



**INTER-OFFICE COMMUNICATION
PALM BEACH COUNTY
Planning, Zoning and Building**

TO: Zoning Division Staff
Interested Parties

FROM: Jon P. MacGillis, ASLA, Zoning Director 

DATE: May 16, 2019

RE: **Staff error in Unified Land Development Code (ULDC) Supplement 25, Art. 2.F, Concurrency, new pages to insert into your ULDC**

An error was recently discovered by Staff in Supplement 25, when formatting the adopted Code. The text was inadvertently removed from Art 2.F, Concurrency provisions by Code Staff when formatting the final version of the adopted Code between Supplements 22 and 23. The BCC did not adopt the deleted text, therefore the Zoning Director is authorized to insert the text back into the adopted Code. The Zoning Web PDF and HTML versions of Article 2, will also be updated today to reflect this missing text.

Please replace and insert the attached pages into your current ULDC copies. If you have any questions, contact me at (561) 233-5234, or Wendy N. Hernández, Principal Site Planner at (561) 233-5218.

JM/WH/LF/lf

Attachments: ULDC, Art. 2, pages 71-72 replacement and 72A-72B insert

C: Leonard Berger, Chief Assistant County Attorney
Jon MacGillis Reading File

U:\Zoning\CODEREV\Admin\Memo\2019\5-16-19 Memo to Interested Parties on update pages to insert in ULDC Art 2.docx

**Department of Planning,
Zoning & Building**

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Notes:	
1.	Commencement of development shall consist of:
a.	Receipt of a building permit and first inspection approval of first component of the primary structure(s) for 1) the entire development, as defined by the certified site plan or certificate of concurrency for those development orders which do not require the certification of a site plan or 2) all of the next phase if phasing is provided by the development order and final Master Plan pursuant to Art. 2.E.3.B.3.b, Final Site Plan or Final Subdivision Plan herein; or
b.	The installation of significant site improvements such that the improvements would only permit the development of the approved project, and any other pattern of development would require extensive changes to the installed improvements.
	Commencement of development shall not consist of:
a.	The dividing of land into parcels, unless the determination of commencement is to be made for property in a residential zoning district which is not a PDD and for which there is no conditional use/special exception and this division is accomplished through the recordation of a plat or plat waiver;
b.	Demolition of a structure;
c.	Deposit of refuse, solid or liquid waste, or fill on the parcel unless the development order is exclusively and specifically for such;
d.	Clearing of land.
2.	From resolution adoption date for first phase, and from date of commencement of development of last phase, or last plat recordation date, for subsequent phases. The maximum time to commence development for each phase of a Type 3 excavation shall be established by a condition of approval. [Ord. 2017-007]
3.	From plan certification date for first phase, and from date of commencement of development of last phase, or last plat recordation date, for subsequent phases.
4.	All administrative time extensions listed in this table are to be approved or denied by the Executive Director of PZB. Time extensions for Type IA and IB administrative variances, and Type II non-concurrent variances are to be approved by the Zoning Director. [Ord. 2007-011]
5.	The maximum number of phases and duration of each phase for a Type 3 excavation shall be established by a condition of approval. [Ord. 2017-007]
6.	The recordation of a plat for the preservation area of an AGR-PUD shall not qualify as meeting this requirement.
7.	An additional 90 days will be provided if prior to the expiration of any time period established by this Code, staff is notified by the property owner that either a complete building permit application has been submitted, or technical compliance for a plat has been received, as appropriate, and development will commence, or the plat will be recorded, within 90 days of the deadline. If the required action does not occur within the 90 days, the requirements of Art. 2.E.2, Procedures, shall apply. This provision shall not be utilized when there has been a failure to comply with concurrency reservation or development order conditions which are required for the Development Order to comply with Art. 12.C.2, Conditions. [Ord. 2005-002]
8.	For projects with less than 1,500 residential units, record one or more plats such that the total number of dwelling units in the recorded plat(s) is at least 10 percent of the total number of residential units. [Ord. 2008-003] For projects of 1,500 or more residential units, record one or more plats such that the total number of dwelling units in the recorded plat(s) is at least 150 residential units. This requirement shall apply to all complete applications for plat approval filed on or after (the date to be added being six months after the adoption date of the ULDC amendment). [Ord. 2008-003] Plat applications filed prior to July 24, 2008 shall 1) result in the plat(s) being recorded by August 24, 2008, or comply with this footnote; and, 2) provide for residential dwelling units. [Ord. 2008-003]
9.	No traffic study shall be required if the existing development order has a project buildout date condition for a date later than the 12-month administrative time extension. [Ord. 2008-037]
10.	All Certificates of Occupancy for the second phase shall be issued no later than five years from the date of issuance of the first CO for the first phase. [Ord. 2009-040]

