

ORDINANCE NO. 2008 - 10

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING ARTICLE 110 ENTITLED, "CONCURRENCY REVIEW" OF THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE, BY CREATING SECTION 110-111, "PUBLIC SCHOOL CONCURRENCY", ESTABLISHING PUBLIC SCHOOL FACILITIES CONCURRENCY REQUIREMENTS; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature adopted Senate Bill 360 in 2005, amending Chapter 163 and Chapter 1013, Florida Statutes (F.S.), making the availability of public schools a prerequisite for the approval of plats and site plans with residential components; and

WHEREAS, all plats, replats, plat note amendments and site plans with a residential component are now subject to this prerequisite, also known as public school concurrency; and

WHEREAS, Section 163.3177(12), F.S., requires the Town to adopt a public school facilities element into the comprehensive plan which is consistent with those elements adopted by other local governments located within Broward County; and

WHEREAS, Section 163.31777, F.S., requires the Town to enter into an Interlocal Agreement with the School Board and Broward County to ensure that school facilities are properly coordinated with residential development; and

WHEREAS, the Town Council of the Town of Southwest Ranches approved and executed the Amended Interlocal Agreement on January 10, 2008 to comply with the statutory requirement; and

WHEREAS, the Florida Department of Community Affairs issued a letter to the Town of Southwest Ranches dated April 21, 2008, stating that it had no objections to the Public School Facilities Element, and that said letter serves as the objections, recommendations and comments report; and

WHEREAS, the Town Council of the Town of Southwest Ranches adopted its Public School Facilities Element of the Comprehensive Plan on May 1, 2008; and

WHEREAS, Broward County and all non-exempt municipalities are required by Sec. 163.3180, F.S., to adopt public school concurrency provisions into their respective land development codes; and

WHEREAS, the Broward County Board of County Commissioners has adopted an ordinance to amend its Land Development Code to provide for public school concurrency provisions; and

WHEREAS, the Local Planning Agency of the Town of Southwest Ranches recommended approval of the proposed land development code text amendments for public school concurrency at its May 21, 2008 meeting, with a finding that the amendments are consistent with Sec. 163.3180 F.S., the Public School Facilities Element, Amended Interlocal Agreement and Broward County Land Development Code provisions.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

SECTION 1: Recitals Adopted. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of the Ordinance upon adoption hereof.

SECTION 2: Code Amendment. That the Unified Land Development Code of the Town of Southwest Ranches is hereby amended by adding Section 110-111 "Public School Concurrency" to read as follows:

Sec. 110-111. Public school concurrency.

- (A) Adequate public school facilities must be in place or under construction within three (3) years of approval of development applications subject to the public school concurrency requirement, or as otherwise provided by Section 163.3180 F.S. Pursuant to the Public School Facilities Element of the Town of Southwest Ranches Comprehensive Plan (PSFE) and the Amended Interlocal Agreement (ILA), the Town, in collaboration with the Broward County School Board, shall ensure public school facilities will be available for current and future students, consistent with available financial resources and adopted level of service standards, and that such

facilities will be available concurrent with the impact of proposed residential development.

(B) Applications subject to a public school concurrency determination.

(1) The Town shall not approve an application for a plat, replat, plat note amendment, or any site plan with a residential component (hereafter referred to as "application[s]") that generates one (1) or more students, or is not exempt or vested from the requirements of public school concurrency, until the School Board has reported that the school concurrency requirement has been satisfied. Residential development of up to four (4) single-family residences exempted in Subsection 170-010(13) from the site plan approval requirement shall constitute a site plan for the purpose of this Section.

(C) Exemptions. The following applications shall be exempt from the requirements of public school concurrency:

(1) An application which generates less than one (1) student at each level in the relevant Concurrency Service Area. Such development shall be subject to the payment of school impact fees.

(2) An application for age-restricted communities with no permanent residents under the age of eighteen (18). Exemption for an age-restricted community shall only be available subject to recordation of a declaration of restrictive covenants in the Public Records of Broward County, Florida prohibiting the residence of school-aged children in a manner consistent with federal, state, or local laws or regulations.

(3) As may otherwise be exempted by Florida Statutes, including but not limited to applications that meet specific qualifying criteria outlined in the applicable statute, and approved by the School Board.

(D) Vested Development. The following residential applications shall be vested from the requirements of public school concurrency:

(1) Any application, for property that is included within a plat or development agreement for which school impacts have been satisfied for the dwelling units included in the proposed

application. This includes any unexpired application approved by the Town between February 2, 1979, and the effective date of the Public School Facilities Element. In the transmittal of an application to the School Board, the Town shall include written information indicating that the units in the application are vested.

- (E) To be exempt or vested from the requirements of public school concurrency, an applicant is required to submit written evidence sufficient to verify that the subject development meets the exemptions stated herein and, as such, is exempt from the requirements of public school concurrency.
- (F) Level of Service Standards
 - (1) The level of service standard (LOS) shall be one hundred ten (110) percent of the permanent Florida Inventory of School Housing (FISH) capacity for each Concurrency Service Area. The LOS shall be achieved and maintained within the period covered by the five-year schedule of capital improvements contained in the effective Five-Year Adopted District Educational Facilities Plan (DEFP).
- (G) Concurrency Service Areas (CSAs)
 - (1) The areas for implementation of public school concurrency in the Town of Southwest Ranches shall be known as Concurrency Service Areas, which shall be the approved school boundaries for elementary, middle and high schools, as annually adopted by the School Board. For the purpose of public school concurrency, such CSAs shall be effective starting on the first day of the school year, and ending on the last day before the beginning of the next school year.
- (H) Student Generation Rates
 - (1) The effective adopted student generation rates pursuant to Section 5-182(m) of the Broward County Land Development Code shall be utilized to determine the potential student impact of submitted applications.
- (I) Public School Impact Application (PSIA).

