

Paying for Growth

Rough Proportionality & Transportation Impact Fee

Council Mobility Committee
August 5, 2015



Agenda

- **Transportation Funding**
- **Use of Rough Proportionality**
- **Introduction to Transportation Impact Fee**
- **City of Ft Worth's Use of Transportation Impact Fee**
- **Next Steps**

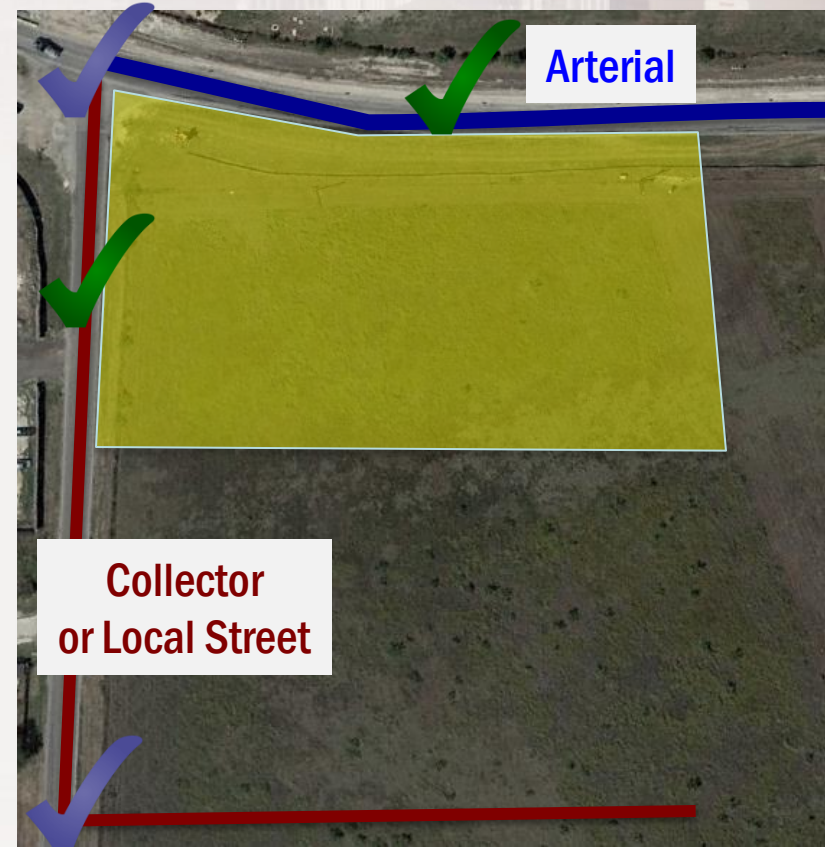


Transportation Funding

- Property taxes not always enough to keep up with growth
 - Increased property taxes from development covers O&M, services, *but not infrastructure*
- Development should ‘pay its share’
 - Right-of-way dedication, street construction, intersection improvements, etc.
 - Should be ‘fair’

Austin's Current Policy

- ✓ • **Border Street Policy**
 - Require right-of-way (ROW)
 - Require street construction or fee in lieu (i.e. boundary fiscal)
- ✓ • **Traffic Impact Mitigation**
 - Construction or fee in lieu “to offset the traffic effects generated by the proposed development”
 - Intersection improvements, turn lanes, etc.



Other Transportation Funding Tools

- Bonds / Debt
 - General Obligation (GO), Certificates of Obligation (CO)
- Tax Increment Financing (TIF), Tax Increment Reinvestment Zone (TIRZ), and/or Chapter 380 Agreements
- Impact Fees

Rough Proportionality

Two important U.S. Supreme Court Cases established the principle of 'Rough Proportionality'

- **Nollan vs. California Coastal Commission (1987)** - established that an exaction must have an *essential nexus* to legitimate public interests
- **Dolan vs. City of Tigard (1994)** - established a two-part test for exaction: 1) *essential nexus* and 2) *roughly proportional* in nature and extent of the impact of the development

Legal Background cont.

Rough Proportionality comes to Texas via Court of Appeals of Texas

- **Flower Mound vs. Stafford Estates (2002)** – established need for an “individualized determination” or “rough proportionality test”; allows for consideration of development impact to total facilities system; does not require “precise mathematical calculation”



Legal Background cont.

- Texas House Bill 1835
 - Adopted in September 2005
 - Amended Section 212 of the *Local Government Code (LGC)*
 - Dedications, fees, or construction costs
 - “[The] developer’s portion of the costs may not exceed the amount required for infrastructure improvements that are **roughly proportionate** to the proposed development...”

