

ORDINANCE NO.: 2009 - 18

1
2
3 AN ORDINANCE AMENDING CHAPTER 23 (PLANNING), ARTICLE VIII
4 (ADEQUATE PUBLIC FACILITIES) OF THE HERNANDO COUNTY CODE OF
5 ORDINANCES BY AMENDING LAND DEVELOPMENT REGULATIONS
6 REGARDING ADEQUATE PUBLIC FACILITIES AND CONCURRENCY,
7 ADDING PROVISIONS PERTAINING TO PUBLIC SCHOOL FACILITIES AND
8 PUBLIC SCHOOL CONCURRENCY, ADDING PROVISIONS
9 IMPLEMENTING PUBLIC SCHOOL CONCURRENCY, AND UPDATING
10 PROVISIONS FOR TRAFFIC STUDY REQUIREMENTS AND
11 TRANSPORTATION PROPORTIONATE FAIR-SHARE MITIGATION;
12 AMENDING CHAPTER 23, ARTICLE III (IMPACT FEES), DIVISION 2
13 (EDUCATIONAL FACILITIES IMPACT FEE), SECTION 23-73
14 (EXEMPTIONS); AMENDING APPENDIX A (ZONING) OF THE CODE BY
15 AMENDING ARTICLE II (GENERAL REGULATIONS), SECTION 4
16 (VEHICLES), SUBSECTION A (OFF-STREET PARKING SPACE AND
17 ACCESS), ARTICLE V (ADMINISTRATION), SECTION 8 (SPECIAL
18 EXCEPTION USE REGULATIONS), SUBSECTION B (GENERAL
19 STANDARDS), AND ARTICLE VIII (PLANNED-DEVELOPMENT PROJECT),
20 SECTION 1 (GENERAL PROVISIONS FOR PLANNED DEVELOPMENT
21 PROJECTS), SECTION 2 (PLAN STANDARDS) AND SECTION 3 (NARRATIVE
22 STANDARDS); PROVIDING FOR SEVERABILITY; PROVIDING FOR
23 REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR INCLUSION
24 IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

25
26 BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO
27 COUNTY, FLORIDA:
28

29 **WHEREAS**, ss., 163.3177, 163.31777, 163.3180(13) and 1013.33(1), *Florida Statutes*, require
30 coordination of planning between the county and the Hernando County School District (the “school
31 district”) to ensure that new or expanded public educational facilities are coordinated in time and place
32 with plans for residential development concurrently with other necessary services; and,
33

34 **WHEREAS**, s. 1013.33(10), *Florida Statutes*, requires that the location of public educational
35 facilities shall be consistent with the county’s comprehensive plan and implementing land development
36 regulations; and,
37

38 **WHEREAS**, the school district is obligated to maintain and implement a financially-feasible 5-
39 year work program for capital facilities based on the level of service standards provided for in the
40 county’s comprehensive plan and Chapter 23, Article VIII, of the Hernando County Code of Ordinance;
41 and,
42

43 **WHEREAS**, the county has the sole authority to undertake land use planning and to implement
44 necessary land development regulations within the unincorporated portion of Hernando County; and,
45

46 **WHEREAS**, the county was required to amend its Comprehensive Plan pursuant ss. 163.3177,
47 163.31777, and 163.3180(13), *Florida Statutes*, regarding implementation of public school concurrency;
48 and,
49

50 **WHEREAS**, following advertisement and a public hearing, the Hernando County Board of
51 County Commissioners (“BOCC”) adopted a Public School Facilities Element (“PSFE”), also referred to
52 as CPAM-07-8, as an amendment to the county’s Comprehensive Plan; and,
53

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CLERK OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

1 **WHEREAS**, pursuant to s. 163.3194, Florida Statutes, the county is now required to amend its
2 land development regulation consistent with its recently adopted comprehensive plan amendment
3 regarding concurrency for public school facilities; and,
4

5 **WHEREAS**, in addition, s. 163.3202, Florida Statutes, requires each local government in the
6 State of Florida to adopt or amend and enforce local land development regulations that are consistent
7 with and implement the adopted Comprehensive Plan; and,
8

9 **WHEREAS**, Hernando County has previously adopted land development regulations; and,
10

11 **WHEREAS**, periodic updates and clarifications are necessary for the successful implementation
12 of land development regulations.
13

14 **SECTION I. Amending Chapter 23 (Planning), Article VIII (Adequate Public Facilities), Sec. 23-**
15 **255 through 23-267.** Chapter 23 (Planning), Article VIII (Adequate Public Facilities), Sec. 23-255
16 through 23-267 is amended to read as follows, with underlined matter added and struck-through matter
17 deleted:
18

19 **Sec. 23-255. Short title.**
20

21 This article shall be known and may be cited as the "Adequate Public Facilities Ordinance."
22
23 (Ord. No. 91-27, § 1, 7-31-91)
24

25 **Sec. 23-256. Findings.**
26

27 The Hernando County Board of County Commissioners finds that:
28

- 29 (1) Section 163.3167, Florida Statutes, required Hernando County, Florida, to
30 prepare and adopt a comprehensive plan as scheduled by the Department of
31 Community Affairs; and
32
- 33 (2) The board of county commissioners conducted public hearings relating to the
34 adoption of the county comprehensive plan in accordance with section 163.3167,
35 Florida Statutes; and
36
- 37 (3) It is the responsibility of the board of county commissioners to adopt regulations
38 that adequately plan for and guide growth and development within the county;
39 and
40
- 41 (4) Section 163.3202, Florida Statutes, requires that the county adopt land
42 development regulations to provide that public facilities and services meet or
43 exceed the adopted level of service standards set forth in the county
44 comprehensive plan; and,
45
- 46 (5) Rule 9J-5.0055, Florida Administrative Code, establishes the minimum
47 requirements necessary to ensure the facilities and services needed to support
48 development are available concurrent with the impacts with such development;
49 and,
50

1 (6) The board of county commissioners, in adopting this article, is establishing the
2 sole procedure for determining the adequacy of public facilities at the time of
3 development.

4
5 (7) The proportionate fair-share program provides a method by which the impacts of
6 development on transportation and public school facilities can be mitigated by
7 the cooperative efforts of the public and private sectors.

8
9 (Ord. No. 91-27, § 2, 7-31-91; Ord. No. 2006-19, § 1, 11-21-06; Ord. No. 2009-__)

10
11 **Sec. 23-257. Intent and purpose.**

12
13 It is the intent of this article to establish minimum criteria for the concurrency management
14 system and authorize the preparation of an administrative procedure for determining that public facilities
15 and services meet or exceed the adopted level of service standards set forth in the county comprehensive
16 plan.

17
18 (Ord. No. 91-27, § 3, 7-31-91)

19
20 **Sec. 23-258. Definitions.**

21
22 *Available capacity review:* A preliminary review conducted by the county to determine if an
23 application for a rezoning or special exception is consistent with the comprehensive plan. Adequate
24 public facilities for potable water, sewage treatment, drainage, solid waste, recreation parks, and
25 transportation and public schools must be available in order to deem the request consistent with the
26 county comprehensive plan.

27
28 *Available school capacity:* shall refer to the circumstance where there is sufficient school
29 capacity, as determined by the school district, within each school type (elementary, middle, high) under
30 the adopted Level of Service (LOS) standard to accommodate the demand created by a proposed
31 development.

32
33 *Certificate of concurrency:* The certificate issued by the county upon finding that an application
34 for a development permit meets the standards set forth in the county comprehensive plan for public
35 facilities and services.

36
37 *Concurrency management system:* The procedures and/or process that the local government will
38 utilize to assure that development orders and permits are not issued unless the necessary facilities and
39 services are available concurrent with the impacts of development.

40
41 *Concurrency service area or CSA* is used in the context of school concurrency and, for purposes
42 of this article, shall refer to the geographic unit within which school concurrency is applied and
43 determined and delineated pursuant to the CSA map or map series adopted by the school district and
44 incorporated into the county's comprehensive plan.

45
46 *Contiguous CSA* shall refer to a public school concurrency service area (CSA) in which its
47 boundary is directly abutting another CSA.

48
49 *Development:* The carrying out of any building activity, the making of any material change in
50 the use or appearance of any structure or land, or the dividing of land into two (2) or more parcels.

District facilities work program or 5-year work program is used in the context of school concurrency and shall refer to the financially feasible 5-year listing of capital outlay projects adopted by the school board pursuant to s. 1013.35., Florida Statutes, as part of the district educational facilities plan, which is required in order to: (1) properly maintain the educational plant and ancillary facilities of the district; and (2) provide an adequate number of satisfactory student stations for the projected student enrollment of the district in K-12 programs in accordance with the goal in s. 1013.21, Florida Statutes. Financial feasibility shall be determined using professionally accepted methodologies.

Equivalent residential unit (ERU): The numerical value associated with the average household size of single-family dwelling units.

Financial feasibility shall have the same meaning as defined in s. 163.3164, Florida Statutes, as such statute may be amended or renumbered from time to time.

Finding of available school capacity – a determination by the school district that public school concurrency has been achieved, based on the projected impacts of the proposed development. A finding of available school capacity may be based upon an executed proportionate share mitigation agreement.

Finding of no available school capacity - a determination by the school district that public school concurrency has not been achieved, based on the projected impacts of the proposed development and the failure of the applicant to proffer an acceptable proportionate share mitigation agreement.

FISH Capacity is used in the context of school concurrency and shall refer to the most current version of the Florida Inventory of School Houses (“FISH”) report of permanent capacity of existing public school facilities. The FISH Capacity is the number of students that may be housed in a public school facility at any given time based upon a percentage by school type (elementary, middle, and high) of the total number of existing student stations and a designated size for each program. In Hernando County, permanent capacity does not include temporary classrooms unless they meet the standards for long-term use pursuant to s. 1013.20, Florida Statutes.

Proportionate share mitigation agreement (Public Schools) – a voluntary, legally-binding commitment to provide proportionate share mitigation to ensure public school concurrency can be achieved, where school capacity would not otherwise be adequate to support the demand resulting from approval of a proposed development which is subject to concurrency for public schools at the time the proposed development is being considered. The applicant, school district and the county shall be parties to a proportionate share mitigation agreement.

Public facilities and services: The following public facilities and services for which level of service standards have been established in the county comprehensive plan:

- (1) Potable water.
- (2) Sewage treatment.
- (3) Drainage.
- (4) Solid waste disposal.
- (5) Parks.
- (6) Transportation.

