

JUN 10 2008 NP/JNO/LH

ORDINANCE NO. 2008-11


EFFECTIVE DATE

AN ORDINANCE PERTAINING TO COMPREHENSIVE PLANNING IN ORANGE COUNTY, FLORIDA; AMENDING THE ORANGE COUNTY COMPREHENSIVE POLICY PLAN, COMMONLY KNOWN AS THE "2000-2020 COMPREHENSIVE POLICY PLAN," AS AMENDED, BY AMENDING THE PUBLIC SCHOOL FACILITIES ELEMENT; AMENDING THE CAPITAL IMPROVEMENTS ELEMENT; AMENDING THE INTERGOVERNMENTAL COORDINATION ELEMENT; CREATING GOALS, OBJECTIVES AND POLICIES PURSUANT TO STATUTORY REQUIREMENTS FOR SCHOOL CONCURRENCY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Legislative Findings, Purpose, and Intent.

- a. On July 1, 1991, the Orange County Board of County Commissioners adopted a new comprehensive plan pursuant to Sections 163.3161 - 163.3215, Florida Statutes, known as the "Local Government Comprehensive Planning and Land Development Regulation Act" ("Act"), which sets forth the procedures and requirements for a local government in the State of Florida to adopt a comprehensive plan and amendments to a comprehensive plan;
- b. The Board of County Commissioners ("Board") adopted this comprehensive plan, known as the "1990-2010 Comprehensive Policy Plan" ("1990-2010 CPP") by Ordinance No. 91-16;
- c. The Board amended the 1990-2010 CPP numerous times between 1992 and 2000;
- d. On December 5, 2000, the Board adopted Ordinance No. 2000-25, which, inter alia, renamed the 1990-2010 CPP as the "2000-2020 Comprehensive Policy Plan ("CPP");
- e. The Board has amended the CPP a number of times since December 5, 2000;

STATE OF FLORIDA, COUNTY OF ORANGE
I HEREBY CERTIFY this is a copy of document
approved by the BCC on JUN 10 2008
MARTHA O. HAYNIE, COUNTY COMPTROLLER
By:  JUN 23 2008
Deputy Clerk - Date



f. Orange County has complied with the requirements of the Act of amending the CPP again;

g. On November 15, 2007 the Orange County Local Planning Agency (“LPA”) held a public hearing on the transmittal of proposed amendments to the CPP, and recommended the transmittal of those proposed amendments to the Florida Department of Community Affairs (“DCA”);

h. On January 29, 2008, the Board held a public hearing on the transmittal of proposed amendments to the CPP, and decided to transmit those proposed amendments to the DCA;

i. On April 15, 2008, the County staff received the DCA’s “Objections, Recommendations, and Comments Report” concerning the proposed amendments to the CPP;

j. On May 15, 2008, the LPA held a public hearing at which it reviewed and made recommendations regarding the adoption of proposed amendments to the CPP; and

k. On June 10, 2008, the Board held a public hearing on the adoption of proposed amendments, and decided to adopt them as described in this ordinance.

Section 2. Authority. This ordinance is adopted in compliance with and pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Sections 163.3161 - 163.3243, Florida Statutes, as amended.

Section 3. Amendments to Text of Public Schools Facilities Element. The CPP, as amended, is hereby further amended by amending or creating the following Public School Facilities Element Goals, Objectives, Policies, to read as follows, with underlines showing new numbers and words, and strike-throughs indicating repealed numbers and words:

Policy 2.1.2 ~~Enter into agreements for joint use of School Board and Orange County facilities, to include but not be limited to, schools,~~

community centers, libraries, and parks. Where feasible, Orange County Public Schools (OCPS) and Orange County shall work jointly to co-locate public facilities such as parks, libraries, and community centers with public schools. Where such co-location occurs, both entities shall establish an ongoing management relationship via written agreement that permits the school's use of the public facilities and the public's use of school facilities for community meetings and sports activities.

* * *

Policy 2.2.8

In an effort to enhance local communities and neighborhoods, Orange County will participate with OCPS in the school siting, design and development process so that the school serves as a focal point for the community and is compatible with the Future Land Use Map and with land uses surrounding proposed school sites.

