary to pedestrian ...transit."

Local municipalities in our area, including Sarasota & Manatee Counties and the City of Sarasota have movements underway toward adopting mobility user fees.

Some of our local challenges to making pedestrian and transit



options successful include: the warm climate (which makes unshaded areas undesirable for pedestrian movement for a large part of the year), long headways on transit routes (i.e. if the bus only runs once an hour and you miss it, it is not as reliable as a form of transportation), and parking is not that constrained in this area. In more urban areas where parking is difficult to find and bus routes run more frequently, transit is more attractive to users. Shade doesn't have to come from trees; it can come from tall buildings located close to sidewalks. The City of Sarasota recently changed their codes to reduce building setbacks to create such "pedestrian sleeves". Many of the other municipalities have not made this adjustment and still require buildings be setback far from the right-of-way.

If impact fees for roadways are replaced by **mobility user fees**, they're still fees to assist in paying for transportation, but there is **more flexibility on what the local government can use them on**. There is a lot of local talk in our area about building more bicycle paths in lieu of more roadways. Utilizing this approach will only solve transportation issues if people actually use the bicycle path for more than recreational purposes, such as travelling to work or to the grocery store. It isn't practical to bring four bags of groceries back on a bus or bicycle;

will people adapt and make more frequent trips to the grocery store? Will these paths be located where they connect residences to work places?

Developments of Regional Impacts and Regional Planning Council's Role in Their Review

Senate Bill 1216 became effective on May 14, 2015 when the Governor approved it. Per this Bill, **new DRI projects are to be approved by local government through the Comprehensive Plan Amendment process in lieu of proceeding under Section 380.06** (thereby *eliminating Regional Planning Councils from the process*, who were performing that review since the inception of the DRI programs in 1972). Biennial annual reports on existing DRI's will still be submitted to Regional Planning Councils in addition to local government.

For those of you that are not familiar with the DRI process, it is intended to review large scale developments which affect more than one county. The project size that is subject to **DRI** review is relative to the population of the area that the project is being developed in. For example, **residential project thresholds** are based on April 1, 2014, Florida population estimates for each

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county with a representative sample outlined below:

Residential Units	Counties
3,000	Pinellas, Hillsborough, Lee
2,000	Manatee, Sarasota, Collier, Pasco
1,000	Charlotte, Hendry, Hernando, Citrus
250	Glades

In other words, if a development in Manatee County has 2,000 residential units or more, it is subject to DRI review.

DRI thresholds for all other types of uses are outlined in 380.0651(3) Florida Statutes & Rule 23-24, FAC. Thresholds for a few categories are outlined below:

Type Use	Thresholds
Office	300,000 sf (Manatee & Sarasota Counties & other counties with <500,000 population) 600,000 sf (for Counties with populations greater than 500,000)
Retail	400,000 sf or more than 2,500 parking spaces
Recreational Vehicles	> 500 spaces
Workforce Housing	Allowed 50% increase on residential units if at least 15% of the units are dedicated to affordable housing

For borderline projects where a developer wants to rebut whether the project is subject to DRI, there is a Binding Letter of Determination process that can be undertaken to determine whether or not the project is exempt from DRI review.

There are 10 Regional Planning Councils in Florida. The Tampa Bay Regional Planning Council covers Manatee, Pinellas, Hillsborough, Pasco, Citrus and Hernando Counties. The Southwest Florida Regional Planning Council includes Sarasota, Charlotte, Lee, Collier, Glades & Hendry Counties. All ten Planning Councils can be viewed on a map of Florida by Googling "Florida Regional Planning Councils" or going to <http://ncfrpc.org/state.html>.

About the Author

Marla M. Hough, PE, President of Hough Engineering Inc., a MBE/DBE/WOSB/SDB firm, has 33 years of engineering consulting experience in Southwest Florida, with the past 18 years as the owner of her company. Marla has civil and traffic engineering experience in both the private and public sector. She received her BSCE from Michigan State University. She has served on the FES Myakka Chapter as Secretary, Vice President, President and State Director, and has authored numerous articles with the Journal as a member of the Communications Advisory Committee.

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