

FERRY COUNTY
CONCURRENCY
ORDINANCE #2001-01

Updated

January 22, 2001

FERRY COUNTY
Planning Department
147 N. Clark, Suite 7
PO Box 305
Republic, WA 99166

**FERRY COUNTY
CONCURRENCY ORDINANCE #2001-01**

An Ordinance adopting a concurrency management system for transportation facilities as required by RCW 36.70A.070 (6)(b).

WHEREAS, RCW 36.70A.070(6)(b), part of the Growth Management Act, requires that jurisdictions subject to the Act “adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development.”

WHEREAS, RCW 36.70A.070(6)(b) also specifies that “concurrent with the development” means that the improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within the time limits of the said development permit.

WHEREAS, the measures adopted through this ordinance are designed to meet these requirements. The measures are further designed to ensure that adopted levels of service standards for transportation facilities are not degraded below the levels adopted in the Ferry County Comprehensive Plan by the approval of a development permit, to inform citizens about infrastructure deficiencies, and to create options to mitigate such deficiencies.

WHEREAS, the Board of County Commissioners of Ferry County held a public hearing on this ordinance on January 22, 2001.

WHEREAS, developments generating 25 or more motor vehicle trips in or out of the development per the average daily traffic are of such size that an individual development could cause transportation facilities to reach or exceed capacity (based on adopted levels of service specified in the Ferry County Comprehensive Plan). Therefore, such developments shall undergo a concurrency determination.

WHEREAS, this ordinance is not intended to affect the scope of the State Environmental Policy Act.

NOW, THEREFORE, BE IT ORDAINED by the Board of Ferry County Commissioners, as follows:

SECTION 1. DEFINITIONS

- A. Annual Capacity Statement: The statement issued by the County each year indicating the available capacity of transportation facilities or services.
- B. Average Daily Traffic: The average number of vehicle trips on a particular road per day.
- C. Building Permit: That authorization for the commencement of construction or land alteration without need for further application and approval.
- D. Capital Facilities Chapter: That chapter of the Ferry County Comprehensive Plan which evaluates the need for public facilities as identified in the other comprehensive plan elements and as defined in the applicable definition of each type of public facility, which estimates the cost of improvements for which the local government has fiscal responsibility, which analyzes the fiscal capability of the local government to finance and construct improvements, which adopts financial policies to guide the funding or improvement, and which schedules the funding and construction of improvements in a manner necessary to ensure that capital improvements are provided when required based on needs identified in the other comprehensive plan chapters.
- E. Change of Use: For purposes of this ordinance, a modification to an existing building or site to accommodate a more intensive use will be subject to concurrency determination for the new increase in traffic only.
- F. Comprehensive Plan: The Ferry County Comprehensive Plan and the Curlew Lake Sub Area Plan, Ordinance #95-06.
- G. Concurrency: The provision for assuring that improvements or strategies to accommodate the impacts of development are in place at the time of development or that a guaranteed financial commitment is in place to complete the improvements or strategies within the time limit of the said development permit so the level of service for transportation facilities do not fall below the level of service standards adopted in the Comprehensive Plan due to the impacts of new development.
- H. Concurrency Approval: The official determination by the County that a development permit will not result in the reduction of the level of service standards set forth in the Ferry County Comprehensive Plan for transportation facilities and service.
- I. Concurrency Determination: A technical study of the impacts on the road system, including forecasted level of service, of a proposed land use development using current data and analytical techniques as identified by Ferry County Public Works.
- J. Concurrency Management System: The procedures and processes utilized by the County to determine that development permits, site plan review approvals, or preliminary

plat approvals, when issued, will not result in the reduction of the level of service standards as set forth in the Ferry County Comprehensive Plan.

K. Conditions of Approval: As they apply to concurrency evaluations, those conditions necessary to ensure that the proposed development as identified in the preliminary development plan will not cause an impact to transportation facilities in such a way as to lower the level of service standard to an unacceptable level. The conditions of approval shall be part of the approved preliminary development permit and are binding upon the approval of a final development permit.

L. Development: Any construction, reconstruction or any use of real property which requires review and approval of a development permit.

M. Development Permit: Any land use permit which must be approved by Ferry County Planning Department prior to the development of land.

N. Level of Service (LOS): A measure describing the operational conditions or degree of service provided by existing and proposed transportation facilities, based on quantitative standards for measurement.

O. Preliminary Development Permit: The development permit that grants preliminary approval of an application to develop land. An example is preliminary approval of a subdivision.

P. Reserve Capacity: The available capacity of a roadway in motor vehicles on average daily traffic flow based upon adopted level of service.

SECTION 2. CONCURRENCY EVALUATION.

A. A concurrency determination will be undertaken for the following development permit applications:

1. Any development that generates 25 or more motor vehicle trips in or out of the development per the average daily traffic.

B. If the transportation facility has no reserve capacity at the time of the concurrency evaluation, the Ferry County Public Works Department will charge a \$100.00 evaluation fee and will not approve the project for concurrency until Public Works staff has identified conditions of approval to mitigate the development impact as specified in Section 3 (F). These conditions, included in the approved preliminary development permit or final development permit when no preliminary permit is required, must be completed or guaranteed at the time of final approval, and will insure an Approval of Concurrency as long as the permit is valid. When the development permit is no longer valid, capacity reserved for the development shall be returned to the system. Changes to the preliminary development plan adding more than ten percent increase or at least 12 additional motor vehicle trips will require a new concurrency review.

