



ORDINANCE NO. 2000 - 33

AN ORDINANCE AMENDING ORDINANCE 99-06, AS AMENDED, REFERRED TO AS THE "CONCURRENCY MANAGEMENT ORDINANCE"; SPECIFICALLY AMENDING SECTION 10. MEASUREMENT OF LEVEL OF SERVICE STANDARDS; SECTION 12. APPEALS; AND SECTION 14, ADMINISTRATIVE FEES AND FORMS AS TO APPENDIX B; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners enacted Ordinance 99-06 on January 25, 1999; and

WHEREAS, the Board has found it necessary to amend Ordinance 99-06.

NOW, THEREFORE, BE IT ORDAINED this 28th day of August, 2000, by the Board of County Commissioners of Nassau County, Florida, that Ordinance 99-06, as amended, be further amended as follows:

1. SECTION 10. MEASUREMENT OF LEVEL OF SERVICE STANDARDS

10.1 Transportation

10.1.1 Level of Service Standards. Consistent with the Comprehensive Plan Adoption Document, Traffic Circulation Policies and Capital Improvement Level of Service Policies, the level of service standards shall serve as the minimum criteria for determining whether available capacity exists on arterial and collector roads within a Traffic Impact Area impacted by a Proposed Development and which are maintained by either the county or the Florida Department of Transportation.

10.1.2 Data Requirements and Concurrency Evaluation. The data requirements and concurrency evaluation shall be performed in accordance with Section 8.6 of this Ordinance and the Traffic Impact Study Methodology and Procedures, which is attached as Appendix A to this Ordinance and hereby incorporated by reference. The

traffic analysis shall be submitted simultaneously with the Concurrency Application.

10.1.2.1 A traffic impact study for a multi-phase project shall be submitted in conjunction with the first Application for Concurrency Determination for the project and shall include all future development phases. The traffic study shall remain valid and in effect for a two year period. Subsequent development phases seeking a Final Concurrency Determination shall be required to update the traffic impact study with current data if the Application for Concurrency Determination for said development phases is submitted more than two years from the project's original application for Concurrency Determination.

10.1.2.2 Phased projects will be required to perform a traffic study which analyzes both the impact of the phase(s) seeking a Certificate of Concurrency and the ultimate build out of the entire project. The analysis of the total build out of the project will be performed as part of the concurrency application for the first phase of the project in order to assess the ultimate transportation needs of the entire project, but shall not be used as a basis for a determination of transportation concurrency or for issuance of a Certificate of Concurrency. The methodology for performing the analysis shall be based on the following:

10.1.2.2.1 The Study Area of the total build out of the project will be determined by the extent of all impacted segments for the total

project, including future phases and phases which have previously received a Certificate of Concurrency or Concurrency Exemption. The phase(s) of the project seeking a Certificate of Concurrency will be evaluated for transportation concurrency based only on the Traffic Impact.

Area using the criteria contained in Section 10.1.2.2 above for the phase(s) seeking the Certificate of Concurrency and shall include the development for which a Certificate of Concurrency is being sought and the cumulative development within the project for which a Certificate of Concurrency has been issued.

10.2 Potable Water.

10.2.1 Level of Service Standard. The adopted Level of Service standard shall be the standard identified in the Capital Improvements Element of the Comprehensive Plan.

10.2.2 Conditions. A finding of concurrency with respect to the Adopted Level of Service standard shall not preclude the placement of conditions on Development Orders regarding potable water service including, but not limited to, fire flow standards, sizing of distribution and transmission lines, and peak capacity.

