

ITEM # _____

**SEMINOLE COUNTY GOVERNMENT
LAND PLANNING AGENCY/PLANNING AND ZONING COMMISSION
AGENDA MEMORANDUM**

SUBJECT: Proportionate Share Ordinance

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: April Boswell **CONTACT:** Jeff Hopper **EXT.** 7377

Agenda Date <u>11/01/06</u> Regular <input type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/> Special Hearing – 6:00 <input type="checkbox"/> Public Hearing – 7:00 <input checked="" type="checkbox"/>

MOTION/RECOMMENDATION:

1. Find the Ordinance consistent with the Seminole County Comprehensive Plan and recommend APPROVAL of the Ordinance; or
2. Recommend DENIAL of the Ordinance.

Countywide Jeff Hopper, Senior Planner

BACKGROUND:

The original Florida Growth Management Act of 1985 included a requirement that all local governments adopt "Concurrency Management" systems to ensure that necessary public facilities are available concurrent with the impacts of development. Concurrency required local governments to adopt "Levels of Service" for public services such as transportation (i.e., roadway capacity). As a part of development approval, a county or city was required to evaluate whether the service needs of a proposed development exceeded available capacity including any scheduled improvements. If adequate capacity was not available, local governments could not permit a development unless certain conditions applied.

Amendments to Florida's Growth Management legislation in 2005 directed local governments to revise their concurrency management ordinances to allow for "proportionate share" contributions from developers toward transportation concurrency requirements. This revision must be completed by December 1, 2006. The intent of the proportionate share option is to allow applicants to proceed with a development when transportation service capacity is not available but the proposal is otherwise consistent with the Comprehensive Plan. This opportunity is created by allowing the developer to contribute his or her share of the cost of improving the deficient transportation facility.

Reviewed by: Co Atty: <u>KL</u> DFS: _____ OTHER: <u>AB</u> DCM: _____ CM: _____ File No. _____
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Proportionate Share Ordinance – Executive Summary

The 2005 amendments to Florida's growth management legislation directed local governments to enact concurrency management ordinances by December 1, 2006, to allow for "proportionate share" contributions from developers toward concurrency requirements (see §163.3180(16), F.S., in Appendix A of statute). The intent of the proportionate share option is to provide applicants for development an opportunity to proceed under certain conditions, notwithstanding the failure of transportation concurrency, by contributing their share of the cost of improving the impacted transportation facility or other appropriate transportation system improvements. The newly adopted proportionate share requirements would not apply until a deficiency is identified through the County's Concurrency Management System (CMS), which is currently in place.

As directed by the legislation, the Florida Department of Transportation (FDOT) created a model ordinance for proportionate share contributions for use by local governments. The final version of this ordinance was released on February 14, 2006. The proposed Seminole County Proportionate Share Ordinance is based on the model ordinance prepared by FDOT.

Even though Seminole County has not had a formal proportionate share ordinance in place as part of our CMS, we have been accepting voluntary proportionate share payments for developments that impact roadways and intersections where a deficiency has been identified. The procedures that are already in place to establish these proportionate share payments are consistent with the new proposed Seminole County Proportionate Share Ordinance.

Proportionate share contributions are different from transportation impact fees. The primary difference is that the proportionate share payment outlined in Section 163.3180(16), F.S., is intended as a means to address a specific transportation concurrency issue, such as a road segment or segments operating below the adopted level-of-service standard; whereas transportation impact fees are imposed on each new development to pay for that development's impact on the entire transportation system. The proposed Seminole County Proportionate Share Ordinance addresses transportation impact fee credit for proportionate share contributions under certain conditions as required by Section 163.3180(16), F.S.

Seminole County still has the responsibility to review a development to ensure that it is consistent with the Comprehensive Plan or land development regulations. This review process will occur regardless of a development's ability to meet concurrency through proportionate share, and will often result in improvements to the project's site access such as right-of-way dedication, turn lanes, or other improvements required by the development's impact.