1 (7) Public Schools.
2

3 School Interlocal Agreement shall refer to that certain agreement between Hernando County, the
4 City of Brooksville and the Hernando County School District titled "2009 Amended and Restated
5 Interlocal Agreement", together with any subsequent amendments, which sets forth the processes and
6 procedures necessary to coordinate their respective plans and to ensure that new or expanded public
7 educational facilities are coordinated concurrently in time and place with plans for residential
8 development.
9

10 (Ord. No. 91-27, § 4, 7-31-91; Ord. No. 2009-__)
11

12 **Sec. 23-259. Available capacity review.**
13

14 (a) In order to determine if an application for a rezoning or special exception is consistent
15 with the provisions of the comprehensive plan, an available capacity review will be conducted by the
16 county. This procedure is a review and does not constitute a binding determination by the county.
17

18 (b) The following public facilities will be reviewed for adequacy ~~to the subject site~~: potable
19 water, sewage treatment, drainage, solid waste, parks, ~~and~~ transportation and public schools:
20

21 (1) For potable water, sewage treatment, drainage, solid waste, parks, and
22 transportation – where capacity will not be available to serve the property
23 seeking a land use or zoning change or other development approval and
24 alternative mitigation is not available or agreeable, then the county may use the
25 lack of such infrastructure capacity as a basis for denial.
26

27 (2) For public schools – where capacity will not be available to serve students from
28 the residential property seeking a land use or zoning change or other
29 development approval and alternative mitigation is not available or agreeable,
30 then the county may use the lack of school capacity as a basis for denial.
31

32 (c) ~~The applicant shall be required to sign an affidavit stating it is understood that the a~~
33 Available capacity review is not a concurrency determination and does not relieve the applicant from
34 applying for a concurrency determination.
35

36 (d) ~~Any person may request an available capacity review at any time for the public facilities~~
37 identified in this article.
38

39 (e) ~~An available capacity review fee will be established by the board of county~~
40 commissioners.
41

42 (Ord. No. 91-27, § 5, 7-31-91; Ord. No. 2009-__)
43

44 **Sec. 23-260. Certificate of concurrency.**
45

46 (a) ~~A valid certificate of concurrency must be issued to a~~ A property owner or his
47 designated representative must apply for and obtain a valid certificate of concurrency prior to the
48 issuance of the following development orders or approval, as applicable:
49

50 (1) ~~Zoning permit~~ Approval for any Class B or Class C subdivision.
51

52 (2) ~~Building permit~~ Conditional plat approval for any Class A subdivision.

~~Statutes. The application to extend the validity period must be received by the county at least thirty (30) days prior to the expiration of the certificate of concurrency. The applicant must demonstrate just cause exists for the extension. The county will consider the following factors in making the determination:~~

- ~~(1) The inability to secure a development order was due to actions of a regulatory agency following submission of a complete application;~~
- ~~(2) The applicant was required to redesign the project as a result of conditions attached to permits issued by regulatory agencies; or~~
- ~~(3) Any other relevant circumstances beyond the control of the applicant.~~

~~Upon meeting any of the above criteria, county staff may extend the applicant's certificate for a period not to exceed ninety (90) days. The decision of the county staff is appealable to the board of county commissioners.~~

~~(c) The certificate of concurrency shall apply to the land and is therefore transferable from owner to owner of the subject project and parcel for the specific project upon which the certificate of concurrency was issued for; however, in no event may the certificate of concurrency be transferred off-site or to any other parcel.~~

~~(d) Any alteration in scope, intensity, density, magnitude, location, project traffic circulation and/or distribution for the subject property must be reported to and approved by the county, and school district (if the project involves residential development), for certificate re-evaluation. If such alterations are not reported, the certificate of concurrency will be subject to revocation by the county.~~

~~(e) Public facilities must serve land development adequately according to in accordance with the adopted level of service standards contained within the county comprehensive plan. This certificate of concurrency when issued by the county verifies adequacy adequate capacity and will reserve capacity until it expires its stated expiration date as provided in sub-paragraph (b) above. It Notwithstanding anything to the contrary, a certificate of concurrency offers no other assurance, does not approve any development order, and does not grant any development rights.~~

~~(Ord. No. 91-27, § 7, 7-31-91; Ord. No. 2009-_____)~~

Sec. 23-262. Exemption from adequate public facilities review and concurrency review.

The purpose of the concurrency review is to determine a project's impact on the provision of public facilities/services. The following will be exempt in whole or in part, from concurrency review:

~~(a) Potable water, sewage treatment, drainage, solid waste disposal, parks and transportation. The following will be exempt from the concurrency review:~~

- ~~(1) Single-family home or duplex and nonresidential projects consisting of less than one thousand five hundred (1,500) square feet, generating less than twenty (20) average daily trips (ADT), and using less than five hundred (500) gallons of water per day.~~
- ~~(2) Any development that has a valid and unexpired certificate of concurrency issued prior to the effective date of this ordinance [_____, 2009] or where concurrency has been vested (for those specified public facilities only) in a valid and unexpired development order.~~

1 (3) Any development that has been vested for concurrency pursuant to a valid and
2 unexpired development agreement between the property owner and the county
3 but only as to those public facilities that have been specified as being vested.
4

5 (b) Schools. The following will be exempt from the concurrency review as to the
6 requirements for public schools:
7

8 (1) Single family lots of record having received final plat approval (or otherwise
9 deemed grand-fathered as a valid residential lot under the land development
10 regulations of the County) prior to the effective date of the school concurrency
11 ordinance (which applies to the given lot or lots).
12

13 (2) Multi-family residential development having received final site plan approval
14 prior to the effective date of the school concurrency ordinance.
15

16 (3) Amendments to any residential development approval which do not increase the
17 number of residential units or change the type of residential units proposed.
18

19 (4) Any residential development that has only a *de minimus* impact to public school
20 facilities (i.e. that generate less than one student per the current student
21 generation multipliers) or otherwise determined exempt based upon a written
22 determination by the school district.
23

24 (5) All non-residential uses such as commercial, industrial or mining.
25

26 (c) Development of regional impact. Any development of regional impact (DRI) that has a
27 valid and unexpired DRI development order issued by the county pursuant to s. 380.06(15), Florida
28 Statutes, shall be exempt from further concurrency review unless otherwise provided for in the
29 development order.
30

31 (Ord. No. 91-27, § 8, 7-31-91; Ord. No. 2009-____)
32

33 **Sec. 23-263. Minimum requirements for concurrency.**
34

35 (a) A development order will be issued only if the proposed development does not lower the
36 existing level of service of a facility/service below the adopted level of service in the county
37 comprehensive plan, provides mitigation in accordance with the terms of this article, or which results in
38 only de minimus impacts as defined in section 163.3180(6), Florida Statutes, as such section may be
39 amended or renumbered.
40

41 (b) The minimum criteria to satisfy concurrency requirements ~~have been~~ are established in
42 Rules 9J-5.0055 et seq., Florida Administrative Code, subject to this article and the following additional
43 requirements:
44

45 (1) For potable water, sewer, solid waste and drainage the following standards must
46 be met, at a minimum, to satisfy the concurrency requirement:
47

48 a. The necessary facilities and services are in place at the time a
49 development permit is issued; or
50

- 1 b. A development permit is issued subject to the condition that the
2 necessary facilities and services will be in place when the impacts of the
3 development occur; or
4
5 c. The necessary facilities are under construction at the time a permit is
6 issued; or
7
8 d. The necessary facilities and services are guaranteed in an enforceable
9 development agreement. The agreement must guarantee that the
10 necessary facilities and services will be in place when the impacts of the
11 development occur.

12
13 (2) For parks the criteria under subsection (1) above may be applied or the following
14 minimum standards may be applied:

- 15
16 a. At the time the development permit is issued, the necessary facilities and
17 services are the subject of a binding executed contract which provides
18 for the commencement of actual construction of the required facilities or
19 the provision of services within one (1) year of the issuance of the
20 development permit; or,
21
22 b. The necessary facilities and services are guaranteed in an enforceable
23 development agreement which requires commencement of actual
24 construction of the facilities or the provision of services within one (1)
25 year of the issuance of the applicable development permit. An
26 enforceable development agreement may include, but is not limited to,
27 development agreements pursuant to section 163.3220, Florida Statutes,
28 or an agreement or development order issued pursuant to chapter 380,
29 Florida Statutes.

30
31 (3) *Transportation.*

32
33 ~~(a)~~ a. Transportation supply (capacity). Transportation supply shall be
34 determined ~~on a segment by segment basis~~ in accordance with the
35 requirements of the county's adopted comprehensive plan and the terms
36 of this article. ~~For concurrency purposes, all segments on the county's~~
37 ~~thoroughfare plan shall be considered.~~ Capacity for segments will be
38 based either on FDOT's generalized capacity tables or individual
39 ~~segment~~ segment capacity studies utilizing professionally acceptable standards
40 and methodology approved by the county planning director.
41 ~~Transportation supply for each segment is:~~

42
43 b. Transportation supply is determined as follows

- 44
45 1. The segment's existing peak hour, peak season, peak direction
46 capacity; or
47
48 2. The segment's new roadway capacity if facility expansion for the
49 segment is proposed and if:
50
51 a. i. at the time the development order or permit is issued,
52 the facility expansion is under construction; or

1 (4) For public schools facilities the following standards must be met, at a minimum,
2 to satisfy the concurrency requirement:

3
4 a. Applicability: All new residential development shall be subject to public
5 school facilities concurrency unless exempted under this article.

6
7 b. Concurrency service areas (CSAs):

8
9 1. CSAs will be developed based upon school attendance zones so
10 that there is school capacity in each concurrency service area
11 (CSA) or contiguous CSA to meet the adopted level of service
12 (LOS) standard within the 5-year time frame contained in the
13 school district's adopted 5-year work program (as such work
14 program is updated annually by the school board) and
15 incorporated by reference into the county's Capital Improvement
16 Element.

17
18 2. CSAs may be subsequently modified to maximize available
19 school capacity and make efficient use of new and existing
20 public school facilities in accordance with the adopted LOS
21 standards, and taking into account policies which:

22 i. minimize transportation costs;

23 ii. limit maximum student travel times;

24 iii. affect desegregation plans;

25 iv. achieve socio-economic, racial and cultural diversity
26 objectives;

27 v. recognize capacity commitments resulting from the
28 development approvals (by the county) for the CSA;
29 and,

30 vi. recognize capacity commitments resulting from
31 development approvals (by the county) for contiguous
32 CSAs.

33
34 3. All CSAs will be described geographically and appropriately
35 mapped.

36
37 c. Calculation of capacity:

38
39 The school district will determine whether adequate school capacity
40 exists for each school type (elementary, middle, high) within the subject
41 CSA, based on the adopted LOS standard, for each proposed residential
42 development or project. Capacity shall be calculated by:

43
44 1. Total School Facilities – Calculate total school facilities by
45 adding:

46
47 i. existing school facilities for each school type
48 (elementary, middle, high) within the subject CSA;

49
50 ii. the capacity of all planned school facilities for each
51 school type (elementary, middle, high) as identified in

1 not otherwise accounted for in the capacity
2 calculation set forth in subsection c. above, then
3 such capacity cannot be claimed in a contiguous
4 concurrency service area for purposes of
5 determining available capacity; and,

6
7 c). Where two CSA's are separated or divided by
8 the Withlacoochee State Forest, then they shall
9 not be deemed contiguous for purposes of
10 determining available capacity.