What is Rough Proportionality?

A. Legal Principle



Yes, US Supreme Court decisions, Texas Court of Appeals decision, and Texas State Law.

B. Fairness Check



Yes, ensures requirements as a condition of permit are relevant and fair.

C. Calculation Tool



Yes, a worksheet to compare value of impact to value of requirements.

D. City Policy/Rule



No, the Rough Proportionality determination is a part of our standard permitting practice to check compliance with the law.

Determination

How is Rough Proportionality Determined?

- **Transportation Demand**
 - *Generated by Development*
 - Land Use Type
 - Intensity
 - Peak Hour Trip Rate & Length
- **Transportation Supply**
 - *Required by City/County*
 - Roadway Classification
 - Length
 - Cross-Section
 - Intersection Improvements
 - Right-of-Way

Vehicle Miles Traveled (VMT) \approx
 $\$2,276/\text{VMT} \approx \$1.6\text{M}/\text{lane mile} \approx$
Construction Cost

Example - Determination

Transportation Demand

- General Office 150,000 SF
- 370 Peak Hour Vehicle Miles Traveled (VMT) @ \$2,276/VMT
- **\$841,000 Demand**

Transportation Supply

- 2-Lanes of a 4-Lane Divided Major Arterial (MAD 4) @1000' = \$682,000
- 5' Right-of-way @1000' @ \$50/SF = \$50,000
- **\$732,000 Supply**

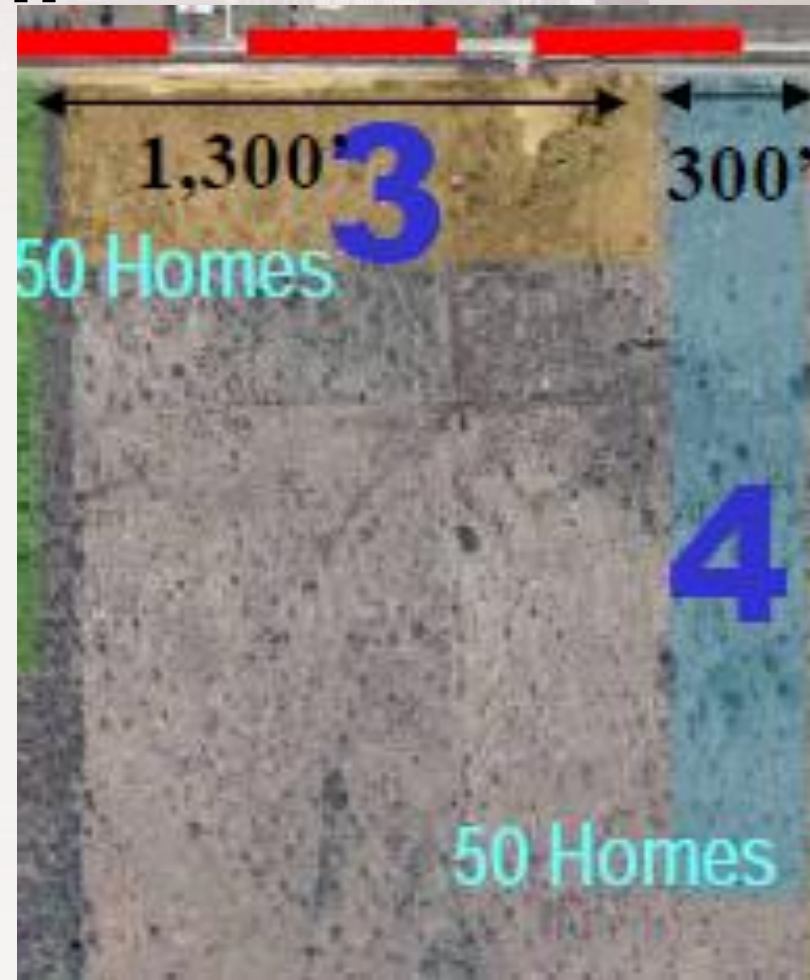
Determination

Demand > Supply

Therefore, Demand is roughly proportional to Supply

Gaps in Current Policy...

- 3 & 4 Have Same Impact
- Border Street Policy Severely Limits ROW and CIP Requirements



Gaps in Current Policy...



- **Border Street Policy Can Lead to Unnecessary ‘Improvements’**
- **Inflexible – Developer Provisions Don’t Always Match Needs**

Gaps in Current Policy...