10.2.3 Availability of Adequate Capacity. Applications for Concurrency Determinations shall be analyzed with respect to the availability of adequate potable water which shall be determined pursuant to the following information:

10.2.3.1 An inventory of all community water systems serving the unincorporated areas of the county,

which includes, at a minimum, the following data for each system:

- 10.2.3.1.1 System capacity;
 - 10.2.3.1.2 Capacity of wellfield, or other source of raw water supply;
 - 10.2.3.1.3 Historical average flow of potable water;
 - 10.2.3.1.4 Historical peak flow of potable water;
 - 10.2.3.1.5 Number of hookups and the estimated potable water demand per hook-up; and
 - 10.2.3.1.6 Number of hook-ups for which contractual commitments have been made.
- 10.2.3.2 Project data pertaining to the proposed Development Order under consideration which shall be provided by the Applicant, subject to verification by the County Public Works Department, and which shall, at a minimum, contain the following:
- 10.2.3.2.1 The specific location of the project, including the identification of the entity expected to provide service to the project;
 - 10.2.3.2.2 The proposed land uses and land use intensities;
 - 10.2.3.2.3 Total potable water demand and peak demand projected to be generated by the proposed development; and
 - 10.2.3.2.4 Project phasing information, if applicable.

10.2.3.3 Prior to the issuance of a Final Certificate of Concurrency by the county, as provided in Section 3, the applicant shall be required to provide evidence of the reservation of capacity through the payment of water and sewer connection fees for publicly owned utilities and non-franchised community water systems or a letter from a franchised utility verifying that a Utility Agreement has been executed. The Department of Environmental Protection Permit Number shall be provided if applicable.

10.3 Sanitary Sewer.

10.3.1 Level of Service Standard. The adopted Level of Service standard shall be the standard identified in Objective No. 4.01, of the Nassau County Comprehensive Plan.

10.3.2 Availability of Adequate Capacity. Development Orders shall be analyzed with respect to the availability of adequate sanitary sewer capacity.

10.3.2.1 Certification.

10.3.2.1.1

Projects within the Service Area of a Publicly Owned Wastewater Treatment Plant. If the project is within the service area of an individually-owned or franchised wastewater system, the applicant shall submit a letter and information from that entity verifying that adequate capacity is available to satisfy the demand for water created by the proposed development and to satisfy the

Adopted Level of Service Standard for wastewater as identified in the Comprehensive Plan. Such information shall include, at a minimum, if applicable, the Florida Department of Environmental Protection permit number issued pursuant to a completed Notice of Intent to Use General Permit for Wastewater Collection/Drinking Water Distribution System (Form No. 17-555.910(7)) and a copy of the latest applicable Operation and Maintenance Performance Report and, if applicable, Capacity Analysis Report prepared pursuant to Florida Administrative Code Chapter 17-600.405 or any successor regulations(s).

10.3.2.1.2 Projects Served by Septic Tanks or Package Treatment Plants. Projects served by septic tanks or package treatment plants shall comply with and provide all applicable permits or approvals from the Nassau County Health Department or a Florida Department of Environmental Protection Package Sewer Treatment Plant permit.

10.3.2.2 Prior to the issuance of a Final Certificate of Concurrency by the County, the applicant shall be required to provide evidence of the reservation of capacity through the payment of water and sewer connection fees from a franchised utility verifying a Utility Agreement has been executed. The Department of Environmental Protection permit

number shall be referenced as provided in Section ~~10.3.2.3.1~~ 10.3.2.1.1.

10.3.2 Concurrency Analysis for Sanitary Sewer Facilities. Relying upon the data provided pursuant to Section 10.3.2 above, the Planning and Zoning Department shall evaluate the impacts of the proposed development to determine whether the sanitary sewer facilities within the service area of the proposed development have available capacity to accommodate the proposed development. In the event that the data described in Section 10.3.2 are not available in their entirety, the required data may be provided by the applicant subject to the verification by the Planning and Zoning Department.

10.4 Parks/Open Space

10.4.1 Level of Service Standard. Consistent with Objective 7.01 of the Comprehensive Plan, the following Adopted Level of Service standard shall serve as the minimum criteria for determining whether available parks/open space acreage and recreation capacity exists.