11
12 2 In conducting the contiguity review, the school district shall first
13 use the contiguous CSA with the most available capacity to
14 evaluate projected enrollment/demand for each applicable
15 school type (elementary, middle, high) and, if necessary, shall
16 continue to the CSA with the next most available capacity until
17 all contiguous CSAs have had a capacity determination
18 performed in accordance with subsection c. above. If a
19 contiguous CSA is identified as having available capacity, then
20 the actual development impacts of the proposed project shall be
21 shifted to that CSA having available capacity (this shift shall be
22 accomplished in accordance with school board Policy and which
23 may include, without limitation, appropriate boundary changes
24 or shifting future student assignments within the affected school
25 type(s)).

26
27 e. Issuance of residential development orders predicated on sufficient
28 public school facility capacity:

29
30 1. The issuance of development orders for new residential units
31 shall be predicated on the availability of school capacity.

32
33 2. Whether there is adequate school capacity to accommodate
34 students generated by the proposed development for each type of
35 school within the affected CSA consistent with the adopted LOS
36 standard will take into consideration that:

37
38 i. Adequate school facilities will be in place or under
39 actual construction within three (3) years after the
40 issuance of the subdivision approval or site plan (or
41 functional equivalent); or,

42
43 ii. Adequate school facilities are available in an adjacent
44 CSA and the impacts of development can be shifted to
45 that area; or,

46
47 iii. The developer executes a legally binding commitment
48 (i.e. proffering an acceptable proportionate share
49 mitigation agreement) to provide mitigation
50 proportionate to the demand for public school facilities
51 to be created by the actual development of the property

subject to the subdivision approval or site plan (or functional equivalent) pursuant to article.

3. If the impact of the proposed development will not occur until years 2 or 3 of the school district's financially feasible work plan, then any relevant programmed improvements in those years shall be considered available capacity for the project and factored into the level of service analysis. If the impact of the project will not occur until years 4 or 5 of the work plan, then any relevant programmed improvements shall not be considered available capacity for the project unless funding of the improvements is assured through school board funding to accelerate the project, through proportionate share mitigation, or some other means.

4. If the school district determines that adequate capacity does not exist but that the developer's proffered proportionate share mitigation agreement is an acceptable alternative to the school district, then the mitigation set forth in section 23-269 of this article shall apply.

5. The county will issue a certificate of concurrency for schools only upon:

i. the school district's written determination that adequate school capacity will be in place or under actual construction within three (3) years after the issuance of subdivision approval or site plan approval (or functional equivalent) for each level of school without mitigation; or,

ii. the execution of a legally binding proportionate share mitigation agreement between the applicant, the school board and the county.

(4 5) In determining the availability of services or facilities, a developer may propose and the county may approve developments in stages or phases so that the facilities and services needed for each stage or phase will be available in accordance with the standards required by this section concurrent with the impacts of the proposed development.

(Ord. No. 91-27, § 9, 7-31-91; Ord. No. 2006-19, § 1, 11-21-06; Ord. No. 2009-__)

Sec. 23-264. Facilities/services subject to concurrency determination.

A concurrency determination shall be made for the following public facilities/services:

- (1) Potable water.
- (2) Sewage treatment.
- (3) Drainage.

- (4) Solid waste disposal.
- (5) Parks.
- (6) Transportation.
- (7) Public Schools.

(Ord. No. 91-27, § 10, 7-31-91; Ord. 2009-_____)

Sec. 23-265. Facility/service demand calculations.

The following calculations shall be used to determine the projected demand of the proposed project described in an application for a development permit on the public facilities and services. The calculations are listed by public facility and service type. The information necessary to enable the county to perform the facility/service demand calculations in the following shall be provided by the applicant to the county.

- (1) *Potable water:*

Adopted LOS = ~~250~~ 350 gal./day/Equivalent Residential Unit (ERU)

~~250~~ 350 gal × _____ ERU's = demand

- (2) *Sewage treatment:*

Adopted LOS = ~~200~~ 280 gal./day/ERU

~~200~~ 280 gal × _____ ERU's = demand

- (3) *Drainage:*

Adopted LOS = post development runoff shall be no greater than predevelopment runoff based on 25-year frequency, 24-hour duration, ~~rainfall intensity curve-zone 8, Florida Department of Transportation Drainage Manual, 1979~~ and in accordance with the county's adopted Facilities Design Guidelines.

- (4) *Solid waste:*

Adopted LOS = ~~5~~ 4.75 lbs./day/person (nonresidential uses are included in the adopted LOS)

Solid waste will be calculated on a county-wide basis at regular intervals.

Current estimate ~~5~~ 4.75 lbs. per capita

Population × per day = Demand

1 (5) *Parks:*

2
3 Total LOS = 4.00 acres/1,000 people with 2.00 acres/1,000 for user-oriented
4 facilities 2.00 acres/1,000 for open space

5
6 Parks will be calculated on a county-wide basis at regular intervals.

7
8 User-Oriented Facilities:

9 Current estimate

10 Population/1,000 × 2 acres = Demand (acres)

11
12 Open Space:

13 Current estimate

14 Population/1,000 × 2 acres = Demand (acres)

15
16 ~~(6) — *Transportation:*~~

17
18 ~~Refer to the county comprehensive plan for the adopted level of service~~
19 ~~standards:~~

20
21 a. ~~Determine the number of trips generated by the proposed project during~~
22 ~~the P.M. peak hour, using the most recent edition of ITE's Trip~~
23 ~~Generation, with no adjustment for internal capture or passerby trips:~~

24
25 b. ~~If the project is calculated to generate more than fifty (50) P.M. peak-~~
26 ~~hour trips, a transportation study shall be done. The report shall be~~
27 ~~signed and/or sealed by a registered professional engineer.~~

28
29 †. ~~If a transportation study is not required as per section 23-261(b)~~
30 ~~of this article, the applicant is required to provide only the~~
31 ~~existing plus project directional P.M. peak-hour traffic volumes~~
32 ~~distributed to the closest functionally classified roadway link(s)~~
33 ~~from all project entrances.~~

34
35 2. ~~The data shall be in conformance with notes 5(C)(2)a-c of~~
36 ~~Existing Conditions below.~~

37
38 c. ~~If a transportation study is required, it shall be obtained and submitted~~
39 ~~by the applicant for a development permit at the applicant's expense.~~

40
41 d. ~~"Unacceptable degradation," for the purpose of evaluating transportation~~
42 ~~impacts on backlogged facilities, means that the number of vehicular~~
43 ~~trips per day generated by the development on the impacted link(s)~~
44 ~~exceeds two (2) percent of LOS "D" for the functional classification of~~
45 ~~the thoroughfare as given in the FDOT LOS Maximum Volume~~
46 ~~generalized tables.~~

47
48 e. ~~Requirements of transportation study:~~

49
50 †. ~~*Preapplication meeting.* A preapplication meeting between the~~
51 ~~County and the applicant is strongly recommended. The~~
52 ~~purpose of this meeting will be to review the transportation~~

1 study methodology and procedure and to determine the study
2 period. This will typically include a P.M. peak-hour analysis;
3 however, other time periods may also be required in the analysis:
4

5 2. ~~Define study area.~~ The study area is defined as roadways
6 impacted by the project at four and one-half (4 ½) percent of
7 daily LOS "D" capacity.
8

9 3. ~~Existing conditions.~~ The following existing transportation
10 network information shall be provided:
11

12 i. Existing directional P.M. peak-hour traffic volumes and
13 level of service on all county-designated collectors and
14 arterials within the study area.
15

16 ii. Existing turning movement volumes at the impacted
17 intersection(s) and intersection(s) level(s) of service.
18

19 Notes:

20 a. The above-required data shall be no older than
21 the previous calendar year. The data must be the
22 most recent available from the county or from
23 another approved source. Volumes shall be
24 adjusted to reflect annual conditions using
25 current FDOT seasonal adjustment factors for
26 the county or other adjustment factors approved
27 by the county.
28

29 b. The above-required level(s) of service for
30 roadways shall be determined in accordance
31 with current FDOT Generalized Level of
32 Service Procedures.
33

34 c. The above-required intersection capacity(s)
35 shall be determined using computer software
36 based on the most recent edition of the Highway
37 Capacity Manual, Special Report 209, Transport
38 Research Board, National Research Council.
39

40 iii. The Florida Department of Transportation (FDOT)
41 Tables of Generalized Daily Level-of-service Maximum
42 Volumes or associated highway capacity software will
43 be used to determine initial highway capacities. The
44 measurement of capacity may also be determined by
45 substantiation in the form of engineering studies signed
46 and sealed by a licensed professional engineer. Traffic
47 analysis techniques must be technically sound and
48 justifiable as determined by FDOT the county.
49 Alterations to capacity on the state highway system
50 beyond ranges established by agreement between the
51 county and FDOT shall require FDOT review and
52 approval.

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4. ~~*Projection of background traffic.*~~ Volume(s) shall be projected for the year of the project completion. Volumes can be determined using one (1) of the following procedures:
 - i. ~~Multiplying existing volumes by an annual growth factor provided by the county. Traffic generated by any major project approved since the traffic counts were conducted shall be included as background traffic.~~
 - ii. ~~Multiply existing volumes by an annual growth factor approved by the county. This growth factor must be based on data collected on three (3) roadways in the vicinity of the project over at least the last two (2) years. Traffic generated by any major project approved since the traffic counts were conducted shall be included as background traffic.~~
 - iii. ~~Develop a gravity model.~~
 5. ~~*Project traffic generation.*~~ The following procedures and information shall be provided:
 - i. ~~To determine project traffic generation, the current edition of ITE's Trip Generation shall be used.~~
 - ii. ~~Identify all project land uses, amount of development and trip rates.~~
 - iii. ~~Trip rates may be obtained from studies of comparable sites in the county or using data from previous traffic generation studied and are subject to the approval of the county.~~
 - iv. ~~Any proposed reduction factors for capture of trips between land uses of a mixed use project or for passerby trips shall be provided by the applicant at a preapplication/methodology meeting and approved by the county.~~
 6. ~~*Project traffic distribution.*~~ One of the following methods shall be used:
 - i. ~~If the project generates fewer than one hundred (100) peak-hour trips, the distributions can be developed based on those of similar projects.~~
 - ii. ~~For any project, manual gravity model distribution can be developed. The travel-time method described in chapter 3 of ITE Transportation and Land Development shall be used.~~

1 for small scale plan amendments that generate over 1,000
2 average daily trips according to the ITE Trip Generation Manual
3 (most current edition), a comprehensive plan amendment traffic
4 study meeting LDTA standards and requirements shall be
5 submitted in conjunction with the application. Further, to the
6 extent applicable, the study will include the data and analysis
7 required by Rule Chapter 9J-5, Florida Administrative Code.
8 Notwithstanding the foregoing, if the plan amendment
9 encompasses 10 acres or more of land but generates less than
10 1,000 average daily trips, then the applicant may perform a 5
11 year concurrency analysis in lieu of the foregoing if approved in
12 advance by the county.