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CHAPTER F CONCURRENCY (ADEQUATE PUBLIC FACILITY STANDARD)

Section 1 General

A. Purpose and Intent

The purpose and intent of this Section is to ensure that adequate potable water, sanitary sewer, solid waste, drainage, park, road and mass transit public facilities and fire-rescue are available to accommodate development concurrent with the impact of development on such public facilities, consistent with the LOS standards for those public facilities adopted in the Plan. This objective is accomplished by (1) establishing a management and monitoring system to evaluate and coordinate the timing and provision of the necessary public facilities to service development, and (2) by establishing a regulatory program that ensures that each public facility is available to serve development concurrent with the impacts of development on public facilities. [Ord. 2018-002]

B. Authority

The BCC has the authority to adopt this Article pursuant to Art. VIII, § 1, Fla. Const., the PBC Charter, F.S. § 125.01, et al seq., F.S. § 163.3161(8), F.S. § 163.3177(10)(h), and F.S. § 163.3202(2)(g).

C. Applicability

1. General

Concurrency shall be obtained for all development orders and subsequent development orders unless the project is exempt from the requirements of this Article.

D. Exemptions

The following shall be exempt from the requirements of this Article:

1. All development orders that have received a concurrency exemption certificate or concurrency exemption extension certificate, pursuant to the "Concurrency Exemption Ordinance of PBC" and the "Concurrency Exemption Extension Ordinance;"
2. A lot of record which (a) meets the density requirements of the Plan, as amended, or (b) qualifies for an administrative order exempting it from the density requirement of the Plan;
3. An alteration or expansion of a development that does not create additional impact on public facilities;
4. The construction of accessory buildings and structures that does not create additional impact on public facilities;
5. The replacement of a dwelling unit within one year of its removal; and,
6. The official list of additional specific permit types as established by the Zoning Director which are deemed to have no impact on public facilities.

E. Unified Planning Area

1. If a Unified planning area is adopted and implemented by the BCC, through resolution, such Unified Planning Area shall be considered concurrent through the date specified in the resolution, provided:
 - a. The terms of the resolution adopting and implementing the unified planning area are being met in good faith; and
 - b. The impacts of the unified planning area on the public facilities have been addressed.
2. Adequate public facility standards for the unified planning area shall be maintained providing Art. 2.F.1.E.1.a, Art. 2.F.1.E, Unified Planning Area, have been met, regardless of the impact of subsequently approved or background traffic that may generate traffic in the unified planning area, on affected roadways or other public facilities.

Section 2 LOS Standards

The LOS standards for public facilities are contained in the Plan and shall apply in the review of development pursuant to the procedures and standards of this Article

Section 3 Review for Adequate Public Facilities

A. General

To ensure that adequate potable water, sanitary sewer, solid waste, drainage, parks and recreation, road, mass transit, and fire-rescue public facilities are available concurrent with the impacts of development on each public facility, PBC shall establish the following development review procedures. [Ord. 2018-002]

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B. Procedure for Review of Application for a Concurrency Reservation

1. Submission of Application

a. Concurrency Reservation

An application for a concurrency reservation shall be submitted jointly with an application for a development order (joint review), to the Zoning Director in a form established by the Zoning Director and made available to the public. If the proposed development does not require site plan approval, the application shall be submitted at scheduled intake times (separate review) as specified on the Annual Zoning Division Calendar. The application shall be accompanied by a fee established by the BCC for the filing and processing of each application. The fee shall be non-refundable. **[Ord. 2006-055]**

b. WHP Traffic Concurrency Hall Pass

A WHP Traffic Concurrency Hall Pass is a provisional traffic concurrency approval that may be used for Projects subject to Art. 5.G.1, Workforce Housing Program (WHP). A WHP Traffic Concurrency Hall Pass Certificate shall be considered a traffic concurrency reservation only for the purposes of Art. 12.C.1.C.4.c, TPS Database, and shall be valid for a period of not more than 90 days.