<u>Parkland and Open Space</u> <u>Population</u>	<u>LOS:Acres per 1000</u>
Play Area/Tot Lot	0.5 Ac/1000
Neighborhood Park/Play field	2.0 Ac/1000
Community Park	2.0 Ac/1000
Community Passive Space	1.0 Ac/1000
District/Metro Area Parks	5.0 Ac/1000
Regional/State Parks	20.0 Ac/1000
Beach Access w/ parking	<u>0.5 Ac/1000</u>
Total	31.0 Ac/1000

10.4.2 Availability of Adequate Parks/Open Space Acreage. Adequate capacity of parks and recreational facilities shall apply only to Development Permits, or those portions of Development Permits, which propose residential development. Applications for Concurrency Determinations shall be analyzed with respect to the availability of adequate parks/open space acreage which shall be determined pursuant to the following information:

10.4.2.1 An inventory of all parks and open space acreage, including undeveloped park land, owned by the county, and including, at a minimum the following data for each facility, to be developed by the County:

10.4.2.1.1 Type of park (i.e. Neighborhood, Community, urban or Regional Park/Open Space);

10.4.2.1.2 The demand for park/open space acreage, calculated by multiplying the existing population by the Adopted Level of Service Standard for each park type; and

10.4.2.1.3 The acreage of each park facility, by type.

10.4.2.2 Project data pertaining to the Applications for Concurrency Determinations under consideration which shall be provided by the Applicant, subject to verification by the Department shall, at a minimum, contain the following:

10.4.2.2.1 The specific location of the project;

10.4.2.2.2 The total number of residential dwelling units proposed, by type;

10.4.2.2.3 The total estimated residential population of the Proposed Development consistent with the average household size established by the Department, based on latest census information or population estimates prepared by the University of Florida Bureau of Economic and Business Research; and

10.4.2.2.4 Project phasing information, if applicable.

10.4.3 Concurrency Analysis for Parks/Open Space Acreage. Relying upon the data provided pursuant to Section 10.4.2 above, the Department shall evaluate the impacts of the proposed development to determine whether the park and open space acreage within the county have sufficient acreage to accommodate the proposed development. In the event that the data described in Section 10.4.2 are not available in their entirety, the required data may be provided by the applicant subject to verification by the Department.

10.5 Solid Waste.

10.5.1 Level of Service Standard.
Consistent with Policy ~~J.1.2.1~~ 4.01.01 of the ~~Capital Improvements~~ Public Facilities Element of the Comprehensive Plan, the following Adopted Level of Service Standard shall serve as the minimum criteria for determining whether available solid waste collection and disposal capacity exists:

10.5.1.1 The ability of the county to provide facilities sufficient to accommodate 4.91 pounds of solid waste per capita per day.

10.5.2 Availability of Adequate Capacity.
Applications for Concurrency Determinations shall be analyzed with respect to the availability of adequate solid waste collection and disposal system capacity which shall be determined pursuant to the following information:

10.5.2.1 Documentation prepared by the Solid Waste Department projecting annual usage rates of solid waste disposal through the expected life of the County Solid Waste Facility, using population projections consistent with those developed by the University of Florida Bureau of Economic and Business Research;

10.5.2.2 Project data pertaining to the Applications for Concurrency Determinations under consideration which shall be provided by the Applicant, subject to verification by the Solid Waste Department, in sufficient detail to determine the annual impact of the project on the solid waste facilities, including at a minimum:

10.5.2.2.1 The number and type of residential dwelling units proposed and the estimated generation of solid waste from such units;

10.5.2.2.2 The type and intensity of non-residential uses and the estimated generation of solid waste from such uses; and

10.5.2.2.3 Project phasing information, if applicable.

10.5.3 Concurrency Analysis for Landfill Capacity. Relying upon the data provided pursuant to Section 10.5.2 above, the Solid Waste Department shall annually prepare a statement that available landfill capacity exists to meet existing and projected solid waste disposal requirements through the activation date of the county solid Waste Facility. This statement will serve as the finding of concurrency for all Final Development Orders issued during the subsequent year.

2. SECTION 12. APPEALS

12.1 General Requirements. An applicant who has received a Determination of Deferral, A Final Certificate of Concurrency which has been conditioned upon a reduction in the proposed density or intensity of the project, or the provision of public facilities pursuant to a Final Certificate of Concurrency/Development Agreement, may file an appeal with the Board of County Commissioners within fifteen (15) calendar days of such deferral or conditional approval after receipt from the Department.