AN ORDINANCE AMENDING CHAPTER 10 OF THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY; ADDING SECTION 10.9 PROVIDING FOR A METHODOLOGY FOR ASSESSING PROPORTIONATE FAIR-SHARE MITIGATION FOR TRANSPORTATION CONCURRENCY MANAGEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Seminole County Government adopted a Concurrency Management System in its Land Development Code pursuant to the requirements of Chapter 163, Florida Statutes; and

WHEREAS, the Florida Legislature enacted Senate Bill 360 during its regular 2005 session, requiring revisions to local Concurrency Management Systems to enable developers to proceed with projects that are otherwise consistent with a local comprehensive plan but lack funding; and

WHEREAS, Section 163.3180(16)(a), Florida Statutes, requires local governments to adopt by ordinance a methodology for assessing proportionate fair-share mitigation options no later than December 1, 2006; and

WHEREAS, the County has prepared a private property rights analysis relating to this Ordinance and has made the analysis available for public review in accordance with the requirements of the Seminole County Comprehensive Plan; and

WHEREAS, the County has prepared an economic impact statement relating to this Ordinance and has made the statement available for public review in accordance with the provisions of the Seminole County Home Rule Charter.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Amendments to Chapter 10, Concurrency Management. Chapter 10, of the Land Development Code of Seminole County, is amended to add a new Section 10.9 as follows:

Sec. 10.9 Proportionate fair-share option

(A) Purpose and intent

The purpose of this ordinance 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 §163.3180(16), Florida Statutes.

(B) Applicability

The Proportionate Fair-Share Program shall apply to all developments in the County that impact a road segment in the County Concurrency Management System and have been notified of a failure to achieve transportation concurrency on a roadway segment or segments. The Proportionate Fair-Share Program does not apply to developments of regional impact (DRIs) using proportionate share under §163.3180(12), Florida Statutes, developments meeting the de minimis standards under §163.3180(6), Florida Statutes or to developments exempted from concurrency as previously provided in section 10.5, as amended from time to time, of this chapter.

(C) General requirements

(1) An applicant may choose to satisfy the transportation concurrency requirements of the County by making a proportionate fair-share contribution, pursuant to the following requirements:

(a) The proposed development is consistent with the Comprehensive Plan and applicable land development regulations.

(b) The County five-year Capital Improvement Program includes transportation improvement(s) that, upon completion, will accommodate additional traffic generated by the proposed development, as determined by the County Engineer.

(2) The County Engineer may choose to allow an applicant to satisfy transportation concurrency through the Proportionate Fair-Share Program by contributing to an improvement that, upon completion, will accommodate additional traffic generated by the proposed development, as projected by County staff using best available data and methodologies, but is not contained in the Capital Improvement Program where one of the following apply:

(a) The County adopts, by resolution or ordinance, a commitment to add the improvement to the five-year Capital Improvement Program no later than the next regular update. To qualify for consideration under this Section, the proposed improvement must be reviewed by the County Engineer and must be determined to be financially feasible. "Financially feasible" means that additional developer contributions or other funding sources are anticipated, during a period not to exceed 10 years, to fully mitigate the specified impact(s) on the identified transportation facility or facilities.

(b) If, in the opinion of the County Engineer, the funds in the adopted County five-year capital improvement program are insufficient to fully fund construction of a transportation improvement required by the Concurrency Management System, then a proportionate fair-share payment may be required for another improvement which will, in the opinion of the County Engineer, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate fair-share component must be adopted into the five-year CIP of the Comprehensive Plan at the next annual Capital Improvements Element update.

(3) Any improvement project proposed to meet the developer's fair-share obligation must meet generally accepted design standards for the State of Florida and the County.

(D) Application Process

(1) County staff shall notify an applicant in writing of a failure to satisfy transportation concurrency requirements. Upon receipt of such notice, applicants may submit a proposed proportionate fair-share calculation to the County Engineer or designee for review.

(2) Pursuant to §163.3180(16)(e), Florida Statutes, proposed proportionate fair-share mitigation for development impacts to facilities on the Strategic Intermodal System requires the concurrence of the Florida Department of Transportation (FDOT).