- TIA Fiscal Mitigation Generally Goes Unspent
 - Developer historically provided small portion (<20%)
 - City has come up with >80%
 - Returned after 10 years
- Limited TIA Fiscal Data Available
 - \$32.5M Collected since 1982
 - \$12.7M Currently held in cash, letters of credit, or bonds for 253 projects (as of 3/16/15)
 - Includes TIA mitigation *and* other Transportation fiscal



A Better System...

- **Predictable** – for developers and City
- **Consistent**– ‘similar’ development should pay similar share
- **Flexible** – fiscal should be used where needed -- not sit until returned
- **Aligned**– with City goals and objectives for growth; a tool to steer development
- **Legal** – compliant with rough proportionality

Impact Fee Basics

Impact Fee Definition

“Charge or assessment imposed...against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development.”

Impact Fee Basics cont.

- Governed by Chapter 395 of the Texas Local Government Code (1987)
 - Water, Wastewater, Roadway, and Drainage impact fees allowed in Texas
 - Capacity-related costs (i.e. no public art, streetscape elements, expensive illuminations, etc.
 - Recover infrastructure costs for *future* development
 - Subject to ‘Rough Proportionality’



Impact Fee Basics cont.

Impact Fee Service Areas

- Funds collected/spent in service area within 10 years
- Water Service Area: Citywide
- Sewer Service Area: Citywide
- Drainage Service Area: Watershed, Citywide & Regional
- Transportation Service Area: 6 miles (trip length limit)
 - Limited to Corporate Limits for roadways (not ETJ)



Transportation Impact Fee

Impact Fee Calculation

- 10 year Growth Horizon
- Proportional Share of Capacity Needed for Growth
- Impact Fee Calcs Updated Every 5 Years
- Adopted Capital Improvement Plan
- Future Land Use Plan

$$\text{Max Impact Fee Per Service Unit} = \frac{\text{Recoverable Cost of the CIP (\$)}}{\text{New Service Units (vehicle miles)}}$$