13
14 7. Development of Regional Impact. For all applications which
15 involve a development of regional impact (DRI), the applicant's
16 traffic study shall include data and analysis relative to the
17 Application for Development Approval (for the DRI) prepared
18 in accordance with the methodology prescribed by Rule 9J-
19 2.045, Fla. Admin. Code, and s. 380.06, Florida Statutes, as may
20 be amended or renumbered from time to time. The requirements
21 under this provision are in addition to any other traffic study or
22 LDTA that may be required pursuant to this article

23
24 8. Signed and Sealed by Professional Engineer. All traffic studies
25 and assessments required under this section shall be prepared,
26 signed, and sealed by a Professional Engineer registered and
27 practicing in the State of Florida, qualified to perform traffic
28 studies and assessments, and in accordance with professionally
29 recognized methodology and practices.

30
31 9. Applicant's Expense. If a LDTA, a comprehensive plan
32 amendment traffic study and/or a development of regional
33 impact traffic study pursuant to this section is required, it shall
34 be prepared and submitted by the applicant at the applicant's
35 expense.

36
37 (7) Public Schools:

38
39 a. The level of service (LOS) standards will be used to determine whether
40 sufficient school capacity exists to accommodate future residential
41 development.

42
43 b. The LOS standards shall be applied consistently to all schools of the
44 same type (elementary schools, middle schools, high schools).

45
46 c. The LOS standards for schools shall be calculated as a percentage of
47 FISH Capacity as follows:

48
49 1. Elementary: 100% of Permanent FISH Capacity for Permanent
50 Student Stations, *and* 100% of Permanent FISH Capacity for
51 Core Facilities (whichever is the greater number will be used for
52 calculating student capacities for LOS).

2. Middle School: 100% of Permanent FISH Capacity for Permanent Student Stations, *and* 100% of Permanent FISH Capacity for Core Facilities (whichever is the greater number will be used for calculating student capacities for LOS).
3. High School: 100% of Permanent FISH Capacity for Permanent Student Stations, *and* 100% of Permanent FISH Capacity for Core Facilities (whichever is the greater number will be used for calculating student capacities for LOS).
4. Magnet/lottery schools will maintain the LOS standard for the type of school for which it is intended (elementary, middle, or high).
5. For purposes of the this subsection, "Core Facilities" shall mean 'Permanent Cafeteria Capacity' based on FISH standards.

(Ord. No. 91-27, § 11, 7-31-91; Ord. No. 2009-_____)

Sec. 23-266. Alternative demand calculations.

If the applicant claims the standards provided in the demand calculations are not applicable to the proposed project, the applicant shall submit appropriate documentation, based upon professionally accepted methodology and practices, supporting the proposed alternative demand calculation to the county. Any alternative calculation standard for potable water, sewage treatment, drainage, solid waste disposal, parks and transportation shall be subject to review and approval of by the county. Any alternative calculation standard for public schools shall be subject to review and approval of by the school district.

(Ord. No. 91-27, § 12, 7-31-91)

Sec. 23-267. Appellate procedures.

Any appeal of a denial of a certificate of concurrency shall be to the board of county commissioners within thirty (30) days of the decision.

(Ord. No. 91-27, § 13, 7-31-91)

Sec. 23-268. Transportation Proportionate fair-share mitigation.

(a) *Purpose and intent.* The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair-share program, as required by and in a manner consistent with section 163.3180(16), Florida Statutes.

(b) *Findings.*

- (1) Hernando County Board of County Commissioners finds and determines that transportation capacity is a commodity that has a value to both the public and private sectors and that the county proportionate fair-share program:

-
-
- 1 a. Provides a method by which the impacts of development on
2 transportation facilities can be mitigated by the cooperative and creative
3 efforts of the public and private sectors;
4
5 b. Allows developers to proceed under certain conditions, notwithstanding
6 the failure of transportation concurrency, by contributing their
7 proportionate fair share of the cost of expanding or improving a
8 transportation facility;
9
10 c. Contributes to the provision of adequate public facilities for future
11 growth and promotes a strong commitment to comprehensive facilities
12 planning, thereby reducing the potential for moratoria or unacceptable
13 levels of traffic congestion; and
14
15 d. Maximizes the use of public funds for adequate transportation facilities
16 to serve future growth, and may, in certain circumstances, allow the
17 county to expedite transportation improvements by supplementing funds
18 currently allocated for transportation improvements in the capital
19 improvements element.
20

21 (c) *Applicability.* The proportionate fair-share program shall apply to any development
22 project in Hernando County where the project's traffic impact study or the county planning director (or
23 his designee) determines that there is insufficient capacity on one or more segments to satisfy the
24 development project's transportation concurrency requirements. The proportionate fair-share program
25 does not apply to developments of regional impact (DRIs) using proportionate fair share under section
26 163.3180(12), Florida Statutes, or to developments exempted from concurrency as provided in this
27 article.
28

29 (d) *General requirements.*
30

- 31 (1) An applicant whose project meets the criteria of this section may choose to
32 satisfy transportation concurrency requirements by making a proportionate fair
33 share contribution, pursuant to the following requirements:
34
35 a. The proposed development is consistent with the comprehensive plan
36 and applicable land development regulations, and
37
38 b. The five-year schedule of capital improvements in the county capital
39 improvements element (CIE) includes one or more transportation
40 improvements that, upon completion, will provide sufficient capacity for
41 the deficient segments to accommodate the traffic generated by the
42 proposed development.
43
44 (2) The county may choose to allow an applicant to satisfy transportation
45 concurrency for a deficient segment, through the proportionate fair-share
46 program, by the developer contributing to an improvement that, upon
47 completion, will create additional capacity on the deficient segment sufficient to
48 accommodate the additional traffic generated by the applicant's proposed
49 development even if the improvement project for the deficient segment is not
50 contained in the five-year schedule of capital improvements in the CIE where:
51

- 1 a. The board of county commissioners holds an advertised public hearing
2 to consider the proportionate share agreement and corresponding future
3 changes to the five-year CIE; and
4
- 5 b. The county adopts, by ordinance or resolution, a commitment to add the
6 improvement to the five-year CIE. To qualify for consideration under
7 this section, the proposed year schedule of capital improvements in the
8 improvement must be reviewed by the board of county commissioners,
9 and determined to be financially feasible pursuant to section
10 163.3180(16)(b)1, Florida Statutes, consistent with the comprehensive
11 plan, and in compliance with the provisions of this ordinance. Financial
12 feasibility for this section means that additional contributions, payments
13 or revenue sources to fund the improvement project are reasonably
14 anticipated during a period not to exceed ten (10) years.
15
- 16 (3) If the funds allocated for the five-year schedule of capital improvements are
17 insufficient to fully fund construction of a transportation improvement required
18 by the concurrency management system, the county may still enter into a binding
19 proportionate fair-share agreement with the applicant authorizing construction of
20 that amount of development on which the proportionate fair share is calculated if
21 the proportionate fair share amount in such agreement is sufficient to pay for one
22 or more improvements which will, in the opinion of the government entity or
23 entities maintaining the transportation facilities, significantly benefit the
24 impacted transportation system.
25
- 26 (4) Improvements funded by the proportionate fair-share component must be
27 adopted into the five-year capital improvements schedule at the next annual
28 capital improvements update.
29
- 30 (5) Any improvement project proposed to meet a developer's fair-share obligation
31 must meet design standards of the county for locally maintained roadways and
32 those of the Florida Department of Transportation (FDOT) for the state highway
33 system.
34
- 35 (e) *Application process.*
36
- 37 (1) Upon identification of a lack of capacity to satisfy transportation concurrency, an
38 applicant may choose to satisfy transportation concurrency through the
39 proportionate fair-share program pursuant to the requirements of this section.
40
- 41 (2) Prior to submitting an application for a proportionate fair-share agreement, the
42 applicant shall attend a pre-application meeting with planning and traffic
43 engineering staff to discuss eligibility, application submittal requirements,
44 potential mitigation options, and related issues. If the impacted facility is on the
45 strategic intermodal system (SIS), then the Florida Department of Transportation
46 (FDOT) will be notified and invited to participate in the preapplication meeting.
47
- 48 (3) Eligible applicants shall submit an application to the county that includes an
49 application fee as established by resolution and the following:
50
- 51 a. Name, address, and phone number of owner(s), developer and agent;
52

-
- 1 b. Property location, including parcel identification numbers;
2
3 c. Legal description and survey of property;
4
5 d. Project description, including type, intensity, and amount of
6 development;
7
8 e. Phasing schedule, if applicable;
9
10 f. Description of requested proportionate fair-share mitigation method(s);
11
12 g. Copy of concurrency application;
13
14 h. Copy of the project's traffic impact statement (TIS) or traffic impact
15 analysis (TIA); and
16
17 i. Location map depicting the site and affected road network.
18
19 (4) Within ten (10) business days, planning staff shall review the application and
20 certify that the application is sufficient and complete. If an application is
21 determined to be insufficient, incomplete, or inconsistent with the general
22 requirements of the proportionate fair-share program as indicated in this section,
23 then the applicant shall be notified in writing of the reasons for such deficiencies
24 within ten (10) business days of submittal of the application. If such deficiencies
25 are not remedied by the applicant within thirty (30) days of receipt of the written
26 notification, then the application shall be deemed abandoned. The board of
27 county commissioners may, in its discretion, grant an extension of time not to
28 exceed sixty (60) days to cure such deficiencies, provided that the applicant has
29 shown good cause for the extension and has taken reasonable steps to effect a
30 cure.
31
32 (5) Pursuant to section 163.3180(16)(e), Florida Statutes, proposed proportionate
33 fair-share mitigation for development impacts to facilities on the strategic
34 intermodal system requires the concurrence of the Florida Department of
35 Transportation (FDOT). If an SIS facility is proposed for proportionate share
36 mitigation, the applicant shall submit evidence of an agreement between the
37 applicant and the FDOT for inclusion in the proportionate fair-share agreement.
38
39 (6) When an application is deemed sufficient, complete, and eligible, a proposed
40 proportionate fair-share obligation and binding agreement will be prepared by
41 the county or the applicant with direction from the county and delivered to the
42 appropriate parties for review, including a copy to the FDOT for any proposed
43 proportionate fair-share mitigation on a strategic intermodal system (SIS)
44 facility, no later than sixty (60) days from the date at which the application was
45 determined to be sufficient and no fewer than fourteen (14) days prior to the
46 board of county commissioners meeting when the agreement will be considered.
47
48 (7) The county shall notify the applicant regarding the date of the board of county
49 commissioners meeting at which the agreement will be considered for final
50 approval. No proportionate fair-share agreement will be effective until approved
51 by the board of county commissioners.
52

1 (f) Determining proportionate fair-share obligation.