(3) The County Engineer shall determine whether a proportionate fair-share calculation is sufficient and

eligible. Upon a finding of sufficiency, a proportionate share agreement will be prepared between the County and the applicant. The stipulations of the agreement shall include but not be limited to the amount of payment, description of work and timing of payment. Proportionate share agreements shall be approved and executed by the Board of County Commissioners.

(E) Determining proportionate fair-share obligation

(1) Proportionate fair-share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and/or contribution of transportation improvements.

(2) A development shall not be required to pay more than its proportionate fair-share. The calculated value of the proportionate fair-share mitigation for the impacted transportation facilities shall not differ regardless of the method of mitigation.

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

$$\text{Proportionate Share} = \frac{\sum [(\text{Development Trips}_i) / (\text{SV Increase}_i)] \times \text{Cost}_i}{\text{IMPACT FEE CREDITS}}$$

Where:

Development Trips_i = Those trips from the development that are assigned to roadway segment i and have triggered a deficiency per the Concurrency Management System;

SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment i per Section 10.9(E);

Cost_i = Adjusted cost of the improvement to segment i. Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.

IMPACT FEE CREDITS = See Section 10.9(f)(1) where applicable.

(4) For the purposes of determining proportionate share obligations, the County shall determine improvement costs based upon the projected future cost of the improvement as obtained from the Capital Improvements

Program or another method approved by the County Engineer.

(5) The County has the option to accept right-of-way dedication for all or a portion of the proportionate fair-share payment. Credit for the dedication of the non-site related right-of-way shall be assigned a value by appropriate County staff or, at the option of the applicant, by fair market value established by an independent appraisal approved by the County and at no expense to the County. The applicant shall supply a survey and legal description of the land and a certificate of title or title search of the land to the County at no expense to the County. If the estimated value of the right-of-way dedication proposed by the applicant is less than the County estimated total proportionate fair-share obligation for that development, then the applicant must also pay or provide for mitigation of the difference.

(F) Impact fee credit for proportionate fair-share mitigation

(1) Proportionate fair-share mitigation shall be applied as a credit against impact fees if the proposed improvement is on the list of approved projects in the most recent County Impact Fee Ordinance and Technical Report. Credits will be given for that portion of the impact fees that would have been used to fund the improvements on which the proportionate fair-share contribution is calculated. The portion of impact fees available for the credit will be based on the historic distribution of impact fee funds to the arterial roadways and collector roadways in the appropriate impact fee district. Impact fee credits shall be calculated at the same time as the applicant's proportionate share obligation is calculated.

(2) Any road impact fee credit based upon proportionate fair-share contributions for a proposed development cannot be transferred to any other parcel or parcels of real property within the County.

(G) Appropriation of fair-share revenues

(1) Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the County Capital Improvements Program.

(2) In the event a scheduled facility improvement is removed from the Capital Improvement Program, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor that would mitigate the impacts of development pursuant to the requirements of Section 10.9 C(2)(b).

(3) Where an applicant constructs a transportation facility that exceeds the applicant's proportionate fair-share

obligation calculated under Section 10.9(E), then the County shall reimburse the applicant for the excess contribution using impact fee credits. These credits will not be transferable as set forth in Section 10.9 (2) of this Section. Where excess contributions exceed impact fee credits, the County may reimburse such funds as cash or through other methods acceptable to the applicant and Planning & Development Director.

Section 3. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provision of this Ordinance are declared severable.

Section 4. Codification. It is the intent of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Land Development Code of Seminole County, Florida and the word "Ordinance" may be changed to "Section," "Article," or other appropriate word or phrase and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; provided, however, that Sections 3, 4 and 5 shall not be codified.

Section 5. Effective Date. This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk to the Board of County Commissioners in accordance with Section 125.66, Florida Statutes.

ENACTED this 7TH day of November 2006.