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Policy 3.1.7

Provide off-site signalization, signage access improvements and sidewalks to serve all schools, where needed. Turn lanes and signalization shall be provided at school entrances and at other locations near schools, where warranted, to provide safe access to students and the public. Responsibility for construction of school-related signalization and road construction at school entrances shall be the responsibility of OCPS.

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Policy 3.1.9

In accordance with Section 1006.23, Florida Statutes, and as funding permits, Orange County shall provide construction of sidewalks along roadways and trails connecting neighborhoods that are within two miles of schools to the school facility. OCPS shall be responsible for the construction of sidewalks and trails on school property and shall provide connections to existing and future sidewalks and trails identified by the County.

Policy 3.1.10

OCPS shall coordinate with Orange County in the construction of new public school facilities and in rehabilitation of existing public school facilities to serve as emergency shelters as required by Section 1013.372, Florida Statutes.

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Policy 4.1.4 Review and update impact fees on periodic basis as required by resolution. Orange County in consultation with OCPS and Orange County Municipalities (Municipalities) shall review and update the school impact fee study at least once every four (4) years.

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Policy 4.2.6 Orange County will coordinate with the School Board to evaluate alternative funding sources such as, but not limited to analysis and reform of state and local assessment benefit districts, community development districts, additional sales tax, bonds, special service fees, documentary stamps, transfer taxes, and lease-purchase of facilities to fund school capital needs and consider support for changes to state legislation to provide for these options as needed. Additional school capital funding mechanisms shall be considered on a countywide basis, including all municipalities.

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Policy 4.2.8 Orange County supports Orange County School Board's evaluation of the use of Public Private Partnerships to finance school construction including but not limited to Real Estate Investment Trusts (REIT)

Policy 4.2.9 Orange County will support efforts by OCPS to formally request additional funding from the State of Florida to meet class size reduction obligations.

Objective 4.3 ~~Manage the timing of new development to coordinate with adequate school capacity.~~

POLICIES

Policy 4.3.1 ~~Coordinate with the School Board to research alternative funding mechanisms to provide for sufficient school capacity for future growth in Orange County. In the event the School Board determines that funding is not adequate to provide the needed school capacity to support projected school enrollment in Orange County, the County and the School Board, shall consider developing a school concurrency requirement.~~

Policy 4.3.2 ~~Orange County shall recognize growth, and the related need for adequate school capacity, as a regional issue. Any effort to implement a school concurrency requirement shall be~~

~~implemented on a countywide basis. Therefore, prior to the implementation of a school concurrency requirement, the County, with the support of the School Board, shall either pursue a charter amendment or enter into a series of interlocal agreements that would authorize the adoption of a county-wide school concurrency system.~~

~~**Policy 4.3.3** Prior to the implementation of a school concurrency management requirement, the following criteria shall be met:~~

~~a. Establish a community task force to conduct a study, consistent with Ch. 163.3180 F.S., to determine how a school concurrency requirement would be met and shared by all affected parties;~~

~~b. Provide an informational basis upon which to consider imposing a school concurrency requirement; the County shall prepare an economic study and cost-benefit analysis addressing the short term and long term impact on the economy and the school system of both options to either implement or not implement a school concurrency requirement;~~

~~c. Implement the findings of the above study from paragraph "a" through an interlocal agreement with the School Board;~~

~~d. Coordinate with the School Board to establish level-of-service standards and mutually acceptable planning efforts for public schools within Orange County;~~

~~e. Amend the Capital Improvements Element to incorporate LOS standards and the School Board's financially feasible plan which demonstrates that the adopted LOS standards for public schools will be achieved and maintained;~~

~~f. Develop a staging plan implementing the concurrency requirement to correspond with available funding;~~

~~g. Process the school concurrency requirement as a comprehensive plan amendment;~~

~~h. Prepare, in conjunction with the School Board, a local ordinance to implement the school concurrency requirement; and,~~

~~i. Implement, in coordination with the School Board, a school concurrency requirement if the criteria in the above policy are met.~~

~~**Policy 4.3.4** Vested rights and exemptions respecting concurrency and consistency shall be in accordance with applicable law.~~

