



CITY COUNCIL AGENDA FORM

REQUESTED COUNCIL MEETING DATE 4/15/08

**SUBJECT: REMEDIAL PLAN AMENDMENT/ SCHOOL CONCURRENCY
COMPREHENSIVE PLAN AMENDMENTS (CASE NO. 07-20000006)**

DEPARTMENT: COMMUNITY DEVELOPMENT


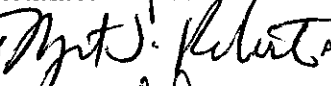

RECOMMENDED MOTION: To approve Ordinance No. 2008-12, adopting the remedial plan amendment, consistent with the Stipulated Settlement Agreement regarding DCA Docket No. 08-PEFE1-NOI-6414-(A)-(N).

SUMMARY: On January 22, 2008, the City Council approved the adoption of the School Concurrency related Comprehensive Plan Amendments. These include amendments to the Future Land Use Element, Intergovernmental Coordination Element, the Capital Improvements Element, and the creation of the new Public School Facilities Element, as required by State Law.

The City of Port Orange, along with all Volusia County local governments who have already adopted these amendments, received a NOI (Notice of Intent) of non-compliance, concerning a minor disagreement over wording of the text. However, DCA and the Volusia County representatives had already agreed to the settlement terms prior to the issuance of the NOI. DCA also issued a SOI (Statement of Intent), which included the agreed-upon text amendments to the Public School Facility Element. The City is required to adopt all remedial plan amendments within 60 days after execution of the Stipulated Settlement Agreement regarding DCA Docket No. 08-PEFE1-NOI-6414-(A)-(N).

The remedial plan amendments are attached as ordinance Exhibit "1".

ATTACHMENTS: Ordinance Resolution Budget Resolution
 Other Support Documents/Contracts Available for Review in Manager's Office

DEPARTMENT HEAD		Wayne Clark, AICP Community Development Director	Date 4/15/08
FINANCE DEPARTMENT	N/A	Approved as to Budget Requirements	Date
CITY ATTORNEY		Approved as to Form and Legality	Date 4.3.08
CITY MANAGER		Approved Agenda Item For:	4.15.08

COUNCIL ACTION: Approved as Recommended Disapproved
 Tabled Indefinitely Continued to Date Certain Approved with Modification

Second Reading ~~May 6, 2008~~
June 3, 2008

ORDINANCE NO. 2008-12

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, RELATING TO COMPREHENSIVE PLANNING; PROVIDING FOR ADOPTION OF AMENDMENTS TO THE COMPREHENSIVE PLAN; AMENDING THE CAPITAL IMPROVEMENTS ELEMENT AND THE PUBLIC SCHOOLS FACILITIES ELEMENT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, after careful review, the Planning Commission, sitting as the Local Planning Agency, has forwarded a recommendation to the City Council regarding this amendment to the Comprehensive Plan for the City of Port Orange; and

WHEREAS, the laws of Florida require the City to update the Capital Improvement Element annually, together with other elements or sub-elements that are directly related to the capital improvements schedule; and

WHEREAS, the City Council has provided an opportunity to receive comments and proposals from the general public and held one public hearing with regard to the proposed amendment to the Comprehensive Plan; and

WHEREAS, the City Council has received comments on the proposed amendment to the Comprehensive Plan; and

WHEREAS, the City Council hereby declares that the purpose and intent of the proposed amendment to the Comprehensive Plan is to guide future growth and development; encourage the most appropriate use of land, water, and other resources, consistent with the public interest; promote and protect the public health, safety, comfort, good order, appearance, convenience, aesthetics, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; provide

adequate and efficient transportation, water, sewage, drainage, fire protection, parks, recreational facilities, housing, and other services, facilities and resources; and conserve and protect natural resources within the City, while protecting private property rights.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. For purposes herein, the term "Comprehensive Plan," shall mean the Comprehensive Plan for the City of Port Orange, consisting of the one (1) volume book entitled "City of Port Orange Comprehensive Plan Update '98," and containing nine (9) elements, including Future Land Use; Transportation; Housing; Public Facilities; Coastal Zone Management; Conservation; Recreation and Open Space; Intergovernmental Coordination; and Capital Improvements, all as adopted by Ordinance No. 1999-43, as subsequently amended by Ordinances No. 1999-46, 1999-56, 1999-57, 2000-1, 2000-8, 2000-13, 2000-25, 2000-29, 2000-41, 2001-2, 2001-21, 2001-26, 2001-28, 2001-75, 2001-76, 2001-89, 2002-7, 2002-20, 2003-3, 2003-1, 2003-22, 2003-39, 2004-34, 2004-39, 2005-1, 2005-3, 2005-13, 2005-15, 2005-25, 2005-27, 2005-30, 2005-31, 2005-49, 2006-9, 2006-16, 2006-24, 2006-41, 2006-51, 2006-53, 2007-4, 2007-14, 2007-30, 2007-48, 2007-55, 2007-57, 2007-60, 2007-61, 2008-2, 2008-8, 2008-9 and this ordinance.

Section 2. Attached hereto as Exhibit 1, and incorporated herein by this reference is the amendment to the Comprehensive Plan Update '98 for the City of Port Orange as referenced in Section 1 of this ordinance, which is hereby adopted as an amendment to the official Comprehensive Plan, Capital Improvement Element and

Public Schools Facilities Element for the City.

Section 3. All ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective as provided by general law, Department of Community Affairs rule, and Volusia County Charter.