An application for a WHP Traffic Concurrency Hall Pass may be submitted separate from an application for a development order to the Traffic Director in a form established by the Traffic Director and made available to the public. The application may be submitted at any time and shall be accompanied by a fee established by the BCC for the filing and processing of each application. The fee shall be non-refundable. **[Ord. 2006-055]**

2. Determination of Sufficiency

a. Separate Review

Upon receipt of the application, the Zoning Director (or Traffic Director, in the case of a WHP Traffic Concurrency Hall Pass) shall initiate a review and within ten days determine whether the application is sufficient. If it is determined that the application is not sufficient, written notice shall be sent to the applicant specifying the deficiencies. The Zoning Director (or Traffic Director, in the case of a WHP Traffic Concurrency Hall Pass) shall take no further action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within 20 days of written notification, the application shall be considered withdrawn. **[Ord. 2006-055]**

b. Joint Review

Sufficiency determination is subject to the regulations for the specific development order requested as outlined in Art. 2.B.7.C, Development Order Amendment (DOA). Insufficiency of any portion of an application submitted under joint review shall result in the insufficiency of the concurrency application.

3. Determination of Review

The Zoning Director shall also determine whether all service providers are required to review the application. If the Director determines that two or less public facilities are impacted by the proposed development, the application may be eligible for a reduced concurrency review fee. The Zoning Director, where appropriate, shall consult with the service providers in making such determination.

4. Review and Recommendation

a. Separate Review

Within ten days of submittal or resubmittal, the application shall be forwarded to the PBC Departments and service providers for review. Within 15 working days of its receipt, the appropriate PBC Departments and service providers shall file a statement with the Zoning Director as to whether or not adequate public facilities are available, pursuant to the standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation. In the case of an application for a WHP Traffic Concurrency Hall Pass, the same review time frames shall apply and the statement as to whether or not adequate public facilities are available pursuant to the standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation, shall be filed with the Traffic Director, with a copy to the Zoning Director. **[Ord. 2006-055]**

b. Joint Review

The application shall be distributed to the PBC Departments and service providers for review together with application for development order.

5. 90-Day Negotiation

a. Separate Review

If the Zoning Director (or Traffic Director, in the case of a WHP Traffic Concurrency Hall Pass) determines that an application fails to meet any one of the public facility component standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation, the applicant shall be notified of such deficiency(s) in writing. If the applicant does not notify the Zoning Director (or Traffic Director, in the case of a WHP Traffic Concurrency Hall Pass) in writing that he/she wishes to withdraw the application, the application shall be entered into a 90-day negotiation period with the service provider. **[Ord. 2006-055]**

1.) If during the 90-calendar day negotiation period, the applicant addresses the deficiencies, the application shall be reconsidered by the Zoning Director (or Traffic Director, in the case of a WHP Traffic Concurrency Hall Pass) and approved or denied consistent with the standards of this Chapter. **[Ord. 2006-055]**

2.) If the deficiencies are not resolved within 90 calendar days, the application shall be denied.

b. Joint Review

The timing and review of an application shall be consistent with the timing and review procedures outlined in the Article, for the requested Development Permit. Approval of the Development Permit shall not be granted until Concurrency is approved. **[Ord. 2010-022]**

c. Extension of 90-Day Negotiation Period

Prior to expiration of a reservation, if it is documented that a government-caused delay the failure of a development order to be issued, the Zoning Director shall grant such extensions as necessary to offset government-caused delays, not necessarily equal to the time of the delay. Each extension shall be based only on a delay that has already occurred.

6. Approval

a. Separate Review

If it is determined by the service providers that adequate public facilities are available, the Zoning Director shall review the statements and the application for compliance with all the public facility component standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation, and the density requirements of the Plan, and shall issue a certificate for concurrency reservation. **[Ord. 2005-002]**

b. Joint Review

Concurrency approval shall be indicated directly on the Certified Plan pursuant to the DRO Technical Standards, for projects that require site plan approval. For projects that do not require site plan approval, a reservation shall be issued.

c. WHP Traffic Concurrency Hall Pass Certificate

If it is determined that adequate public facilities are available in compliance with the Art. 2.F.3.C.3, Traffic Facilities, the Traffic Director shall issue a Hall Pass Certificate. An application for a Concurrency Reservation in conjunction with a Development Order application shall be submitted within 90 days of issuance of the Traffic Concurrency Hall Pass Certificate or else it shall expire. **[Ord. 2006-055]**

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