2
3 (1) Proportionate fair-share mitigation for concurrency impacts may include,
4 separately or collectively, private funds, contributions of land, and construction
5 and contribution of facilities as provided in section 163.3180(16)(c), Florida
6 Statutes.

7
8 (2) A development shall not be required to pay more than its proportionate fair
9 share. The fair market value of the proportionate fair-share mitigation for the
10 impacted facilities shall not differ regardless of the method of mitigation as
11 provided in section 163.3180(16)(c), Florida Statutes.

12
13 (3) The methodology used to calculate an applicant's proportionate fair-share
14 obligation shall be as provided for in section 163.3180(12), Florida Statutes, as
15 follows:

16
17 The cumulative number of peak hour, peak direction trips from the complete
18 build out of the proposed development, or build out of the stage or phase being
19 approved, that are assigned to the proportionate share program segment divided
20 by the change in the peak hour directional maximum service volume (MSV) of
21 the proportionate share program segment resulting from construction of the
22 proportionate share program improvement, multiplied by the anticipated
23 construction cost of the proportionate share project in the year that construction
24 will occur.

25
26 This methodology is expressed by the following formula:

27
28
$$\text{Proportionate Fair Share} = [(\text{Development Trips}_i) \div (\text{SV Increase}_i)] \times \text{Cost}_i$$

29
30 (Note: In the context of the formula, the term "cumulative" does not include a previously approved stage
31 or phase of a development.)

32
33 Where:

34
35 Σ = Sum of all deficient links proposed for proportionate fair-share mitigation
36 for a project.

37
38 $\text{Development Trips}_i$ = Those trips from the stage or phase of development under
39 review that are assigned to roadway segment "i" and have triggered a deficiency
40 per the concurrency management system.

41
42 SV Increase_i = Service volume increase provided by the eligible improvement to
43 roadway segment "i".

44
45 Cost_i = Adjusted cost of the improvement to segment "i". Cost shall consist of all
46 improvements and associated costs, including design, right-of-way acquisition,
47 planning, engineering, inspection, and physical development costs, directly
48 associated with construction at the anticipated cost in the year that construction
49 will occur.

50
51 (4) For purposes of determining proportionate fair-share obligations, the county
52 shall determine improvement costs based upon the actual and/or anticipated

1 costs of the improvement in the year that construction will occur. These costs
2 will be determined by the county's public works department. Accepted sources
3 for determining improvement costs may include, but not be limited to, the most
4 recent issue of FDOT transportation costs, as adjusted, based upon the type of
5 cross-section, and locally available data from recent projects.
6

7 (5) If the county has accepted an improvement project proposed by the applicant,
8 then the value of the improvement shall be based on an engineer's certified cost
9 estimate provided by the applicant and approved by the county's public works
10 director or other method approved by the county's public works director.
11

12 (6) If the county has accepted right-of-way dedication for the proportionate fair
13 share payment, credit for the dedication of the non-site related right-of-way shall
14 be valued on the date of the dedication at one hundred twenty (120) percent of
15 the most recent assessed value by the county property appraiser or, at the option
16 of the applicant, by fair market value established by an independent appraisal
17 approved by the county and at no expense to the county. Said appraisal shall
18 assume no approved development plan for the site. The applicant shall supply a
19 drawing and legal description of the land and a certificate of title or title search
20 of the land to the county at no expense to the county. If the estimated value of
21 the right-of-way dedication proposed by the applicant (based on a county-
22 approved appraisal) is less than the county estimated total proportionate fair-
23 share obligation for that development, then the applicant must also pay the
24 difference. If the estimated value of the right-of-way dedication proposed by the
25 applicant (based on a county-approved appraisal) is more than the county
26 estimated total proportionate fair-share obligation for the development, then the
27 county will give the applicant roads impact fee credit for the difference.
28

29 (g) *Impact fee credit for proportionate fair-share mitigation.*
30

31 (1) Proportionate fair-share mitigation payments for a development project shall be
32 applied as a credit toward the roads impact fees assessed to that development
33 project to the extent that all or a portion of the proportionate fair-share
34 mitigation is used to address the same capital infrastructure improvements
35 contemplated by the county's impact fee ordinance.
36

37 (2) Impact fee credits for a proportionate fair-share contribution will be determined
38 when the roads impact fee obligation is calculated for the proposed development.
39 If the applicant's proportionate fair-share obligation is less than the
40 development's anticipated roads impact fee for the specific stage or phase of
41 development under review, then the applicant must pay the remaining impact fee
42 amount.
43

44 (3) A proportionate fair-share contribution is intended to mitigate the transportation
45 impacts of a proposed development at a specific location. As a result, any roads
46 impact fee credit based upon proportionate fair-share contributions for a
47 proposed development may not be transferred to any other location.
48

49 (4) The amount of roads impact fee (RIF) credit for a proportionate fair-share
50 contribution may be up to but shall not exceed the project's proportionate fair
51 share amount, ~~and will be determined based on the following formula:~~
52

~~RIF Credit = [(Proportionate fair share impacted roadways' VMT) ÷ (Total project VMT)] × (Total project roads impact fee liability)~~

~~Where:~~

~~VMT (Vehicle miles of travel on a link) = (length of link) × (number of trips assigned to that link)~~

~~Total project VMT = Total vehicle miles of travel on all links impacted by proportionate fair share project~~

- (5) A proportionate fair share impact fee credit shall be applied consistent with the following formula:

Applicant payment = [(Total project roads impact fees assessed) + (Proportionate share payment)] - (RIF CREDIT)

(h) *Proportionate fair-share agreements.*

- (1) Upon executing a proportionate fair-share agreement (agreement) and satisfying other concurrency requirements, an applicant shall receive county certificate of concurrency approval. Should the applicant fail to apply for building permits within the time frame provided for in the county concurrency certificate, then the project's concurrency vesting shall expire, and the applicant shall be required to reapply. Once a proportionate share payment for a project is made and other impact fees for the project are paid, no refunds shall be given. All payments, however, shall run with the land.
- (2) Payment of the proportionate fair-share contribution for a project and payment of other impact fees assessed to that project shall be due and must be paid prior to the effective date of the proportionate fair share agreement. The effective date shall be specified in the agreement and shall be the date the agreement is approved by the board or its designee.
- (3) All developer improvements accepted as proportionate fair share contributions must be completed within three (3) years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement and be accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. The security instrument shall conform to the subdivision construction security requirements utilized by the county development department. It is the intent of this article that any required improvements be completed within three (3) years of the issuance of the first building permit for the project which is the subject of the proportionate fair share agreement.
- (4) Dedication of necessary right-of-way for facility improvements pursuant to a proportionate fair-share agreement must occur prior to the effective date of the proportionate fair share agreement.
- (5) Any requested change to a development project subsequent to issuance of a development order shall be subject to additional proportionate fair-share

1 contributions to the extent the change would increase project costs or generate
2 additional traffic that would require mitigation.

3
4 (6) Applicants may withdraw from a proportionate fair-share agreement at any time
5 prior to the execution of the agreement. The application fee and any associated
6 advertising costs to the county are nonrefundable.

7
8 (7) The county may enter into proportionate fair-share agreements for selected
9 corridor improvements to facilitate collaboration among multiple applicants on
10 improvements to a shared transportation facility.

11
12 (i) *Appropriation of fair-share revenues.*

13
14 (1) Proportionate fair-share revenues shall be placed in the appropriate project
15 account for funding of scheduled improvements in the county capital
16 improvements element, or as otherwise established in the terms of the
17 proportionate fair-share agreement. Proportionate fair-share revenues may also
18 be used as the fifty (50) percent local match for funding under the FDOT
19 Transportation Regional Incentive Program (TRIP).

20
21 (2) In the event a scheduled facility improvement is removed from the capital
22 improvements element (CIE), then the proportionate fair share revenues
23 collected for its construction may be applied toward the construction of
24 alternative improvements within that same corridor or sector where the
25 alternative improvement will mitigate the impacts of the development project on
26 the congested roadway(s) for which the original proportionate fair share
27 contribution was made.

28
29 (Ord. No. 2006-19, § 2, 11-21-06; Ord. No. 2009-_____)

30
31 **Sec. 23-269. Public school facilities proportionate share mitigation.**

32
33 (a) *Purpose and intent:* The purpose of this section is to establish a method whereby the
34 impacts of proposed residential development on public school facilities can be mitigated by the developer
35 in situations where the proposed project creates or increases a capacity deficit within one or more school
36 types (elementary, middle, high), based on the adopted LOS standard, within the subject CSA and that
37 such capacity deficit cannot be cured by available capacity in an adjoining CSA and whereby the
38 developer agrees to mitigate such capacity deficit through an acceptable binding commitment consistent
39 with s. 163.3180(13), Florida Statutes, as such may be amended or renumbered from time to time.

40
41 (b) *Findings:* Hernando County Board of County Commissioners finds that allowing
42 developers the ability to enter into proportionate share mitigation agreement:

43
44 (1). Provides a method by which the impacts of residential development on public
45 school facilities can be mitigated by the cooperative and creative efforts of the
46 public and private sectors;

47
48 (2) Allows developers to proceed under certain conditions, notwithstanding the
49 failure of public school facilities concurrency, by contributing their
50 proportionate fair share of the cost of providing, expanding or improving a
51 public school facility; and,
52

1 (3) Contributes to the provision of adequate public facilities for future growth and
2 promotes a strong commitment to comprehensive facilities planning, thereby
3 reducing the potential for moratoria or unacceptable levels of overcrowding at
4 public school facilities.

5
6 (c) Applicability. The proportionate fair-share program shall apply to any residential
7 development project in Hernando County where the project's impacts creates or increases a capacity
8 deficit within one or more school types (elementary, middle, high), based on the adopted LOS standard,
9 within the subject CSA and that such capacity deficit cannot be cured by available capacity in an
10 adjoining CSA. The proportionate fair-share program does not apply to developments exempted from
11 concurrency as provided in this article.