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Policy 5.1.6

For purposes of coordinating planning efforts, Orange County shall annually initiate the compilation and provision to the school board of the data and reports identified below. ~~After the initial reports have been developed, Orange County shall continue to provide updated reports to the school board by October 1st of each year.~~

a. A summary and maps of projected buildout populations for all approved development in Orange County in a format reasonably suitable for assisting in development of school population projections and development of long range capital programs for schools and ancillary facilities.

b. A listing and maps showing all major capital improvements programmed for parks, recreation, pedestrian and bike trails, libraries, children's services and related improvements impacting schools or suitable for joint planning and design of improvements.

c. A bikeway/pedestrian plan for student access for each school in the County showing all improvements needed to serve students within two miles of all existing and proposed school sites and a schedule for construction of such projects.

d. For each school facility in the County, a schedule for all public construction impacting the campus.

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Policy 5.1.8

Enter into an agreement with the Orange County School Board for the School Board to annually provide to Orange County by ~~October 1st of each year,~~ a general educational facilities report containing the following information:

a. School Board facilities and leases.

- b. Sites owned by the School Board, sites under option, lease or reservation and sites for which preliminary negotiations have been undertaken.
- c. The School Board's approved program for capital improvements.
- d. A summary of all five-year joint-use programs conducted on school campuses or jointly on schools and adjacent property controlled by other governmental agencies.
- e. An identification of educational facility needs and areas in the County which the School Board has identified as potentially suitable for site acquisition to meet those needs.
- f. A listing of school properties declared surplus and of school facilities scheduled for replacement or demolition.

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Policy 5.1.10

~~Encourage and support area-wide planning activities which make school siting the cornerstone for planning and design of neighborhoods.~~ Pursuant to the adopted Amended Interlocal Agreement for Public School Facility Planning and School Concurrency (Interlocal Agreement), a Technical Advisory Committee comprised of representatives from the County, Municipalities, OCPS and the Regional Planning Council shall be established to discuss issues of mutual concern. OCPS shall be responsible for making meeting arrangements, providing notification and maintaining a written summary of meeting actions.

Policy 5.1.11

The Technical Advisory Committee shall meet quarterly, or as needed, to discuss issues and formulate recommendations regarding coordination of land use and school facilities. Specific areas addressed by the committee shall include:

- a. Short and long-range planning, population and student projections, and future development trends;
- b. Co-location and joint-use opportunities, and ancillary infrastructure improvements needed to support the school facilities and ensure safe student access to schools;

- c. Planning for needed supporting infrastructure for schools such as utilities, roads, sidewalks, etc.;
- d. The need for new schools to meet the adopted LOS within the adopted CSAs and the coordination of annual revisions to the ten (10) year District Capital Outlay Plan (DCOP); and
- e. Update of the DCOP for inclusion in Orange County's Comprehensive Plan.

Policy 5.1.12 Pursuant to the Interlocal Agreement, Orange County shall provide an update of approved developments, phases of development and estimated build out by phase to the OCPS Planning Department on an annual basis.

Policy 5.1.13 Orange County shall review OCPS-generated future enrollment and growth projections on an annual basis and provide input to the OCPS Planning Department.

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Policy 5.2.6 Orange County shall protect existing schools from the intrusion of incompatible land uses through the development review process. [163.3177(12)(g)4. F.S.] and [9J-5.025(3)(b)5.F.A.C.]

Policy 5.2.7 Orange County and OCPS shall, throughout the planning period, coordinate the siting of new public schools to ensure to the extent possible public school facilities are located to address the needs of future residential development, are coordinated with necessary services and infrastructure development, provide for safe learning environments, are consistent with the County's adopted Future Land Use Map and with the other provisions of the Comprehensive Policy Plan.

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Policy 5.3.2 The school siting ordinance shall establish procedures for the review and coordination of plans for school sites. ~~Work with the Orange County School Board to establish informal procedures for review and coordination of plans for school sites.~~

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Policy 5.3.6 Applications for Future Land Use Map amendments, rezonings, conditional use/special exceptions and site plans for schools shall be given priority status. OCPS shall not be required to pay

application fees or impact fees for the development of public school facilities, provided, however, OCPS shall not be exempt from payment of capital connection fees for water and wastewater.

