



Oregon

Tina Kotek, Governor

HPAC Work Group Recommendation Template

TIA and Offsite Traffic Mitigation

Work Group

- Availability of land
- Land development permit applications
- Codes and design
- Workforce shortages
- Financing

Recommendation

Recognizing that housing provides a public good. And that traffic mitigation that complements housing provides a public good, cities are to be active participants in the development of traffic infrastructure when related to the production of housing.

For the purposes of this recommendation, housing is defined as single-family, middle housing, townhomes, condos, cottages, apartments, mixed use.

- (1) Traffic Impact Analysis (TIA) practices for residential development shall be allowed to include the following:
 - Jurisdictions to develop and allow use of volume adjustment factors for when data is collected outside of school schedule. ODOT's Seasonal Adjustment Factor could be used or, if the City feels these factors don't adequately represent their system, the city to determine adjustment factors that can be used. Allow for traffic consultants to choose between collecting traffic count data when school is in session or choosing the adjustment factor for background counts.
 - When intersections don't meet operational standards, Cities to work with traffic consultant to determine what is causing the failure and determine if the failure is truly a safety issue or delay.
 - Develop standard of "severe operational or safety impact" such as unprotected left turn with insufficient gap.
 - Allow consultants to propose interim mitigations
 - Interim mitigations shall be allowed if they provide a means for safe movement of traffic. Interim mitigations shall not have an arbitrary time limit if they allow safe movement.

- (2) When a TIA is required for land use, the submission of the document shall satisfy the completeness review requirement. The review of the TIA is to occur during the 120-day land use process.
- (3) When offsite mitigation is needed but is not determined to be an immediate safety issue or interim mitigation measures would satisfy the safety need, the developer shall be able to proceed with the development of housing while either working out the construction plans for the mitigation or pay their proportional share to the city.
- (4) When offsite mitigation is needed because of severe operational impact/safety, the development of the housing project should proceed while the traffic mitigation construction plans/construction are being finalized. This includes recording of the plat and/or issuing of building permits. The developer shall post security of 200% of the estimated construction costs (based on the City accepted Engineer of Record's Engineer's Estimate). The security can be released when the mitigation is constructed. No certificates of occupancy will be issued until the mitigation is constructed.
 - Applicant shall be allowed to perform a sensitivity analysis to determine the number of units that can be occupied prior to the completion of the mitigation.
- (5) When acquisition of property is required to service a public facility outside of the city limits (i.e. in the neighboring County), the city shall be able to acquire the property without the cooperation of the neighboring County. This only applies to property for public use and public ownership.
- (6) When traffic mitigation is necessary, reimbursement for the project shall be completed within five years of the project completion. Proportional share can be dealt with via SDC credits or taken into account of the reimbursement at the request of the developer. Possible funding mechanisms for cities are referenced in recommendations from the Finance Work Group.
- (7) When a reimbursement district is used to fund any infrastructure improvement, the reimbursement district shall have no expiration date.

Related Work Plan Topics

Increase affordability and housing choice through the refinement of overly restrictive standards.

Reduce the barriers to developing various types of housing.

Date of Adoption

October 23, 2023

Adoption of Recommendation

Discussed in Land Permitting work group on October 16, 2023 and Codes and Design work group October 17, 2023.

Adopted via vote on October 23, 2023 in work group meeting

Co-chairs Guidance: Standards for Analysis

1. Clearly describe the housing production issue that the recommended action(s) will address.

Given that much of the available land left to develop is near heavily developed adjacent property, offsite mitigation of traffic facilities is often required. Even mitigation as simple as adding a left turn pocket can result in massive improvements being required.

These projects often have a lot of “scope creep” which results in moving multiple traffic signals, utility and light poles, and acquiring right-of-way. When these facilities are located next to city limits, it can result in multiple jurisdictions being involved which delays the approval of construction plans.