BOARD OF COUNTY COMMISSIONERS,
OF SEMINOLE COUNTY, FLORIDA

By: _____
CARLTON D. HENLEY,
Chairman

**Seminole County
PRIVATE PROPERTY RIGHTS ANALYSIS
Proportionate Share Ordinance**

Date:	9/12/06	Department/Division:	Planning and Development/ Planning Division
Contact:	Jeff Hopper	Phone:	407-665-7377
Action:	Ordinance amending the Concurrency Management provisions of the Land Development Code		
Topic:	Proportionate Share Ordinance		

Describe Project/Proposal

The county is proposing to amend the concurrency management section of the land development code in response to changes in state law. Recent amendments to Florida's Growth Management legislation directed local governments to allow for "proportionate share" contributions from developers toward transportation concurrency requirements. The intent of the proportionate share option is to allow applicants to proceed with a development when transportation service capacity is not available but the proposal is otherwise consistent with the Comprehensive Plan. This revision to the Code would allow the developer to contribute his or her share of the cost of improving the deficient transportation facility.

Estimated Economic Impact on Individuals, Businesses, or Government

This ordinance does not have an economic impact on individuals or government. However, it may have a beneficial impact on businesses by allowing certain developments to proceed in a faster time frame than would otherwise be permitted.

Anticipated New, Increased or Decreased Revenues

Although the County will receive and temporarily hold funds to be used in upgrading or expanding transportation facilities, it is not anticipated that this ordinance will affect the overall supply of revenue.

Method Used in Determining Analysis

The method of analysis involved the potential impacts from adopting the proposed amendments to the Land Development Code, the accompanying amendments to the Seminole County Comprehensive Plan (to support the code changes), and staff expertise.

Citation

All land development regulations shall be evaluated prior to their enactment to determine the extent and scope of their impact upon private property rights (Policy FLU 12.3 Evaluation of New Land Development Regulations, Seminole County Vision 2020 Plan, May 2001).

**Seminole County
ECONOMIC IMPACT STATEMENT
Proportionate Share Ordinance**

Date:	9/12/06	Department/Division:	Planning and Development/ Planning Division
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Describe the Direct Economic Impact of the Project/Proposal upon the Operation of the County

This ordinance will not have a direct economic impact upon the operation of the County.

Describe the Direct Economic Impact of the Project/Proposal upon the Property Owners/Tax Payers/Citizens who are Expected to be Affected

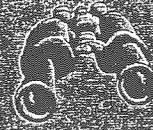
Little or no direct impact on property owners is anticipated as a result of this ordinance.

Identify and Potential Indirect Economic Impacts, Positive or Negative, Which Might Occur as a Result of the Adoption of the Ordinance

Indirect impacts are likely to be positive, as land values should rise due to new flexibility in County regulations to facilitate new development.

Citation

Seminole County Home Rule Charter.



OBJECTIVE CIE 4 USER PAYS PRINCIPLE

Development shall bear a proportionate cost of needed facility improvements through equitable and legally available means.

Policy CIE 4.1 Developments' Proportionate Share

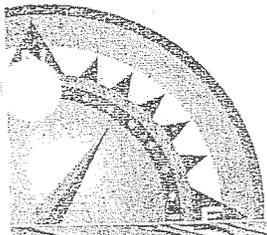
Development will bear an equitable and proportionate share of the cost of providing new or expanded public facilities required to maintain adopted levels of service through mechanisms such as impact fees, capacity fees, developer dedications, developer contributions pursuant to land development regulations and special benefit assessment/taxing districts.

Policy CIE 4.2 Fee Assessments

The County shall regularly evaluate whether present fee levies are adequate to address impacts of inflation, whether the County needs to appropriate new impact fees, and whether capacity fees, user charges, special benefit assessment/ taxing districts and other mechanisms are adequately and fairly meeting the fiscal demands placed on the County by new development.

Policy CIE 4.3 Proportionate Fair-Share Program

The Proportionate Fair-Share Program shall apply to all developments in the County that impact a road segment or transportation facility in the County Concurrency Management System where the developer has been notified of a failure to achieve transportation concurrency on the roadway segment or segments, or transportation facility or facilities. An applicant may choose to satisfy the transportation concurrency requirements by making a proportionate fair-share contribution if the proposed development is consistent with the County's Comprehensive Plan and Land Development Code, and the County's five-year Capital Improvement Program (CIP) and the Capital Improvements Element (CIE) include a transportation improvement or improvements that, upon completion, will accommodate the additional trips generated by the proposed development, or the County agrees to add the transportation improvement to the CIP and CIE no later than the next regular update of those documents. When the Proportionate Fair-Share Program is used by a developer, this source of funding shall be included in the CIP and CIE as a revenue stream for the affected transportation improvement or improvements.