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Policy 5.4.7 Support School Board efforts to identify long-range school site needs and select sites based on the criteria established in this element and in the School Siting Ordinance. For illustrative purposes, the most current application of these principles is represented by the School Concept Plans identified as Maps 3, 4, and 5 in the appendix of the Public School Facilities Element.

Policy 5.4.8 Coordinate with the School Board to review and update the school concept plans (identified as Maps 3, 4, and 5 in the appendix of the Public School Facilities Element) annually to ensure the identified proposed new school sites are based on the best available growth and development patterns and related data.

* * *

Goal 6 Orange County shall establish plans, regulations and programs, in conjunction with OCPS to facilitate the future availability of public school facilities to serve residents, consistent with the adopted level of service for public schools and with state of Florida concurrency statutes and regulations.

Objective 6.1 Orange County shall coordinate with OCPS to implement a Concurrency Management System that ensures adequate classroom capacity to accommodate the impacts of new residential development throughout the planning period.

Policy 6.1.1 The Concurrency Management System shall include standards and procedures to ensure that new residential development complies with the Level of Service (LOS) Standards provided in the Interlocal Agreement between OCPS, the Municipalities, and the County, and the adopted Capital Improvements Element. The adopted LOS shall be used to determine the available capacity of Elementary, Middle and High Schools within the designated Concurrency Service Area (CSA) where the development is proposed. The adopted LOS must be achieved in all CSAs by April 1, 2012, except for deficient CSAs, where improvements needed to achieve adequate classroom capacity are specifically identified in the OCPS ten (10) year DCOP for funding by April 1, 2017.

Policy 6.1.2 The County shall utilize the OCPS calculation of school capacity, which is annually determined by OCPS using the Adjusted Florida Inventory of School Houses (FISH) Capacity for each school and Concurrency Service Area (CSA) within the school district. Consistent with the Interlocal Agreement, Adjusted FISH Capacity shall be defined as the number of students who can be served in a permanent public school facility as provided in FISH adjusted to account for the design capacity of Modular or In-Slot Classrooms on the campuses designed as Modular or In-Slot schools, but not to exceed Core Capacity.

Policy 6.1.3 The LOS standards, except for backlogged facilities as provided in Capital Improvements Element (CIE) Policy 1.3.18, to implement school concurrency shall be calculated as a percentage of the Adjusted FISH Capacity as follows:

- a. Elementary: 110% of Adjusted FISH using Modified Middle School Attendance Zones as CSAs
- b. K through 8: 110% of Adjusted FISH Capacity using K through 8 School Attendance Zones as CSAs
- c. Middle: 100% of Adjusted FISH using Middle School Attendance Zones as CSAs
- d. High, including ninth grade centers: 100% of Adjusted FISH using High School Attendance Zones as CSAs (Note: Adjusted permanent FISH for High Schools does not include in-slots.)

Policy 6.1.4 Any changes or modifications to the adopted LOS shall follow the process and guidelines as outlined in Section 13 of the Interlocal Agreement.

Policy 6.1.5 Orange County shall support OCPS' efforts to initiate any of the following strategies to ensure compliance with adopted LOS standard:

- a) Building new schools to relieve over capacity schools in CSAs that exceed the adopted LOS,
- b) Renovating over capacity schools to add permanent capacity and replace on campus portables,

c) Rezoning students from over capacity schools to under capacity schools.

d) Moving special programs from over capacity schools to under capacity schools to utilize excess permanent capacity where it exists.

Policy 6.1.6 Concurrency shall be evaluated and determined within the geographical boundaries of the established Concurrency Service Areas (CSA).

Policy 6.1.7 Any changes or modifications to the adopted CSAs shall follow the process and guidelines as outlined in Section 14 of the Interlocal Agreement. [9J-5.025 (3) (c) I.F.A.C.]

Policy 6.1.8 The number of elementary, middle and high school students generated by a residential development, shall be calculated by multiplying the number of dwelling units by the student generation rates by school type as set forth in Table 12 of the Orange County Public Schools Public Schools Facilities Element Data Inventory and Analysis dated May 2, 2008.