Any applicant submitting an application that is not exempt or vested is subject to school concurrency and is required to submit a Public School Impact Application for review by the School Board. Evidence of acceptance of the PSIA and payment of the applicable PSIA fee to the School Board is required prior to Town acceptance of the application.

(J) School Capacity Availability Determination Letter (SCAD); proportionate share mitigation.

(1) The Town shall not approve an application or amendment thereto unless:

(a) The application is exempt or vested from the requirements of public school concurrency; or

(b) A SCAD letter has been received from the School Board confirming that capacity is available; or

(c) If capacity is not available, the proportionate share mitigation has been accepted by the School Board.

(2) The School Board shall determine the potential student impact from the application on the applicable CSA by performing the review procedure specified in School Board Policy 1161, as amended.

(3) If the School Board determines that sufficient capacity is available at the adopted LOS to accommodate students anticipated from the application, the School Board shall issue a SCAD letter indicating that adequate school facilities exist to accommodate the student impact and the application satisfies public school concurrency requirements.

(4) If the School Board determines that sufficient permanent capacity is not available at the adopted LOS to accommodate students anticipated from the application, the SCAD letter shall state that the application has not satisfied public school concurrency requirements and the basis for such determination. The applicant shall have thirty (30) days to propose proportionate share mitigation to the School Board.

(5) If the applicant proposes proportionate share mitigation within the thirty (30) day period that the School Board subsequently accepts, a legally binding document shall be executed among the School

Board, the Town, and the applicant, and recorded in the Public Records of Broward County, Florida.

- (6) Upon execution of said document, the School Board shall issue an Amended SCAD letter stating that, based upon the accepted proportionate share mitigation, adequate capacity will exist to accommodate the student impact anticipated from the proposed development, and that the proposed development satisfies the public school concurrency requirement .
 - (7) The total amount committed for any mitigation option shall not be less than the school impact fees due for the proposed units, as calculated based upon the adopted school impact fee schedule contained in the Broward County Land Development Code. The school impact fee due for the development shall be considered included in the total proportionate share mitigation amount due or paid. If the proportionate share mitigation is not accepted by the School Board, the Amended SCAD letter shall state the basis upon which the mitigation proposal(s) was rejected and why the development is not in compliance with public school concurrency requirements.
 - (8) The SCAD letter shall be sent to the applicant, the Broward County Development Management Division, and the Town of Southwest Ranches, no later than forty-five (45) days after acceptance of the PSIA by the School Board.
 - (9) An applicant adversely impacted by a SCAD determination may appeal such determination by written request to the School Board within the designated thirty (30) day time period. A timely request for an appeal shall stay the requirement for an applicant to propose proportionate share mitigation until the appeal has been resolved.
 - (10) If an application or approval expires, the SCAD letter will no longer be valid.
- (K) Expiration of Concurrency/Vesting
- (1) The public school concurrency approval for an application shall expire if development does not commence, as outlined in

paragraph (2) below, within five (5) years following the date of Town Council approval.

(2) When an application receives approval, satisfaction of concurrency for the number anticipated students shall be considered vested for up to five (5) years beginning from the date the developer received approval from the Town. Vesting of an application beyond five (5) years requires that one of the following conditions is met within the five (5) year period:

(a) The issuance of a building permit for a principal building and first inspection approval; or

(b) Substantial completion of project water lines, sewer lines, and the rock base for internal roads.

SECTION 3: Inclusion. It is the intention of the Town Council that the provisions of this Ordinance shall become and be made a part of the Town of Southwest Ranches Unified Land Development Code.

SECTION 4: Conflicts. All Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5: Severability. If any word, phrase, clause, sentence or section of this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

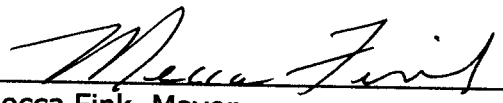
SECTION 6: Effective Date. This Ordinance shall become effective the date a final order is issued by the Department of Community Affairs finding the plan amendment delineated in Ordinance No. 2008-08 to be in compliance in accordance with Chapter 163.3184, Florida Statutes; or the date a final order is issued by the Administration Commission finding the plan amendment delineated in Ordinance No. 2008-08 to be in compliance in accordance with Section 163.3184, Florida Statutes.

PASSED ON FIRST READING this 5th day of June, 2008 on a motion made by Council Member Aster Knight and seconded by Council Member Don Maines.

PASSED AND ADOPTED ON SECOND READING this 10th day of July, 2008, on a motion made by Council Member Aster Knight and seconded by Council Member Don Maines.

Fink	<u>Y</u>
Nelson	<u>Y</u>
Breitkreuz	<u>Y</u>
Maines	<u>Y</u>
Knight	<u>Y</u>

Ayes	<u>5</u>
Nays	<u>0</u>
Absent	<u>0</u>
Abstaining	<u>0</u>



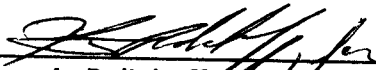
Mecca Fink, Mayor

Attest:



Susan A. Owens, CMC, Town Clerk

Approved as to Form and Correctness:



Gary A. Poliakoff, J.D., Town Attorney
FTL_DB: 1119706_1