- 3. Development permit" means an arbor permit, a building permit, a construction permit-site, a construction permit-subdivision, a deck and porch permit, a plumbing permit, a razing permit, a septic repair permit, a septic tank permit, a sign permit and any other development approval other than a final development order or preliminary development order.
- 6. Public facility" means the capital improvements and systems of each of the following: arterial and collector roads, mass transit, stormwater management, potable water, sanitary sewer, solid waste, parks and recreation, library, fire-rescue service, and other County buildings.

Land Development Regulations

The County shall maintain its land development regulations providing for a system of review of various applications for development orders and permits which applications, if granted, would impact the levels of service of Category I and Category III public facilities. Such system of review shall assure that no final development order or development permit shall be issued which results in a reduction in the levels of service below the standards adopted in the Comprehensive Plan for Category I and Category III public facilities. The County land development regulations shall also contain the methodology for determining the proportionate fair-share obligation for a transportation facility, if said transportation facility fails to achieve transportation concurrency and the developer of a proposed development wishes to exercise the option to satisfy transportation concurrency in this manner.

The land development regulations address the circumstances under which public facilities may be provided by applicants for development orders or permits. Development orders and permits may be issued subject to the provision of public facilities by the applicant subject to each of the following requirements:

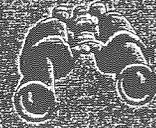
- A The County and the applicant enter into an enforceable development agreement which shall provide, at a minimum, a schedule for construction of the public facilities and mechanisms for monitoring to ensure that the public facilities are completed concurrent with the impacts of the development, or the development will not be allowed to proceed; and
- B The public facilities to be provided by the applicant are contained in the Schedule of Capital Improvements of the Comprehensive Plan; or, in the case of a development where transportation concurrency is to be met through the Proportionate Fair-Share methodology, a transportation improvement or improvements are added to the Schedule of Capital Improvements of the Comprehensive Plan and the County five-year Capital Improvement Program no later than the next regular update of those documents.

Concurrency Implementation and Monitoring System

The County shall continue Concurrency Implementation and Monitoring Systems consisting of the following components:

Public Facility Capacity Review

Each application for a development order or permit shall be analyzed for concurrency. Records shall be maintained during each fiscal year to indicate the cumulative impacts of all development orders approved during the fiscal year-to-date on the capacity of public facilities. The land development regulations of the County shall provide that applications for development orders that are denied because of insufficient capacity of public facilities may be resubmitted after a time period to be specified in the land development regulations. Such time period is in lieu of, and not in addition to, other minimum waiting periods imposed on applications for development orders that are denied for reasons other than lack of capacity of public facilities. Land development regulations shall require that development commence within a specified time after a development order is issued, or the determination of capacity shall expire, subject to reasonable extensions of time based on criteria included in the regulations.



Review of Changes in Planned Capacity of Public Facilities

The County shall review each amendment to the Capital Improvements Element, in particular any changes in standards for levels of service and changes in the Schedule of Capital Improvements, in order to review the amount of capacity that is available.

Concurrency Implementation Strategies

Standards for levels of service are applied according to the timing of the impacts of development on public facilities. Final development orders and development permits impact public facilities in a matter of months and are issued subject to the availability of water, sewer, solid waste, and stormwater management facilities prior to the impacts of the development. Parks must be under construction within one (1) year of the issuance of the development order or permit. Roads and mass transit must be included in the first three (3) years of the five-year capital improvements schedule, or, in the case of a transportation improvement financed through the Proportionate Fair-Share Program, must be added to the five-year capital improvement schedule at the next regular amendment update, and the schedule must:

- A. Be financially feasible based on currently available sources of revenue, including any Proportionate Fair-Share funding;
- B. Include estimated dates of commencement and completion of actual construction;
- C. Not be changed without an amendment to the Comprehensive Plan; and
- D. Designate the areas to be served by facilities.