12
13 (d) General requirements; An applicant whose project meets the criteria of this section may
14 choose to satisfy public school facilities concurrency requirements by making a proportionate fair share
15 contribution, pursuant to the following requirements:

16
17 (1) The proposed development is consistent with the comprehensive plan and
18 applicable land development regulations;

19
20 (2) The school district determines that the proposed project will create or increase a
21 capacity deficit within one or more school types (elementary, middle, high),
22 based on the adopted LOS standard, within the subject CSA and that such
23 capacity deficit cannot be cured by available capacity in an adjoining CSA; and

24
25 (3) The developer is willing to enter into and execute a legally binding commitment
26 (via an acceptable proportionate share mitigation agreement) which mitigates the
27 actual capacity deficit created by the proposed project in a fair and proportionate
28 manner.

29
30 (e) Mitigation Alternatives

31
32 (1) Procedures. In the event the proposed project meets the requirements for
33 proportionate share contribution, then the following procedure shall be used.

34
35 a. The applicant (developer) shall initiate in writing a mitigation
36 negotiation period with the school district in order to establish an
37 acceptable form of mitigation proportionate with the project's impact on
38 an existing or actual capacity deficit, pursuant to s. 163.3180(13)(e),
39 Florida Statutes, the county's comprehensive plan, and this article.

40
41 b. Acceptable forms of mitigation may include:

42
43 i. The donation, construction, or funding of school facilities
44 sufficient to offset the demand for public school facilities to be
45 created by the proposed development.

46
47 ii. Construction of a charter school that complies with the
48 requirements of s. 1002.33(18), Florida Statutes.

49
50 iii. The creation of mitigation banking based on the developer's
51 construction and/or financing of a public school facility in
52 exchange for the right to sell excess capacity credits (the selling

of excess credits shall be limited to that area within the subject CSA or any abutting CSA) and as may be further limited by this article, and subject to review and approval by the school district.

c. Mitigation negotiation period:

- i. If within 90 days of the date the applicant initiates the mitigation negotiation period, the applicant and the school district are able to agree to an acceptable form of mitigation, a legally binding proportionate share mitigation agreement shall be executed by the applicant and the school board (together with the county) which sets forth the terms of the mitigation, including such issues as the amount, nature, and timing of donations, construction, or funding to be provided by the developer, and any other matters necessary to effectuate mitigation in accordance with the county's comprehensive plan and this article. The proportionate share mitigation agreement shall specify the amount and timing of any impact fee credits or reimbursements, if any, that the developer expects to receive in connection with its mitigation payment/donation under said agreement.
- ii. The school district may grant up to two (2) ninety 90-day extensions to the mitigation negotiation period.
- iii. If, after 90 days, together with any allowed extensions, the applicant fails to proffer an acceptable proportionate share mitigation agreement, then the school district will issue a written finding of no available capacity which the school district shall send to the applicant with a copy to county.

(2). Standards. The following standards apply to any proposed proportionate share mitigation agreement:

- a. Relocatable classrooms will not be accepted as mitigation.
- b. Mitigation shall be directed to projects on the school district's financially feasible 5 year work program that the school district agrees will satisfy the demand created by that development approval, and shall be assured by a legally binding proportionate share mitigation agreement between the school board, the county, and the applicant. The development agreement shall be executed prior to the issuance of the applicable subdivision plat, site plan or functional equivalent in the development review process.
- c. Student generation formula. The Student generation formula used for calculating mitigation shall be as follows:

Number of Student Stations (by school type) = Number of Dwelling units (by housing type) x Student Generation Multiplier (by housing type and school type)*

[* Student Generation Multipliers shall be based upon the best available data and professionally accepted methodology and the most recent supporting data and analysis promulgated by the school district]

d. Cost per student station. For purposes of this article, Cost Per Student Station estimates shall include, at a minimum, all costs of providing instructional and core capacity including land, site improvements, design, buildings, equipment, furniture, and costs of financing (if applicable). The capital costs associated with transportation of students shall not be included in the Cost Per Student Station estimate used for mitigation.

e. All mitigation pursuant to this section must be proportionate to the demand for public school facilities to be created by the actual development of the property and based upon an existing and actual school capacity deficit (as determined pursuant to this article) within one or more school types (elementary, middle, high).

(3) Calculation of proportionate mitigation share. The proportionate mitigation share amount shall be calculated as follows:

Proportionate Share Amount = Number of Student Stations (by school type) x Cost per Student Station (by school type)**

**** The above formula shall be calculated for each housing type within the proposed development and for each school type (elementary, middle, high) for which a capacity deficiency has been identified. The sum of these calculations shall be the proportionate share amount for the development under review.]**

(4) Credits. The applicant shall be entitled to a credit against its mitigation obligation for any public school facilities impact fees and other exactions (*i.e.* contributions of land and/or facilities improvements) imposed by county ordinance or contained within a development order or development agreement between the applicant and the county or school district for the same need on a dollar for dollar basis at fair market value.

(5) Amendments to 5-Year Work Plan/Capital Improvement Element. If the school district agrees to the developer's proffered proportionate share mitigation agreement, then the school district must commit to adding the improvement required for mitigation to its 5 year work program and the county must commit to amending its capital improvement element and capital improvement schedule accordingly. The agreement shall include the landowner's commitment to continuing renewal of the development agreement upon its expiration.

(Ord. No. 2009-_____)

Secs. 23-269270--23-279. Reserved.

1 **SECTION II. Amending Chapter 23 (Planning), Article III (Impact Fees), Division 2 (Educational**
2 **Facilities Impact Fee), Section 23-73 (Exemptions).** Section 23-73 is hereby amended to read as
3 follows, with underlined matter added and struck-through matter deleted:
4

5 **Sec. 23-73. Exemptions.**
6

7 The following shall be exempted from payment of the public educational facilities impact fee:
8

- 9 (1) Alteration or expansion of an existing residential building where no additional units are
10 created and where the use is not changed.
11
12 (2) The construction of accessory buildings or structures.
13
14 (3) The replacement of a residential land use unit with a new unit of the same type and use.
15
16 (4) The replacement of a lawfully permitted building, mobile home, or structure, ~~the~~
17 ~~building permit for which was issued on or before the effective date of this division or~~
18 ~~the replacement of a building, mobile home or structure that was constructed subsequent~~
19 ~~thereto and for which the correct public educational facilities impact fee, which was~~
20 ~~owed at the time the building permit was applied for, was paid or otherwise provided for,~~
21 ~~with a new building, mobile home, or structure of the same use and at the same location.~~
22
23 (5) A building permit for which the public educational impact thereof has been or will be
24 paid or otherwise provided for pursuant to a written agreement, zoning approval or
25 development order which, by the written terms thereof, clearly and unequivocally was
26 intended to provide for the full mitigation of such impact by enforcement of the
27 agreement, zoning approval or development order, and not by the application of this
28 division.
29
30 (6) A building permit which does not result in any additional impact on public educational
31 facilities as sufficiently demonstrated by the applicant and approved by the school
32 district.
33
34 (7) The construction of any nonresidential building or structure.
35

36 An exemption must be claimed by the feepayer prior to or at the time of the issuance of ~~a~~ the first
37 building permit for vertical construction. It shall be the responsibility of the feepayer to provide
38 reasonable and sufficient supporting documentation for any exemption claimed. ~~Any exemption not so~~
39 ~~claimed shall be deemed waived by the feepayer~~ Any claim for exemption made after the issuance of the
40 first building permit for vertical construction shall not be considered by the county and any right to make
41 said claim shall be deemed waived by the property owner.
42

43 (Ord. No. 86-26, § 10, 10-28-86; Ord. No. 93-7, § 10, 3-25-93; Ord. No. 96-15, § 10, 7-16-96; Ord. No.
44 97-15, § 10, 7-7-97; Ord. No. 01-16, § 10, 10-23-01, Ord. No. 2009-__)
45

46 **SECTION III. AMENDING APPENDIX A (ZONING), ARTICLE II (GENERAL REGULATIONS), SECTION 4**
47 **(GENERAL REGULATIONS FOR VEHICLES), SUBSECTION A (OFFS-STREET PARKING SPACE AND ACCESS).**
48 Appendix A (Zoning), Article II (General Regulations), Section 4 (General regulations for vehicles),
49 Subsection A (Off-street parking space and access) is amended to read as follows, with underlined matter
50 added and struck-through matter deleted:
51

52 A. *Off-street parking space and access:*

- 1 (1) Shall be provided for all buildings and uses on the premises or, if approved by the
2 administrative official, may be located within four hundred (400) feet of the premises it
3 serves and/or may be consolidated into a large parking area serving other buildings and
4 uses; provided, however, that such off-street parking space shall be maintained, regulated
5 and enforced as if it were actually located on the premises it is designed to serve.
6
- 7 (2) Shall be constructed to county parking lot standards as approved by the governing body
8 and shall have vehicular access to a street or alley; provided, that:
9
- 10 (a) Places of public assembly, public and private schools offering academic courses,
11 and non-commercial amusement facilities may have up to fifty (50) percent of
12 the parking spaces (including aisles) surfaced with grass, lawn or other materials
13 as designated in the county parking lot standards For permanent, reserve parking;
14 however, if parking demand is such that said grass, lawn or other material is
15 caused to be damaged or destroyed to the extent that said grass or lawn ceases to
16 grow, or the other material otherwise causes a nuisance to the neighborhood,
17 then paving of such an area in accordance with this section may be required by
18 the administrative official;
19
- 20 (b) Stadiums, arenas and other such similar facilities utilized in a noncontinuous,
21 occasional manner may have all nonemployee parking spaces (excluding aisles)
22 surfaced with grass, lawn or other materials as designated in the county parking
23 lot standards for permanent reserve parking; however, if parking demand is such
24 that said grass, lawn or other material is caused to be damaged or destroyed to
25 the extent that said grass or lawn ceases to grow, or the other material otherwise
26 causes a nuisance to the neighborhood, then paving of such an area in
27 accordance with this section may be required by the administrative official;
28
- 29 (c) Single-family detached residential dwellings shall not be required to provide
30 paved parking spaces or access except for aprons accessing paved streets.
31
- 32 (d) Alternative paving materials and pervious parking areas may be approved by the
33 County Engineer.
34
- 35 (3) Shall have a landscaped separation as provided for and contained in the standards set
36 forth in the Community Appearance Ordinance.
37
- 38 (4) Minimum off-street parking space requirements for trucks shall be one space for every
39 truck operated by the establishment on the premises.
40
- 41 (5) Off-street parking; fractional measurements. When units or measurements determining
42 the number of required off-street parking spaces result in the requirement of a fractional
43 space, then a fraction having a value of less than five-tenths (0.5) shall be construed to be
44 the next lower number of parking spaces, and fractions having a value equal to or greater
45 than five-tenths (0.5) shall be construed to be the next higher number of parking spaces.
46
- 47 (6) Minimum off-street parking space requirements for automobiles shall be as follows:
48
- 49 (a) Single-family detached dwelling: 2.0 spaces per dwelling unit.
50