12.1.1 Form: The appellant shall file the appeal form established for such purpose by the Department.

12.1.2 Additional Information: Nothing herein shall be construed as a limitation on the authority of the Board to require additional relevant information to be provided by the Appellant.

12.2 Grounds for Appeal to the Board of County Commissioners. An appeal may be taken to the Board in a de novo hearing only where the appellant claims that the criteria for evaluating the impact of the proposed project on Public Facilities and Services as set forth in Section 8 and 10 of this ordinance were incorrectly

applied, that the deferral, pursuant to this Ordinance, of an Application for Concurrency Determination was based upon incorrect data, or where the appellant claims that the application of the Concurrency Management Ordinance to the project would result in a taking of private property. The filing of an appeal on the basis of one of the grounds for appeal set forth herein shall not preclude the consideration of any additional grounds for appeals as prescribed in this section.

12.3 Completeness of Application. Within ten (10) days after initial submission of an Appeal, the Department shall determine whether it is complete and shall notify the County Attorney. The County Attorney shall notify the Appellant within five (5) days of receipt of the determination of the Department. If the County Attorney disagrees with the Department, he/she shall notify the Department in writing and the Department and the County Attorney shall meet within five (5) days of the County Attorney's notification to resolve any differences. If there is no agreement, the entire package will be sent to the Board of County Commissioners and a copy to the Appellant.

12.3.1 Complete Application for Appeal. If the Appeal is found to be complete pursuant to Section ~~11.3~~ 12.3, the County Attorney shall schedule the appeal for consideration by the Board.

12.3.2 Incomplete Application for Appeal. If the Appeal is determined to be incomplete, written notice shall be sent by the Department to the Appellant identifying all additional or revised information required, which shall be submitted by the Appellant within sixty (60) calendar days from the date of mailing of the notice. Within ten (10) working days after receipt of such additional information, the Department shall determine whether the additional information submitted by the Appellant allows for a determination of completeness and submit the determination to the County Attorney.

If then determined to be complete, the Department shall so notify the Appellant and the County Attorney shall schedule the appeal for a hearing by the Board. If still determined to be incomplete, the Department shall send notice in writing to the Appellant indicating whether initially required information has not yet been provided or whether the additional information provided has raised additional questions. The appellant may, within thirty (30) calendar days from the date of mailing of the notice, elect to submit additional information and/or respond to questions, or to submit the Appeal to the Board. If the appellant chooses to submit additional information, the Department shall review the information for completeness within ten (10) working days after receipt of the additional information and notify the County Attorney and he/she shall then schedule the appeal for a hearing by the Board. If the appellant chooses to submit the appeal to the Board, the County Attorney shall schedule the Appeal for a hearing by the Board.

12.4 Decision of the Board of County Commissioners.

The Board shall approve in whole or in part or deny the Appeal based upon the criteria set forth in this Ordinance and, if applicable, the report of the County Attorney; or the Board may postpone the matter for submission of additional information. If the matter is postponed for the submission of additional information, the Appellant shall have sixty (60) calendar days from the date of postponement to submit all additional or revised information specified by the County Attorney. If the appeal claims that the Appellant's property has been taken, the County Attorney shall consider the criteria set forth in Section 11.6 of this Ordinance and shall issue a written recommendation to the Board within fifteen (15) working days of the date

complete information, as determined by the Board, has been submitted. A Decision shall be made by the Board within the later of thirty (30) working days of the hearing or the issuance of the report of the County Attorney. The Decision of the Board shall be in writing, shall contain findings of fact and conclusions of law, and shall refer specifically to the Property or portion of Property to which it applies. The Decision may contain reasonable conditions necessary to effect the purposes of this Ordinance and the Concurrency Requirements of the Plan. The Decision shall state that it is subject to expiration in accordance with this or subsequent ordinances. The Decision shall be filed with the Department and a copy shall be provided to the Appellant. The Decision of the Board shall be considered final for purposes of judicial appeal. Review of the decision or order of the Board shall be initiated by filing a petition for writ of certiorari with the Clerk of Courts in accordance with applicable Rules of Appellate Procedures.