Preliminary development orders can be issued subject to public facility capacity, but the capacity determination requires unless the applicant provides financial assurances to the County and obtains subsequent development orders before the expiration of the initial development order. As an alternative, the determination of public facility capacity for preliminary development orders can be waived with a written agreement that a capacity determination must be made prior to issuance of any final development order or development permit for the subject property. Such a waiver specifically precludes the acquisition of rights to a final development order or permit as a result of the issuance of the preliminary development order (See Policy IMP 2.4).

Standards for levels of service are applied within appropriate geographical areas of the County. Standards for countywide public facilities are applied to development orders based on levels of service throughout the County. Standards for public facilities that serve less than the entire County are applied to development orders on the basis of levels of service within assigned service areas (See Objective IMP 3.0).

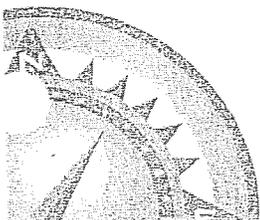
Public facility capital improvements are prioritized according to the criteria in the Capital Improvements Element. Applications for available capacity will be considered on a first-come, first-served basis.

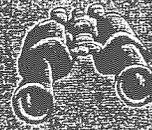
The County shall review the Concurrency Implementation Strategies as part of each Evaluation and Appraisal Report cycle.

Capacity of Public Facilities for Development Orders or Permits Issued Prior to Adoption of the Plan

The County will identify properties, which have vested development rights pursuant to procedures contained in the land development regulations. Properties not identified by the County as having vested development rights may petition for a determination of such rights.

The County will recognize legitimate and substantial vested development rights obtained with some previously issued development orders or permits, provided the issuance was otherwise appropriate and not the result of mistake, error, fraud or an ultra vires act.





OBJECTIVE IMP 2 DETERMINATION OF CAPACITY

The County shall continue to determine the availability of facility capacity to meet adopted level of service standards of the several County public facilities prior to development approvals.

Policy IMP 2.1 Establishment of Concurrency Doctrine

The Board of County Commissioners of Seminole County finds that the impacts of development on public facilities within the County occur at the same time (i.e., concurrently) as development authorized by certain final development orders or development permits.

Policy IMP 2.2 Concurrency Management System Implementation

The County shall determine, prior to the issuance of such development orders, whether or not there is sufficient capacity of Category I and Category III public facilities to meet the standards for levels of service for existing and committed development and the impacts of proposed development concurrent with the proposed development, including in such determination for transportation improvement capacity any additional capacity to be financed through the Proportionate Fair-Share Program.

Policy IMP 2.3 Maintain Adopted Level Of Service Standards

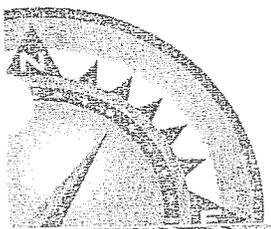
No final development order under which development activity impacting public facilities may ensue, or development permit, shall be issued by the County unless there shall be sufficient capacity of Category I and Category III public facilities to meet the standards for levels of service for existing development and for the proposed development, and the development order or permit shall be subject to the requirements of Policy IMP 2.5. In the absence of a final development order under which development activity impacting public facilities may ensue or a development permit, no development of land is authorized.

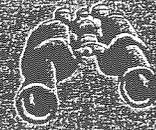
Policy IMP 2.4 Preliminary Development Orders (Capacity Determination)

For preliminary and final development orders for which no development activity impacting public facilities may ensue, the capacity of Category I and Category III public facilities shall be determined as follows:

- A The applicant may request a determination of such capacity as part of the review and approval of the development order subject to the requirements of Policy IMP 2.5; or
- B The applicant may elect to request approval of the development order without a determination of capacity of Category I and Category III public facilities provided that any such order is issued subject to requirements in the applicable land development regulation or to specific conditions contained in the development order that:

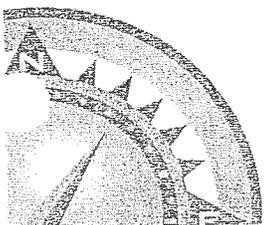
- 1. Final development orders under which development activity impacting public facilities may ensue, and development permits for the subject property are subject to a determination of capacity of Category I and Category III public facilities, as required by Policy IMP 2.5.

