POLICY BRIEF

DeVoe L. Moore Center
College of Social Sciences
Florida State University

ISSUE #16 SEPTEMBER 2005

Findings from a Review of Local Government Concurrency Practices in Florida

Tim Chapin

One centerpiece of Florida's landmark 1985 growth management legislation was the concept of concurrency, known in most other states as adequate public facilities ordinances (or APFOs). At its core, concurrency is a state requirement that development is not to proceed unless infrastructure capacity and specific urban services are in place to service the new development. Concurrency was intended to help address major infrastructure problems facing the state, especially increasing road congestion. Other infrastructure issues were becoming apparent as well, including potable water availability, the need to treat wastewater to meet higher federal standards, and increasing problems relating to inadequate stormwater management. The legislature's concurrency mandate was intended to either force governments to provide infrastructure necessary to support growth or to provide a state-sponsored mechanism to allow governments to slow development permitting until infrastructure was in place to service this development.

Under Florida's system, local level of service standards (LOS) are the backbone of the concurrency approach implemented by local governments. As per Florida Administrative Code, these standards "indicate the capacity per unit of demand for each public facility" (F.A.C. Chapter 9J-5.0003); they represent the amount of infrastructure to be provided by the public sector per demand unit for a given system. For example, a local government may have an adopted LOS standard of 5 acres of park space per 1,000 residents or a potable water LOS standard of 160 gallons of water per capita per day per resident. Local governments were directed by the legislature to adopt LOS standards for the six facility types; transportation (roads), potable water, wastewater, stormwater, solid waste, and parks and recreation.

Research Approach

To date, almost all studies of have focused upon concurrency as a concept, not concurrency as implemented by local governments. Some critiques focus upon the failure by the legislature to provide adequate funding for infrastructure, while others comment on the failure of the state's transportation concurrency mandate. While most researchers and commentators have focused upon the larger issue of the form of Florida's concurrency approach, little attention has been paid to the actual implementation of this concurrency mandate. Understanding how concurrency has been implemented by local jurisdictions is essential to determining the utility of this approach to managing and servicing development.

For this research, we investigated three elements of concurrency as practiced by sixty-six local governments in Florida. First, we examined LOS standards for the six types of public facilities and urban services originally required as part of the state's concurrency mandate. Second, for each of these infrastructure systems we determined the timing of public facility provision in each jurisdiction. Last, we reviewed *de minimis* standards in each jurisdiction, which refers to that level of development below which concurrency determinations are not required. To make these determinations we utilized three sources of information: 1) individual jurisdiction websites, 2) the *Municipal Code Corporation* website (www.municode.com), which makes available the text of municipal codes of ordinances, and 3) interviews with planning and/or development review staff.

Findings

Our principal finding was that substantial variations exist in local government concurrency practices. For each of the six types of public facility reviewed, we identified a very broad range of LOS standards. For example, potable water standards varied from a low of 100 gallons per capita per day (GPCD) to a high of 230 GPCD. Similarly, parks LOS standards ranged from a low of 0.6 acres per 1,000 residents to a high of 25 acres per 1,000 residents.

In addition, our review found variation in the timing of the provision of public facilities. While many local governments require infrastructure to be online at the stage in the development process outlined in the state statute, others require public facilities to be in place at a much earlier stage. For example, for potable water and wastewater, roughly two-thirds of jurisdictions require these urban services to be in place prior to the issuance of a development order. Remaining jurisdictions do not require these services to be in place until a certificate of occupancy is granted, after building construction, which is the state's official requirement. Lastly, our review of *de minimis* standards also uncovered great variation. Some jurisdictions use the state's proposed standard, which waives transportation concurrency review if a proposed development generates traffic less than 1% of the maximum LOS capacity of affected roadways. In other cases, local governments do not have a *de minimis* standard; all development must undergo concurrency reviews regardless of size.

The Implications of these Findings

While ambitious in scope and, at the time, at the vanguard of state planning and growth management legislation, most agree that concurrency has not solved Florida's infrastructure problems, nor slowed growth in the state. Further, the state's very loose directive to local governments on concurrency implementation has resulted in local policies and practices that vary tremendously from jurisdiction to jurisdiction. Given that the original growth management legislation not only allowed, but specifically called for local policy variations, these findings are not in and of themselves surprising. However, there are implications from these findings that have largely gone unnoticed by researchers and policy analysts.

First, variability in concurrency practices contributes to the continued unpopularity of concurrency in the development community. From the development industry's perspective, tremendous variation in concurrency practices serves primarily to complicate the development process, which slows the development process and causes development costs to rise. Given the variability in local concurrency policies in Florida and the uncertainty that follows from this variability, it is unsurprising that developers are among the state's most vocal critics of concurrency.

More importantly, these findings suggest that the state's laissez-faire approach to concurrency implementation has created the potential for underserved or overserved areas for key urban services. The tremendous variation in LOS standards, especially for critical urban services like potable water, wastewater, and solid waste, suggests that some jurisdictions are either oversupplying or undersupplying these public services. Most critically, if LOS standards are too low, then those areas with insufficient LOS standards run the risk of outstripping their systems and/or permitting new development for which adequate public facilities are not in place.

A final issue raised by our findings revolves around the vague and unevenly applied *de minimis* standard that exempts certain development from concurrency review. A number of jurisdictions, including many of the state's largest cities, use the state's suggested *de minimis* standard. In contrast, many other jurisdictions have a much lower *de minimis* standard, or no standard at all. In effect, in some areas of the state a transportation concurrency review is undertaken for every proposed development project, whereas in other places a substantial percentage of proposed projects are exempt from this process. Beyond the uneven application of this standard, which only serves to complicate the development process, the state standard has the potential of exempting from review very large projects located on high capacity roadways. While the concept of a *de minimis* standard makes sense, the state's standard may be too permissive.

The central recommendation of this study is that stricter guidelines be developed to guide local governments as they implement the state's concurrency mandate. In particular, more comprehensive guidance would lead to more standardized LOS standards for key urban services and promote development certainty for the development community. Also, state guidelines on minimum standards for certain infrastructure systems would address the issue of insufficient LOS standards. Lastly, a lower state *de minimis* standard would standardize practices across jurisdictions and lead to concurrency reviews for very large projects that are not currently required to undergo these reviews. By providing more complete guidance to local governments, the state could simplify and improve local government concurrency implementation.

Tim Chapin is an Associate Professor of Urban and Regional Planning at Florida State University. The DeVoe L. Moore Center provided funding to support this research. Thanks also to Daniel Hussey for reviewing hundreds of comprehensive plans and land development regulations in the collection of data for this project. The full-length paper for this study is available at: www.fsu.edu/~durp/publications/workpapers/WPS_05-05_Chapin.pdf.

DEVOE L. MOORE CENTER
150 BELLAMY BUILDING
THE FLORIDA STATE UNIVERSITY
Tallahassee, FL 32306-2220
Telephone: (850) 644-3848 • Fax: (850) 644-0581
www.fsu.edu/~policy