MAYOR ALLEN GREEN

ATTEST:

Kenneth W. Parker, City Manager

Passed on first reading on the day of

Passed and adopted on second and final reading on the day of

Reviewed and Approved: 

City Attorney

EXHIBIT "1"

(Underline text indicates additions / strikethrough text indicates deletions)

Capital Improvements Element

Policy 2.1.3: The following schools shall achieve the ~~designated~~ adopted level of service no later than the identified date. The level of service presented in the following table is the tiered level of service that shall apply to that school unit the dated noted in the table.

School	DATE
Freedom Elementary	July 1, 2012
Horizon Elementary	July 1, 2014
Orange City Elementary	July 1, 2012
Ormond Beach Elementary	July 1, 2014
Ortona Elementary	July 1, 2014
Osecola Elementary	July 1, 2014
Southwestern Middle	July 1, 2012
New Smyrna Beach Middle	July 1, 2012

School	LOS	DATE
Orange City Elementary	117%	July 1, 2012
Horizon Elementary	158%	July 1, 2012
Freedom Elementary	126%	July 1, 2012
Osecola Elementary	117%	July 1, 2012
Ortona Elementary	150%	July 1, 2012
Ormond Beach Elementary	116%	July 1, 2012
Southwestern Middle	120%	July 1, 2013
New Smyrna Beach Middle	122%	July 1, 2014

(Note: This policy is ~~intended to designate~~ a backlogged tiered LOS for those schools that exceed the desired levels during at the end of the first five year capital improvements program.)

Public School Facilities Element

Policy 2.1.3: The following schools shall achieve the ~~designated~~ adopted level of service no later than the identified date. The level of service presented in the following table is the tiered level of service that shall apply to that school unit the dated noted in the table.

School	DATE
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Horizon Elementary	July 1, 2014
Orange City Elementary	July 1, 2012
Ormond Beach Elementary	July 1, 2014
Ortona Elementary	July 1, 2014

Osceola Elementary	July 1, 2014
Southwestern Middle	July 1, 2012
New Smyrna Beach Middle	July 1, 2012

School	LOS	DATE
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Southwestern Middle	120%	July 1, 2013
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(Note: This policy is intended to designate a backlogged tiered LOS for those schools that exceed the desired levels during at the end of the first five year capital improvements program.)

Policy 2.2.7: Within the central concurrency service areas all current and future students shall be assigned to schools designated for them as part of the School District's normal school assignment procedures. Requests for development orders for new development consistent with the future land use designations and existing residential zoning densities shall be evaluated for concurrency based on the assigned school and that school's concurrency service area. If adequate capacity is not available in the assigned concurrency service area, the proposed development shall be evaluated in comparison to the concurrency service areas adjacent to the assigned concurrency service area, subject to the limitations of Policy 2.3.7. The school district shall maintain a listing of assigned and adjacent concurrency service areas for each central school concurrency service area.

Policy 2.2.8: Requests to develop properties within the central school concurrency service areas at residential densities and intensities greater than the current land use or zoning designations shall be done via a comprehensive plan amendment consistent with the Volusia County Charter provision 206 regarding school planning. The comprehensive plan amendment shall demonstrate how school capacity will be met consistent with the terms of the First Amendment to the Interlocal Agreement for Public School Facility Planning effective July 2007 and Section 206 of the Volusia County Charter. If the project area is to be annexed by a municipality, the comprehensive plan amendment shall include an amendment of the central concurrency service area boundary by Volusia County to exclude the subject parcel.

Policy 2.2.79: Amendments to the School Concurrency Service Areas shall be completed according to the procedures specified in the Volusia County Interlocal Agreement for School Facilities Planning. Amendments to concurrency service areas shall consider the following criteria:

1. Adopted level-of-service standards shall not be exceeded within the initial five-year planning period, except as identified in Policies 2.1.3 and 2.1.4 of this Element.
2. The utilization of school capacity is maximized to the greatest extent possible taking into account transportation costs, ethnic and socio-economic diversity, proximity to schools, ethnic and socio-economic diversity, subdivisions and neighborhoods, demographic changes, future land development patterns, crossing guard availability and other relevant factors.

Policy 2.3.7: If the adopted level-of-service standard cannot be met within a particular concurrency service area as applied to an application for development order and if the needed capacity is available in one or more contiguous concurrency service areas ~~or school attendance zones~~, then this capacity shall be applied to the concurrency evaluation of the application for development approval subject to the following limitations (Graphic examples are provided in the data and analysis report.):

1. Areas established for ethnic and socio-economic diversity at schools shall not be considered contiguous.
2. Concurrency service areas ~~or school attendance zones~~ generating excessive transportation costs shall not be considered contiguous. Excessive transportation costs may include the cost of transporting students ~~beyond the abutting school attendance zone~~ or requiring a transport time of fifty minutes one way as determined by School District transportation routing staff.
3. Concurrency service areas ~~or school attendance zones~~ shall not be considered contiguous when the concurrency service areas ~~or school attendance zones~~ are separated by a natural or man-made barrier such as a river, water body, or interstate highway that requires indirect transport of students through a third concurrency service area ~~or school attendance zone~~.
4. When capacity in an adjacent concurrency service area ~~or school attendance zone~~ is allocated to a development application, assignment of the students to the school with available capacity may be accomplished by applying any of the techniques used to establish school attendance zones including modification of existing attendance zone boundaries or creation of island zones.
5. Student transportation not in conformance with the conditions established in items 1 through 4 above shall be permitted to allow student assignments based on specific educational programming options; to comply with State and Federal mandatory transfer opportunities; or for other transfer opportunities that School Board shall deem appropriate for the specific circumstances of an individual student.