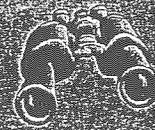




C Roads and Mass Transit:

1. Any of the provisions of section A.1.-A.4. listed above for potable water, sewer, solid waste and drainage; or
2. Any of the provisions of section B.1.-B.3 listed above for parks and recreation; or
3. The County has committed to provide the necessary public facilities in accordance with the five-year Schedule of Capital Improvements and has adopted and implemented a concurrency management system based upon an adequate capital improvements program and schedule, provided that:
 - a. The Capital Improvements Element and five-year Schedule of Capital Improvements must be financially feasible, including any Proportionate Fair-Share funds, where this option is used to satisfy transportation concurrency, and may include transportation projects included in the first three (3) years of the applicable adopted Florida Department of Transportation five-year work program, or, in the case of a developer choosing to satisfy transportation concurrency requirements through the Proportionate Fair-Share Program, the County adds the transportation improvement or improvements to the five-year Capital Improvements Program (CIP) and five year Schedule of Capital Improvements within the County's Comprehensive Plan Capital Improvements Element (CIE) at the next regular update of those documents.
 - b. The five-year Schedule of Capital Improvements must include both necessary facilities to maintain the adopted level of service standards to service the new development proposed to be permitted, and the necessary facilities required to eliminate those portions of existing deficiencies which are a priority to be eliminated during the five-year period under the County's schedule of capital improvements in this Comprehensive Plan.
 - c. The County uses a realistic, financially feasible funding system based on currently available revenue sources as defined in Chapter 9J-5.003(29), Florida Administrative Code, including any funds generated through the Proportionate Fair-Share option. The revenues must be adequate to fund the public facilities required to serve the development authorized by the development order or development permit, and which public facilities are included in the five-year schedule of capital improvements in this Comprehensive Plan, or, in the case of a transportation project to be funded through the Proportionate Fair-Share Program, the improvement is added to the five-year schedule of capital improvements at the next regular update.
 - d. The five-year Schedule of Capital Improvements in this Comprehensive Plan must include the estimated date of commencement of actual construction and the estimated date of project completion.
 - e. The five-year Schedule of Capital Improvements in this Comprehensive Plan must demonstrate that the actual construction of the roads and mass transit facilities are scheduled to commence in or before the third year of the five-year Schedule of Capital Improvements.





OBJECTIVE TRA 13 FINANCING AND PROGRAMMING TRANSPORTATION IMPROVEMENT

The County shall provide a financially feasible program, including a Proportionate Fair-Share Program, for funding transportation improvements necessary to support the growth forecasts, goals, objectives and policies of the Future Land Use Element and as one means of providing for a safe, convenient and efficient transportation system, through implementation of the following policies.

Policy TRA 13.1 Adopt Capital Improvements Program

The County shall establish and adopt a Capital Improvement Program that shall be updated annually. The CIP shall list planned improvements for all vehicular, transit, pedestrian, and bicycle modes and their interconnections.

Policy TRA 13.2 Programming of Transportation Improvements

The County shall plan, program and implement transportation improvements based on the costs and benefits of individual projects as they relate to improving the overall performance of the transportation system and in coordination with the land development program reflected in the Future Land Use Element. The County shall consider existing and projected capacity deficiencies, safety deficiencies, physical and policy constraints, required right-of-way needs, design deficiencies and system continuity considerations in the prioritization of transportation improvements.

Policy TRA 13.3 Funding of Transportation Improvements

The County shall continue to fund transportation improvement costs and operation and maintenance costs of the County Road System, transit system, and bicycle and pedestrian facilities through available sources of revenue, such as:

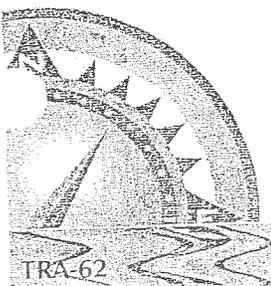
- State and Federal funds,
- Constitutional gas tax,
- Countywide road and bridge ad valorem tax,
- Local option gas tax,
- Local option sales tax,
- Special assessment districts, and
- Impact fees
- Proportionate Fair-Share Program

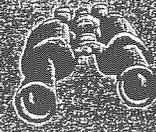
Policy TRA 13.4 Use of Transportation Plans as Basis for Funding Improvements

The County shall use its transportation plans at the regional and State levels as the basis for securing Federal and State funds for improvements to the major road systems.