Mitigation such as these requires a large amount of capital, even though the developments proportionate share is small. Even when projects are reimbursable, the amount of time it takes for the developer to receive the reimbursement is years, during which time the capital cannot be used on other housing projects. It also discourages smaller developers who don’t have access to large amounts of capital.

These plans often need to be approved and secured prior to the issuance of construction plans, the recording of plats, or the issuance of building permits. This delays the construction and availability of housing.

Reimbursement for SDC eligible and reimbursement districts is an uncertain process, where developers may, in some cases, never get their investment back.

2. Provide an overview of the housing production issue, including quantitative/qualitative context if available.

Offsite traffic mitigation required by new development often includes a great deal of “scope creep”. The additional requirements for lanes at existing intersections often requires the addition of receiving lanes. This moves a traffic signal which means the ADA ramps is now skewed, so the opposite pole needs to be moved, which means all the poles need to be moved. Often, cities will include provisions for future growth/development so that improvements do not need to be redone in the future. While this is economical/efficient from a city perspective, this does two things: (1) it increases the complexity of the design/construction (2) it increases the upfront costs for the construction.

If these facilities are located near the edge of city limits, they can often require the cooperation of the County as well. Often these facilities require additional Right of way to be acquired. If the ROW is located in the county, it makes it more challenging/time consuming for the ROW to be acquired. If the county is not willing to participate in the condemnation process, the ROW cannot be acquired, even if the land is needed for public infrastructure.

While these facilities may fall under the Needed Housing provision of causing an “unreasonable cost and delay”, the full scope of the improvement isn’t usually determined until well after land use. This means that challenging the requirement requires a land use modification which can be time consuming, costly, and uncertain. During the modification process, the infrastructure requirement condition would need to be removed and then the infrastructure is not provided or a less desirable mitigation is provided.

If housing is recognized as providing a public good, and the infrastructure it is providing is also viewed as a public good, then the public should be an active participant in ensuring these facilities can be built without delaying the construction of housing.

3. To assess the issue and potential action(s), include subject matter experts representing all sides of the issue in work group meetings, including major government, industry, and stakeholder associations.

Ron Irish, City of Albany

Tegan Enloe, P.E., Enloe Consulting

Robert Chandler, PhD, P.E., Assistant Public Works Director, City of Salem

Tony Martin, P.E., Assistant City Traffic Engineering, City of Salem

Allen Dannen, P.E., City Engineer, City of Salem

Don Whitehurst, P.E., Construction Engineer, City of Salem

Discussed public safety concerns with Tegan Enloe regarding initial proposal. Revised recommendation based on her input.

Ron Irish gave suggestions for different language for the recommendation. He also expressed concerns that this recommendation apply only to traffic mitigation for housing.

City of Salem had concerns related to implementation, enforcement, seasonal adjustment factors. Also had concerns regarding the definition of a “safety requirement”. They mentioned that the seasonal adjustment from ODOT is not applicable for cities that do not have ODOT facilities running through them. The recommendation was modified to allow cities to determine their own adjustment factor. This would allow for a conservative background number to be used and giving the developer the option of getting counts during the summer or waiting. The City of Salem also had concerns that allowing building permits to be issued but withholding certificates of occupancy would lead to more upset people if the mitigation is not complete.

4. Provide an overview of the expected outcome of the recommended action(s), including quantitative/qualitative context if available.

This recommendation would allow housing permitting and construction to move forward while either details regarding the developer providing the infrastructure (and being reimbursed) are worked through the permitting process or the City determines funding and permits the project. It allows different parts of the development process to happen concurrently, instead of consecutively.

This also provides certainty for developers that their projects can progress in a quicker timeline. Given the amount of uncertainty regarding interest rates and financing, facing a two year approval process with a government for a traffic infrastructure improvement, of which the development is only responsible for a portion of the traffic through the facility, opens up a lot of risk for the developer and financing.