Transportation Impact Fee

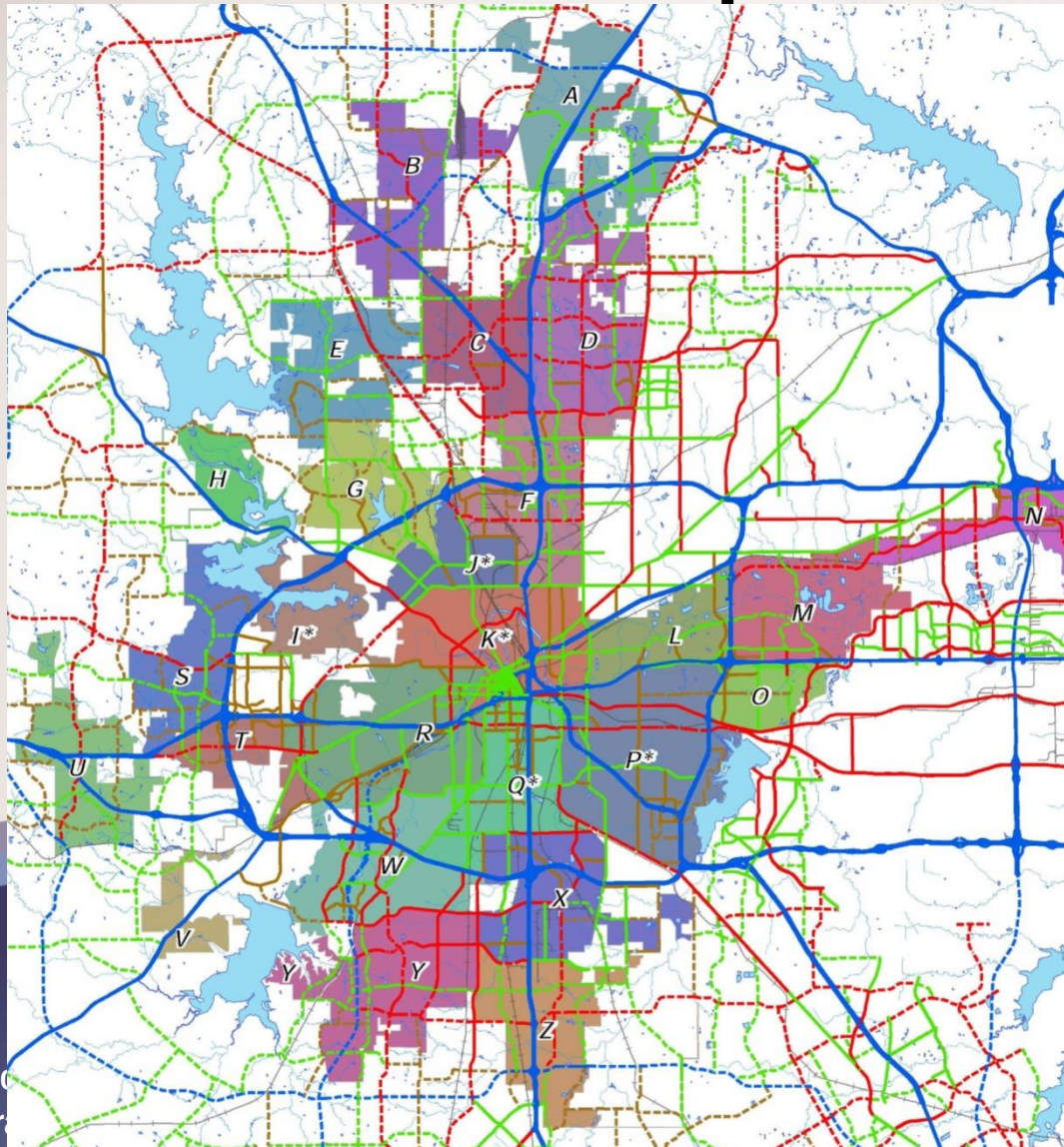
Checks & Balances

- **Licensed Professionals Prepare**
 - Capital Improvement Plan
 - Land Use Assumptions
 - Maximum Assessable Impact Fee Calculations
- **Public Hearing Required**
 - Capital Improvement Plan
 - Land Use Assumptions
- **Capital Improvements Advisory Committee (CIAC)**
 - Representatives of Real Estate, Development, or Building Industries
 - Can be Existing Planning and Zoning Commission

Ft. Worth Transportation Impact Fee

- 2-Year Implementation
 - Piloted 1 Service Area
- 26 Services Areas
 - 5 Central City No-Fee Areas
- Impact Fee Assessed at Plan -> Collected at Building Permit
- Has 'Replaced' Rough Proportionality

Ft. Worth Transportation Impact Fee



SERVICE AREA	Maximum Fee Per Service Unit (per Vehicle-Mile)
A	\$2,158
AA	\$228
B	\$2,419
C	\$1,323
D	\$966
E	\$2,708
F	\$998
G	\$2,091
L	\$1,562
M	\$2,551
N	\$1,283
O	\$1,014
S	\$2,398
T	\$2,322
U	\$2,921
W	\$860
X	\$2,312
Y	\$2,376
Z	\$2,962



Ft. Worth Transportation Impact Fee

- **Maximum vs Actual Impact Fee**
 - Calculated maximum assessable
 - Actual established by Council (~ 15%)
 - Single-Family Detached House
 - Area D: Max Fee \$5,796 vs Actual Fee \$3,000 (52%)
 - Area M: Max Fee \$15,306 vs Actual Fee \$1,980 (13%)

Summary – Current Policy

Pros

- Legally compliant
- Consistent with other TX jurisdictions
- Transparent estimation of localized transportation impacts
- Easily implemented

Cons

- Border street policy limits what City can require
- Inflexible
- Often not aligned with needs
- Localized improvements don't match system impacts



Summary – Transportation Impact Fee

Pros

- Predictable for developers and City
- Consistent fee structure for all development
- Established and tested approach
- Flexible and comprehensive approach to transportation funding

Cons

- Implementation costs for Thoroughfare/CIP Plan, Service Areas, Max Fee per Service Unit, Future Land Use Map
- Increased cost for development



Impact Fee Next Steps

- Continue to Evaluate Transportation Impact Fee
- Prepare Draft Scope for Implementation
 - Transportation Impact Fee Study – Thoroughfare/CIP Plan, Service Areas, Max Fee per Service Unit, Future Land Use Map (10-year)
 - Supporting Studies – Historical Review, Peer Review of Cost of Development
- Budget Request Under Review by Council
- Provide Informational Memo to Council (August)

Rough Proportionality Next Steps

- Publication of Worksheet and Determination Procedures Online
- Public and Development Community Notifications
- Information Sessions at OTC
 - Wednesday 8/19 11:30a– 1p
 - Monday 8/31 11:30a – 1p
- Development Services Department Traffic Engineer for Rough Proportionality Determinations Starts in August
- Code Amendment(s) to Clarify Traffic Impact Mitigation Policy

Questions?



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