Policy 6.1.9 The County shall support OCPS' efforts to meet adopted LOS standards through the adoption of a ten (10) year, financially feasible DCOP. Where the LOS cannot be achieved through the construction of new school capacity as provided in the five (5) year DCOP, the County shall cooperate with OCPS' efforts to adopt a long range ten (10) year DCOP as part of the School District's annual capital planning process.

Policy 6.1.10 Where adequate school facilities will be in place or under actual construction within three (3) years after the issuance of final subdivision or site plan approval, or the functional equivalent, the County shall not deny an application for site plan approval, final subdivision approval, or the functional equivalent thereof, for any development or phase of a development that includes residential uses, based solely on failure to achieve and maintain the adopted LOS in a CSA.

Policy 6.1.11 Orange County, in conjunction with OCPS, shall review LOS standards for public school facilities annually, and any changes to those standards shall be processed as amendments to the County's Public School Facilities Element and Capital Improvements Element.

- Policy 6.1.12** Orange County will amend its concurrency management system in the Land Development Code to implement school concurrency.
- Objective 6.2** OCPS, in conjunction with the County, consistent with Section 14 of the Interlocal Agreement shall establish, and annually review, school Concurrency Service Areas (CSAs), which will be used to evaluate capacity of schools available to accommodate students generated by proposed development.
- Policy 6.2.1** CSAs are depicted in the Orange County Public Schools Public School Facilities Element Data, Inventory, and Analysis dated May 2, 2008.
- Policy 6.2.2** CSAs shall be reviewed annually in conjunction with the OCPS adoption of an updated ten (10) year DCOP. CSA boundaries may be adjusted to ensure that the utilization of school capacity is maximized to the greatest extent possible, taking into account transportation costs, court approved desegregation plans, and other factors.
- Objective 6.3** Orange County and OCPS shall develop and maintain throughout the planning period a joint process for the implementation of School Concurrency as provided for in the adopted Interlocal Agreement.
- Policy 6.3.1** Orange County shall not approve a developer-initiated Comprehensive Plan amendment or rezoning that would increase residential density on property that is not otherwise vested until such time as OCPS has determined whether sufficient capacity will exist concurrent with the development or a capacity enhancement agreement is executed that provides for the needed capacity to accommodate the proposed development.
- Policy 6.3.2** Orange County will determine if a development is vested or exempt from school concurrency. Unless the development is determined to be vested or exempt from concurrency, Orange County shall not approve a site plan, final subdivision plan, or its functional equivalent, until a school concurrency recommendation has been provided by OCPS and a school Concurrency Certificate has been issued for the development consistent with the provisions of the adopted Interlocal Agreement.

- Policy 6.3.3** School concurrency shall not apply to property within a development of regional Impact (DRI) for which a Development Order was issued prior to July 1, 2005, or for which a DRI application was submitted prior to May 1, 2005, unless the developer elects otherwise or unless the developer files a Notice of Proposed Change (NOPC) and/or Substantial Deviation to increase the total number of residential dwelling units.
- Policy 6.3.4** For DRIs that include residential development and are submitted after July 1, 2005, the County shall include OCPS planning staff on the review team for the DRI, and shall ensure that DRI Development Orders, and DRI Development Order amendments that increase the total number of residential dwelling units, address the issue of school capacity. Where existing school capacity is exceeded, mitigation for school impacts shall be included in any mitigation agreements, Development Orders and agreements.
- Policy 6.3.5** Any proposed residential development that creates an impact of less than one student shall be considered de minimis and therefore exempt from school capacity review.
- Policy 6.3.6** Vested rights and exemptions with respect to concurrency and consistency shall be in accordance with applicable law.
- Policy 6.3.7** Consistent with Section 16.2 of the Interlocal Agreement, the following residential uses shall be exempt from the requirements of school concurrency:
- a. Any proposed residential development considered de minimis as defined by PSFE Policy 6.3.5.
 - b. One single-family house, one (1) duplex, and/or one accessory dwelling unit being developed on an existing platted residential lot of record.
 - c. Any building or structure that has received a Building Permit as of the effective date of the Interlocal Agreement, or is described in section 163.3167(8), Florida Statutes.
 - d. Any new Residential Development that has Site Plan approval for a site pursuant to a specific development order approved prior to the effective date of school concurrency, including the portion of any project that has received final