Currently, plats are not able to be reviewed until all the conditions of approval have been met. However, providing a 200% security allows the planning director to certify that the conditions can be met which should allow the plat to record. The review process for plats can take several months. Building permits are also not issued typically until the traffic mitigation is either approved or even sometimes constructed. A 3-story garden style apartment building takes between 9 to 12 months to construct. Allowing the plat/building construction to happen simultaneously alongside the traffic mitigation will take months to possibly years out of the housing production process.

Allowing cities to acquire right of way without the cooperation of a neighboring county helps ensure that Needed Housing statutes aren't violated by causing undue costs and delays when land is needed for infrastructure.

Ensuring that reimbursements for SDC eligible facilities and reimbursement districts either don't expire or are paid back within a reasonable time period gives certainty to developers that they will get their investment back. This money can then be used of other housing projects.

5. Estimate of the time frame (*immediate, short, medium, long-term*), feasibility (*low, medium, high*), and cost (*low, medium, high*) for implementation of the recommended action(s).

Time Frame	Feasibility	Cost
<input type="checkbox"/> Long-term	<input type="checkbox"/> High	<input type="checkbox"/> High
<input type="checkbox"/> Medium-term	<input checked="" type="checkbox"/> Medium	<input checked="" type="checkbox"/> Medium
<input checked="" type="checkbox"/> Short-term	<input type="checkbox"/> Low	<input type="checkbox"/> Low
<input type="checkbox"/> Immediate		

The practice of allowing traffic counts during non-school times is considered industry standard. However, some cities don't allow it. Allowing for traffic counts all year, except when directly adjacent to a school, makes the requirement match industry standards.

Allowing developers to pay their proportionate share and continue with development may cause some cities to have to fund infrastructure projects sooner than if they were reimbursing developers. However, if the cities partner with the developers to get the improvements built during the construction of the project, then they won't have to fund the upfront costs. This will likely take additional staff time to help move these offsite infrastructure projects through the permit process faster.

6. Provide a general overview of implementation, the who and how for the recommended action(s).

ODOT to provide guidance about what cities are allowed to require for TIA's and offsite traffic permitting.

TIA's required for land use shall be submitted as a part of the completeness review, but the review of the TIA is not required for completeness. The review of the TIA is to be completed during the land use 120 day time period.

If the development triggers an offsite transportation improvement, two pathways are allowed while the development is able to go through the construction and platting process:

- (1) The development can pay their proportionate share and the city can work to fund and construct the improvement.
- (2) The developer can bond for the construction of the improvement and then proceed with the approval and construction of the mitigation. Security of 200% of the engineer's estimate ensures the condition of approval can be met by setting aside funds. The plat/building permits can be reviewed/recorded/issued while the mitigation is constructed. Temporary mitigation is also to be allowed.

SDC eligible improvements can be paid for with credits or through reimbursement to be paid back within 5 years, whichever is requested by the developer.

Reimbursement districts will no longer expire. Cities will need to ensure the payment is collected within the district.

7. Outline the data and information needed for reporting to track the impact and implementation of the recommended action(s).

Cities should be able to track how long it takes for a project for public traffic mitigation to get approved from submittal. During this process, they can also track the date the plat is recorded/building permits are issued. Overall, the city should be able to track total time from when the project is first submitted and when certificates of occupancy are issued.

8. Identify any major externalities, unknowns, tradeoffs, or potential unintended consequences.

Given that plat recording and building permits are a means of enforcement between jurisdictions and developers, removing this mechanism can feel risky for jurisdictions. There is a chance that a homebuyer who isn't needed financing will be able to move in without receiving a certificate of occupancy. However, this would be a very small number of homebuyers. Even if this situation happened, the number would be so small that the number of trips generated would not likely cause a traffic signal to "fail".

There is a risk that construction costs could increase as the construction plans are being finalized this could cause the "proportional share" to no longer cover the actual proportional share of the project costs.

Traffic mitigation is often cheaper when constructed by private developers than by the public.

Please include any relevant reports, data analyses, presentations, or other documents that would be informative and useful for the full HPAC as the recommendation is discussed and considered.