- 1 (b) Two (2) or more family dwelling and single-family attached: 1.5 spaces per
2 dwelling unit for one and two bedroom units, 2.0 spaces per unit for 3 or more
3 bedroom units.
4 * For multifamily projects which are dedicated to affordable housing as
5 defined in s. 420.0004, Florida Statutes, or workforce housing as defined
6 in s. 420.5095, Florida Statutes, as such statutes may be amended or
7 renumbered from time to time, then the afore-stated minimum parking
8 space requirements may be reduced by up to ten percent (10%) of the
9 total required. The burden shall be on the applicant to demonstrate to
10 the satisfaction of the administrative official, through reasonable and
11 appropriate documentation, that a reduction under this provision is
12 warranted.
13
14 (c) Lodging house, boarding or rooming house: 1 space per sleeping room PLUS 1
15 space per resident manager.
16
17 (d) Dormitory, fraternity or sorority house: 1.5 spaces per every two (2) students
18 based on maximum capacity PLUS 1 space for every resident manager.
19
20 (e) Comparison goods stores, convenience goods stores, antique stores, secondhand
21 stores, and personal service establishments:
22
23 1. General: 5 spaces per 1,000 square feet of building floor area.
24
25 2. Flea market: 10 spaces per 1,000 square feet of area devoted to sales.
26
27 3. Furniture, major appliance: 2 spaces per 1,000 square feet of building
28 area.
29
30 (f) Domestic and business service establishments, publishing and printing service
31 establishments, domestic and business repair establishments, and domestic rental
32 establishments: 5 spaces per 1,000 square feet of building area.
33
34 (g) Business, professional and nonprofit organizations offices, public offices, and
35 research development and testing laboratories: 4 spaces per 1,000 square feet of
36 building area PLUS 3 spaces per doctor/dentist/therapist.
37
38 (h) Business training schools: 2 spaces per 1,000 square feet of building area PLUS
39 0.8 spaces per student enrolled on the premises.
40
41 (i) Restaurant: 0.4 spaces per seat based on maximum customer capacity PLUS 1
42 space per drive-through customer service window plus 1 space per employee for
43 the largest shift.
44
45 (j) Drive-in restaurant: 1 space per drive-through customer service window PLUS 1
46 space per employee of the largest shift.
47
48 (k) Commercial amusement establishments, non-commercial amusement facilities,
49 and motion picture theaters:
50
51 1. General: 0.3 spaces per seat based on maximum capacity of auditorium,
52 stadium, arena, theater or similar place of assembly; or 0.3 spaces per

- 1 person based on maximum capacity; or 15 spaces per 1,000 square feet
2 of building and/or land area devoted to assembly or recreation use on the
3 premises.
4
5 2. Bowling: 4 spaces per lane.
6
7 3. Golf: 4 spaces per green PLUS 1 space per driving range position.
8
9 4. Gun/archery range: 3 spaces per target position PLUS 1 space per
10 employee.
11
12 5. Miniature golf: 2 spaces per green PLUS 1 space per employee.
13
14 6. Racquet court: 2 spaces per court.
15
16 7. Skating: 5 spaces per 1,000 square feet of building area.
17
18 (l) Motel and Hotel: 1.1 spaces per sleeping unit PLUS 1 space per resident
19 manager PLUS 0.2 spaces per restaurant seat based on maximum customer
20 capacity.
21
22 (m) Automotive dealer establishments, tire and automotive accessory establishments,
23 automotive specialty establishments, automotive equipment rental
24 establishments, gasoline service stations, automobile and truck repair
25 establishments, public transportation terminals, motor freight transportation
26 establishments, and aircraft establishments: 1.5 spaces per person regularly
27 employed on the premises PLUS 5 spaces per 1,000 square feet of building area
28 devoted to retail selling of merchandise, goods and products.
29
30 (n) Farm equipment and supply establishments, and building material
31 establishments: 1.5 spaces per person regularly employed on the premises PLUS
32 5 spaces per 1,000 square feet of building area devoted to retail selling of
33 merchandise, goods and products.
34
35 (o) Heating fuel and ice establishments, construction service establishments and
36 landscaping service establishments: 1.5 spaces per person regularly employed on
37 the premises.
38
39 (p) Veterinarian and animal hospital service establishments: 1.8 spaces per person
40 regularly employed on the premises PLUS 3 spaces per veterinarian.
41
42 (q) Mortuaries, funeral homes and crematories: 20 spaces per 1,000 square feet of
43 building area devoted to slumber rooms, parlors or individual mortuary rooms
44 PLUS 0.3 spaces per seat based on maximum capacity of funeral service
45 chambers or chapel.
46
47 (r) Manufacturing, wholesale and storage establishments, outdoor advertising
48 service establishments, and laundry and dry cleaning plants: 0.7 spaces per
49 person regularly employed on the premises based on the largest single
50 employment shift.
51
52 (s) Primary and secondary educational facilities: the greater of:

- 1 1. 1 space per staff member PLUS 3 spaces for visitor parking.
- 2
- 3 2. 0.2 spaces per student above the 9th grade level
- 4
- 5 3. 0.3 spaces per seat in public assembly areas
- 6
- 7 (t) Cultural facilities: 0.3 spaces per seat or 10 spaces per 1,000 square feet of
- 8 building and/or land area devoted to assembly or visitor use on the premises.
- 9
- 10 (u) Places of public assembly: 0.3 spaces per seat on basis of maximum capacity of
- 11 auditorium or principal place of assembly.
- 12
- 13 (v) Hospitals: 1.6 spaces per bed based on maximum patient capacity.
- 14
- 15 (w) Nursing care homes: 0.3 spaces per bed based on maximum capacity.
- 16
- 17 (x) Congregate care homes and facilities and Community residential homes:
- 18
- 19 1. 0.5 spaces per bed based on maximum capacity.
- 20
- 21 2. The parking for Congregate care homes facilities and Community
- 22 residential homes may be surfaced with grass or lawn; however, if
- 23 parking demand is such that said grass or lawn is caused to be damaged
- 24 or destroyed to the extent that said grass or lawn ceases to grow, then
- 25 paving of such an area in accordance with this section may be required
- 26 by the county administrative official.
- 27
- 28 (y) Marine establishments: 1 space per person regularly employed on the premises
- 29 PLUS 5 spaces per 1,000 square feet of building area devoted to retail selling of
- 30 merchandise, goods and products PLUS 2 spaces per 5 wet or dry boat slips.
- 31
- 32 (z) Call centers: 1 space per employee or workstation, whichever is greater.
- 33
- 34 (7) Where a facility is combined for multiple use, the total amount of required parking shall
- 35 be calculated on a combined basis.

Shared parking provision:

When any land or building is under the same ownership, or able to provide assurance of the continued operation and proper maintenance of the shared parking facility, and the proposed development includes two or more land uses (excluding residential), the number of minimum required parking spaces may be computed by multiplying the minimum number of parking spaces normally required for each land use by the appropriate percentage shown in the shared parking credit table below for each of the time periods indicated. The number of parking spaces required is then determined by adding the results in each column. The column with the greatest number of parking spaces is the minimum parking required.

Land Use	Weekday		Weekend		Nighttime
	6:00 a.m.-- 6:00 p.m.	6:00 p.m.-- midnight	6:00 a.m.-- 6:00 p.m.	6:00 p.m.-- midnight	midnight-- 6:00 a.m.
Office and industrial	100%	10%	10%	5%	5%
Retail and personal services	60%	90%	100%	70%	5%
Hotel/motel	75%	100%	75%	100%	75%
Restaurant	50%	100%	100%	100%	10%
Indoor theater and commercial recreation	40%	100%	80%	100%	10%

- (8) The amount of off-street parking space required shall be interpreted by the administrative official.
- (9) Off-street parking space designed to serve nonresidential buildings and use located in nonresidential zoning districts shall not be permitted to be located in residential zoning districts.
- (10) Existing off-street parking space for any premises shall not be reduced ~~unless it exceeds~~ the below the minimum requirements of this ordinance.
- (11) Any existing use without conforming off-street parking space shall not be required to conform with the requirements of this ordinance at the time of any alteration, change of use or expansion of the use unless there is a resulting increase in parking space demand. If an increase results, then the total required parking must conform to county parking lot standards.
- (12) Off-street parking facilities and other vehicular facilities both required and provided shall:
 - (a) Be identified as to purpose and location when not clearly evident;
 - (b) Provide that access to parking, including access and aisles providing access to parking spaces, be constructed to county parking lot standards approved by the governing body;
 - (c) Be drained to county drainage standards approved by the governing body.
- (13) All off-street parking and loading areas shall be well maintained; free of potholes, debris, weeds, broken curbs, and broken wheel stops; clearly striped; and with all lighting in working condition.
- (14) Any parking areas to be used by the general public shall provide suitable, marked parking spaces for handicapped persons. The number, design and location of these spaces shall be consistent with county parking lot standards and applicable state and federal laws.

SECTION IV. AMENDING APPENDIX A (ZONING), ARTICLE V (ADMINISTRATION), SECTION 8 (SPECIAL EXCEPTION USE REGULATIONS), SUBSECTION B (SPECIAL EXCEPTION GENERAL REQUIREMENTS). Appendix A (Zoning), Article V (Administration), Section 8 (Special exception use regulations), Subsection B (Special exception general standards) is amended to read as follows, with underlined matter added and struck-through matter deleted:

1 B. Special exception general standards. All special exception uses shall be subject to the following
2 regulations:

- 3
- 4 (1) *Uses.* ~~The premises of a~~ A special exception use shall be used for only those buildings,
5 uses and accessory buildings specifically indicated ~~by the commission, and shall not~~
6 exceed the maximum size, density, intensity, number of units or other measurement or
7 limiting factors so indicated, in its the approval of the special exception use.
- 8
- 9 (2) *Compatibility.* The tract of land must be suitable for the type of special exception use
10 proposed by virtue of its location, shape, topography and the nature of surrounding
11 development.
- 12
- 13 (3) *Standards.* Required standards and regulations for special exception uses and buildings
14 are as follows:
- 15
- 16 (a) All special exception uses shall be subject to the general regulations for
17 structures and uses, lots and yards and vehicles contained in this ordinance for
18 principal building and single lot development as well as the specific dimension
19 and area regulations for lots and structures in the specific zoning district in
20 which the special exception use is proposed.
- 21
- 22 (b) Minimum lot frontage on a street shall be sufficient to permit properly spaced
23 and located access points designed to serve the type of special exception use
24 proposed. The proposed use shall not attract inappropriate traffic volumes, noise
25 or congestion. Wider spacing between access points and intersection street right-
26 of-way lines should be required when the lot has more than the minimum
27 required frontage on a street. All access points shall be specifically approved by
28 the administrative official.
- 29
- 30 (c) All buildings should be located an adequate distance from all property lines and
31 street right-of-way lines. Greater building setback lines should be required when
32 the lot has more than the minimum lot area required or when deemed necessary
33 to protect surrounding properties.
- 34
- 35 (d) Landscaped separation shall be provided along all property lines and along all
36 streets serving the premises in conformance with the Hernando County
37 Community Appearance Ordinance and as required by the planning and zoning
38 commission. The premises shall be permanently screened from adjoining and
39 contiguous properties by a wall, fence, evergreen hedge and/or other approved
40 enclosure when deemed necessary to buffer the special exception use from
41 surrounding areas.
- 42
- 43 (e) The use shall be of a similar architectural scale to existing neighborhood
44 development or take advantage of an existing building for its purposes.
- 45
- 46 (f) Visual and functional conflict between the proposed use and nearby
47 neighborhood uses, if existent, shall be minimal.
- 48
- 49 (g) For special exception uses on local streets, traffic generation rates and traffic
50 distribution rates associated with the proposed use will be reviewed to determine
51 whether they exceed those typically associated with local street traffic.
- 52

- 1 (4) *Signs permitted:* Sign location and size shall be indicated on the site plan submitted with
2 the special exception use permit. The planning and zoning commission may approve
3 signage up to the maximum allowed in the land development regulations regarding signs.
4
- 5 (5) *Special exception runs with the land.* A special exception applies to the property for
6 which it is granted and not to the individual who applies for it. A special exception
7 which has not been discontinued as provided for herein, voluntarily relinquished by the
8 property owner or has become void by operation of law is transferable to any future
9 owner of the land, but it cannot: (i) be transferred by the applicant/property owner to a
10 different site; (ii) be expanded as to size, density, intensity, number of units or other
11 measurement or limiting factor(s) imposed in connection with its original approval; (iii)
12 be changed as to approved use, or (iv) have new uses added, Further, the special
13 exception shall become null and void if the parcel of land granted the special exception
14 is reduced in size from the original approval size, the use for which the special exception
15 is granted is discontinued for a period of two (2) consecutive years or the property owner
16 voluntarily relinquishes the special exception use by notifying the county in writing.
17 Nothing herein shall prevent a property owner that has lost, discontinued or relinquished
18 any special exception use from reapplying by filing a new application and paying all
19 required fees.
20
- 21 (6) *Expansion/change of special exception use.* Any expansion of a special exception use as
22 to size, density, intensity, number of units or other measurement or limiting factors
23 imposed in connection with its original approval or any change of approved use or any
24 addition of a new use will be treated as a new application, with the property owner filing
25 a new application and paying all required fees in accordance with this article, and subject
26 to public hearing and approval.
27

28 **SECTION V. AMENDING APPENDIX A (ZONING), ARTICLE VIII (PLANNED-DEVELOPMENT**
29 **PROJECT), SECTION 1 (PLAN DEVELOPMENT PROJECTS).** Appendix A (Zoning), Article VIII (Planned-
30 Development Projects), Section 1 (Planned development Projects) is amended to read as follows, with
31 underlined matter added and struck-through matter deleted:
32

33 **Section 1. General provisions for Planned development projects.**
34

35 All planned development projects shall meet the following requirements for development:
36

37 *[Subsections A. through O. remain unchanged]*
38

- 39 P. *Duration of Master Plan.* The failure of the applicant to initiate substantial performance
40 within two (2) years from date of approval by the governing body shall render the master
41 plan null and void unless a longer duration period is specifically set forth in a valid and
42 unexpired DRI development order or a valid and unexpired development agreement
43 between the applicant and the county. If a planned development project requires
44 subsequent conditional plat approval, then 'substantial performance' shall mean that the
45 applicant has obtained conditional plat approval during ~~this two year~~ the duration period
46 and the applicant is diligently pursuing the next stage of development approval in
47 accordance with all applicable time frames. If a planned development project does not
48 require plat approval, then 'substantial performance' shall mean that the applicant has
49 obtained a building permit for vertical construction relating to the primary or principal
50 building for non-residential projects or has obtained building permits for the first phase
51 of dwelling units for residential projects during ~~this two year~~ the duration period. Should
52 these subsequent time frames not be adhered to, then the master plan shall be deemed

1 null and void. A master plan that has been deemed null and void under this provision
2 cannot be revived except by the applicant starting the process anew including filing a
3 new application and paying all required fees.
4

5 **SECTION VI. AMENDING APPENDIX A (ZONING), ARTICLE VIII (PLANNED-DEVELOPMENT**
6 **PROJECT), SECTION 2 (PLAN STANDARDS).** Appendix A (Zoning), Article VIII (Planned-Development
7 Projects), Section 2 (Plan Standards) is amended to read as follows, with underlined matter added and
8 struck-through matter deleted:
9

10 **Section 2: Plan Standards**
11

12 For all Planned Development Projects, the applicant shall submit a master plan to the Planning
13 Department. The master plan shall show all of the following, to the extent applicable:
14

- 15 1. Location and approximate acreage of all proposed land uses, including the location of all
16 proposed uses, identification of all dwelling unit types, and identification of any special
17 design features;
18
- 19 2. External access roads and the approximate location and design of proposed access
20 points;
21
- 22 3. Major internal access roads, proposed circulation plan and access points to individual
23 pods;
24
- 25 4. The location and extent of any existing natural features, wetlands, listed flora and fauna;
26 or other unique features; and any surveys associated with these features;
27
- 28 5. Separation distances between land uses;
29
- 30 6. Surrounding zoning;
31
- 32 7. Surrounding land uses;
33
- 34 8. Parcel dimensions and existing site conditions;
35
- 36 9. Location of Flood Plains;
37
- 38 10. Topographical information;
39
- 40 11. Location of existing and proposed Drainage Retention Areas;
41
- 42 12. Perimeter project setbacks and building heights;
43
- 44 13. Internal project setbacks;
45
- 46 14. Individual lot setbacks;
47
- 48 15. Intensity/density of the proposed project;
49
- 50 16. Portions of the property, if any, restricted to senior or age-restricted residents, or
51 restricted to affordable housing as defined in s. 420.0004, Florida Statutes, or restricted

to workforce housing as defined in s. 420.5095, Florida Statutes, as such statutes may be amended or renumbered from time to time; and,

~~16~~ 17. Depending upon the location, complexity or size of the proposed project the planning staff may request additional information necessary to complete the review of the project.

This shall be considered a preliminary master plan at time of submittal of the rezoning amendment petition. The Governing Body may require that the master plan be revised to meet any additional conditions. If the Governing Body requires such a revision, the applicant must submit a revised master plan, meeting all conditions, ~~within thirty (30) days of the approval of the Planned Development Project of the rezoning or the rezoning shall become null and void~~ following the action by the Governing Body. In no event shall the applicant receive any subsequent development approval from the county until such time the applicant has submitted a revised master plan meeting the requirements of this provision.

SECTION VII. AMENDING APPENDIX A (ZONING), ARTICLE VIII (PLANNED-DEVELOPMENT PROJECT), SECTION 3 (NARRATIVE STANDARDS). Appendix A (Zoning), Article VIII (Planned-Development Projects), Section 3 (Narrative Standards) is amended to read as follows, with underlined matter added and struck-through matter deleted:

Section 3: Narrative Standards

For all Planned Development Projects, the applicant shall submit a narrative. The narrative, at a minimum, shall discuss each of the following items:

1. Proposed land uses and approximate acreage of land uses;
2. Proposed density levels for the residential development (if applicable)/intensity of commercial (in square footage);
3. Separation distances for the differing land uses within, and external to, the proposed PDP;
4. Proposed setbacks, minimum sizes for individual lots, and building heights;
5. Condition of and impact on natural features;
6. Discussion of the impact on infrastructure, including but not limited to transportation, water, drainage, sanitary sewer, parks, recreation, ~~and solid waste~~ and public school facilities, along with any necessary data and analysis required to demonstrate that adequate public facilities will be available;
7. Discussion on any improvements proposed to the infrastructure to maintain and demonstrate adequate public facilities;
8. Proposed uses within all the pods;
9. Existing land uses on the site and the adjacent site;
10. Concept of the development plan, including project phasing if applicable;
11. Identification, and justification of, any proposed deviations from the design standards;

12. If the project or any portion involves dedicated senior or age-restricted housing, or is restricted to affordable housing as defined in s. 420.0004, Florida Statutes, or workforce housing as defined in s. 420.5095, Florida Statutes, as such statutes may be amended or renumbered from time to time, then a description of such housing shall be included in the narrative. The county shall require a separate development agreement with the applicant and/or evidence of recordable deed restrictions or such other recordable instrument acceptable to the county which memorializes and enforces such commitment to provide senior or age-restricted housing, affordable housing, and/or work-force housing.

± 13. Depending upon the location, complexity or size of the proposed project the planning staff may request additional information necessary to complete the review of the project.

This shall be considered a preliminary narrative at time of submittal of the request for zoning amendment petition. The Governing Body may require that a PDP narrative be revised to meet any additional conditions. If the Governing Body requires such a revision, the applicant must submit a revised narrative, meeting all conditions, within thirty (30) days of the approval of the Planned Development Project of the rezoning or the rezoning shall become null and void following the action by the Governing Body. In no event shall the applicant receive any subsequent development approval from the county until such time the applicant has submitted a revised narrative meeting the requirements of this provision.

SECTION VIII. Severability. It is declared to be the intent of the Board of County Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

SECTION IX. Repeal of Conflicting Ordinances. The provisions of any other Hernando county ordinance that are inconsistent or in conflict with the provisions of this Ordinance are repealed to the extent of such inconsistency or conflict.

SECTION X. Inclusion in the Code. It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, any section or subsection of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate designation.

SECTION XI. Effective date. This ordinance shall take effect immediately upon filing with the Department of State.

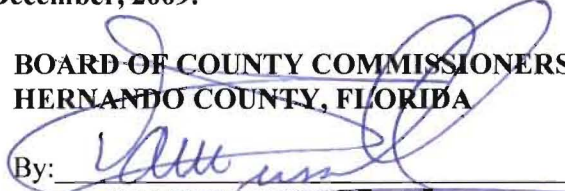
BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY in Regular Session this 8th day of December, 2009.

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Attest: 
KAREN NICOLAI
CLERK



**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

By: 
DAVID D. RUSSELL, JR.
CHAIRMAN

Approved as to Form and Legal Sufficiency

By:  11/23/09
Geoffrey T. Kirk, Assistant County Attorney