Policy TRA 13.5 Pursue Alternate Forms of Funding

The County shall pursue funding outside the normal funding process for transportation projects that are needed by Seminole County residents but are not listed in either the financially feasible transportation plans or in the 5-year work programs at the regional and State levels.





Policy TRA 13.12 Coordinated Capital Plans with Airport Authority and Rail Companies
The County shall coordinate with the Airport Authority and rail companies during annual CIE updates to ensure participation in the County roads and utilities programs.

Policy TRA 13.13 Evaluate Provision of Transit Services
By 2005, the County shall evaluate the provision of transit services, and shall ensure that it is provided at a fair and reasonable price as compared to other alternatives and that it is financially feasible.

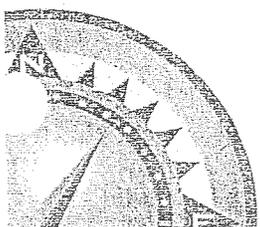
Policy TRA 13.14 Consideration of Economic Vitality and Environmental Quality
In its planning activities, the County shall consider the role that the transportation system plays in maintaining the economic vitality and environmental quality of the County.

Policy TRA 13.15 Public Participation
The County shall continue to require public notice of and public meetings on the planning and design of transportation improvements as required by law or as established by policy of the Board of County Commissioners.

Policy TRA 13.16 Consideration of Transportation Systems Management Activities
In order to make more efficient use of the existing transportation infrastructure and available financial resources, the County shall continue to consider and implement transportation systems management activities which discourage urban sprawl, reduce travel time, increase capacity at a relatively low cost, and increase the use of alternative modes of transportation.

Policy TRA 13.17 Adopted Future Transportation System Map Series
The County adopts the Future Transportation System Map Series as depicted in the Exhibits.

Policy TRA 13.18 Proportionate Fair-Share Program
The County hereby establishes within its Land Development Code (LDC) a Proportionate Fair-Share Program in accordance with Subsection 163.3180(16), Florida Statutes (F.S.) that shall apply to all developments in the County that impact a road segment in the County Concurrency Management System for which the developer has been notified of a failure to achieve transportation concurrency on a roadway segment or segments. This program shall not apply to Developments of Regional Impact (DRIs) using proportionate share under Subsection 163.3180(12), F.S., developments meeting the de minimis standards under Subsection 163.3180(6), F.S., or to developments exempted from concurrency as provided in the LDC. An eligible applicant may choose to satisfy the transportation concurrency requirements of the County by making a proportionate fair-share contribution if the proposed development is otherwise consistent with the Comprehensive Plan and applicable land development codes, and if the County's five-year Capital Improvement Program (CIP) and the Capital Improvements Element (CIE) of the County's Comprehensive Plan includes a transportation improvement or improvements that, upon completion, will accommodate the additional trips generated by the proposed development. The County may choose to allow an applicant to satisfy transportation concurrency through the Proportionate Fair-Share Program by contributing to an improvement or improvements that, upon completion, will accommodate the additional trips generated by the proposed development but is not contained in the CIP and CIE where one of the following conditions apply: (1) The County adds the transportation improvement or



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improvements to the CIP and CIE no later than the next regular update and the improvement or improvements have been determined by the County Engineer or County Engineer's designee to be financially feasible, or (2) If the funds in the adopted CIP and CIE are insufficient to fully fund construction of a transportation improvement or improvements required by the Concurrency Management System, the County may require a proportionate fair-share payment for another improvement or improvements that will, according to the findings of the County's development review process, significantly benefit the impacted transportation system or systems, and said transportation improvement or improvements are adopted into the CIP and CIE at the next annual update of those documents.