12.5 Application for Concurrency Management System Criteria. If the grounds for appeal are that the criteria for evaluating the impact of the Project on Public Facilities and Services as set forth in Section 8 and 10 of this Ordinance were incorrectly applied, or that the denial or deferral of an Application for A Concurrency Determination was based upon incorrect data, the Board shall consider only the concurrency report and the reports of the Evaluating Departments and no additional evidence may be considered or received.

12.6 Takings.

12.6.1 Criteria. In acting upon an appeal claiming that the Deferral Determination or conditional approval of a Final Certificate of Concurrency would result in a taking of private property, the Board shall consider the concurrency report, the reports of the Evaluating Departments, the standards specified in this Ordinance or in the Comprehensive Plan and shall

determine whether the enforcement of the Concurrency Management Ordinance would result in a taking of private property in violation of the federal and Florida Constitutions. In making its determination, the County Attorney and the Board may consider all relevant state and federal case law concerning regulatory takings.

12.6.2 Any appellant challenging a decision, determination or result made under this Ordinance as a temporary or permanent taking of private property must exhaust the appeal process provided by this section and any other subsequently enacted administrative procedures for appeal or relief before proceeding with judicial review.

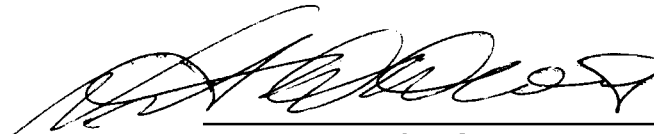
12.7 Vested Rights or Exemptions. This Section shall not apply to any claim based upon vested rights, equitable estoppel, or an exemption from the Concurrency Management System Ordinance.

3. **SECTION 14. ADMINISTRATIVE FEES AND FORMS**

The forms for Application for Concurrency Determination and fee schedules are set forth in the revised Appendix "B", and said appendix is hereby incorporated by reference, ~~with the effective date of the revised Appendix "B" to be upon adoption of this ordinance.~~ Said Forms and fee schedules shall be reviewed by the Board and shall be amended pursuant to Resolution.

4. EFFECTIVE DATE: This Ordinance shall become effective upon its being filed in the Office of the Secretary of State.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



NICK D. DEONAS
Its: Chairman

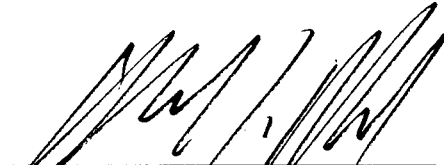
ATTEST:



J. M. "CHIP" OXLEY, JR.

Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN

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CONCURRENCY REVIEW FEE SCHEDULE
Exhibit "A" to Resolution No. 2000 -

TYPE OF CONCURRENCY REVIEW	<u>CATEGORY</u>	AVERAGE VEHICLE	REVIEW
		TRIPS	FEE
Final Concurrency Determination Binding Concurrency Management Ordinance, Section 8.2.2	Small Project Review	1-50	\$ 50.00
	Minor Traffic Review	51-399	\$ 250.00
	Land Development Traffic Assessment	400+	\$ 840.00
	S.F. Home Not in a Subdivision	N/A	No Charge
Adequate Concurrency Determination Non-Binding Concurrency Management Ordinance, Section 8.2.1	Small Project Review	1-50	\$ 50.00
	Minor Traffic Review	51-399	\$ 250.00
	Land Development Traffic Assessment	400+	\$ 840.00
	S.F. Home Not in a Subdivision	N/A	No Charge
Modification of Concurrency Determination		N/A	\$ 150.00
Appeal of Concurrency Exemption <u>Determination</u> to the Board of County Commissioners CEO Section 11 12		N/A	\$ 200.00 <u>300.00</u>
Concurrency Exemption Determination (Staff Verification of Categorical Concurrency Exemption)		N/A	\$ 66.00 <u>50.00</u>
Appeal to Concurrency Exemption Committee		N/A	\$ 300.00
Concurrency Exemption Determination (Other than Categorical Exemptions)		N/A	\$ 895.00