C. If the reserve capacity of the transportation facility exceeds projected motor vehicle trips and it has sufficient capacity to warrant approval of the preliminary development permit during concurrency evaluation without mitigating conditions of approval as identified in Section 3 (F), it shall be guaranteed an Approval of Concurrency. Approval is current for as long as the permit is valid. Reserved capacity shall be returned to the system when the development permit is no longer valid. Changes to the preliminary development plan adding more than ten percent increase or at least 12 additional motor vehicle trips will require a new concurrency review.

D. If some reserve capacity exists on the affected transportation facility, but projected motor vehicle trips will exceed available capacity, and the project requires some degree of mitigation to meet concurrency requirements at the time of preliminary development permit review, the Ferry County Public Works Department will charge a \$100 evaluation fee and will not approve the project for concurrency until the Public Works staff has identified conditions of approval to mitigate the development impact as specified in Section 3 (F). These conditions, included in the approved preliminary development permit must be completed or guaranteed in the final development permit. Changes to the preliminary development plan adding more than five percent of additional motor vehicle trips will require a new concurrency review.

SECTION 3. DEVELOPMENT GUIDELINES FOR CONCURRENCY DETERMINATION.

A. A concurrency determination shall be required with the issuance of any development permit:

1. generating 25 or more motor vehicle trips in or out of the development per the average daily traffic.

B. If a development requires more than one preliminary development permit, the concurrency approval shall occur with the issuance of the first preliminary development permit.

C. If the development permit is for a change of use for an existing structure, the concurrency determination will be for the new increase only.

D. Concurrency approval shall be valid as long as the development permit to which it applies is valid and may be transferred to another owner as long as it stays with the property to which it applies and the scope of development has not changed.

E. If the concurrency determination results in a finding that transportation facilities and services are sufficient to serve the development, the appropriate Ferry County Planning Department shall reserve the capacity required for the development at the time of preliminary approval for said development permit. This capacity shall not be returned to the system unless and until the application is, for whatever reason, denied, rejected, invalidated or abandoned.

F. If the concurrency determination results in a finding that transportation facilities and services fall below adopted levels of service, the application for the development permit shall not be approved unless one of the following conditions are met. Upon request, the Ferry County Planning Department shall provide the reasons for denying an application under this section.

1. Level of Service standards are met by the developer and mitigating measures needed to meet such standards are identified by the Ferry County Public Works Department, and the project developer shall have guaranteed the funding of the approved mitigating measures, and the anticipated completion date of the construction is within the time limits of said development permit from the date of preliminary approval;
2. The applicant reduces the traffic impacts to achieve an acceptable level of service by scaling the project down to reduce the number of motor vehicle trips per the average daily traffic generated by the project; or
3. The applicant may choose to wait until such time as there may be sufficient transportation facility capacity due to improvements identified with secured funding in the 6 year Capital Facilities Plan, and then reapply for a concurrency determination. This approach shall not relieve the applicant of restrictions regarding expiration of permits and may result in a requirement of full application procedures.

SECTION 4. MINIMUM REQUIREMENTS FOR CONCURRENCY.

In order to obtain a concurrency approval based on meeting minimum required levels of service for transportation facilities, one of the following conditions must be satisfied:

- A. The necessary facilities and services are in place at the time the development is available for use or occupancy, or at the time the approval is granted for a preliminary development permit, or a final development permit when a preliminary permit is not required;
- B. Approval is granted for a preliminary development permit, or final development permit when a preliminary permit is not required, subject to the condition that the necessary facilities and services are included in the six year list of improvements in the Capital Facilities Chapter current at the time of preliminary approval of the application, and the developer has agreed to pay the cost as determined by the Public Works Department towards these improvements (Note: If grant funding does not come through for projects identified in the Capital Facilities Chapter, the County's first priority will be to find alternative funds, the second priority is to lower levels of service); or
- C. Provision of facilities and services are guaranteed by the developer in an enforceable development agreement. The agreement must guarantee that the developer will have the necessary transportation facilities in place at the time of development, or

that a financial commitment is in place to complete the improvements or strategies within the time limits of the said development permit.

SECTION 5. RECOGNITION OF ESTABLISHED LEVELS OF SERVICE IN THE FERRY COUNTY COMPREHENSIVE PLAN.

The County shall recognize those levels of service for transportation facilities adopted in the Ferry County Comprehensive Plan.

SECTION 6. MONITORING CONCURRENCY.

The Ferry County Public Works Department shall monitor what the impact of approving concurrency will be on the capacity of transportation facilities. Monitoring will be accomplished through the Annual Capacity Statement based upon a permit tracking system.

SECTION 7. FEES.

No fees will be charged by the County for determining concurrency if the transportation facility has adequate reserve capacity, at the time of concurrency elevation. If the transportation facility has no reserve capacity, at the time of concurrency evaluation, the Ferry County Public Works Department will charge a \$100.00 evaluation fee for identifying conditions of approval to mitigate the development impact as specified in Section 3 (F).

SECTION 8. MANDATORY REVIEW OF ORDINANCE.

The Ferry County Planning Department staff (with concurrence of the Public Works Department) and the Planning Commission shall periodically examine the provisions of this ordinance and submit a report to the Board of County Commissioners advising them as to the operation of the ordinance and recommending changes and amendments, if any, which are desirable for meeting the goals and policies of the Ferry County Comprehensive Plan or are in the interest of furthering the public health, safety and general welfare.

SECTION 9. OTHER AUTHORITY.

Nothing in this ordinance is intended to limit the County's authority under the State Environmental Policy Act or any other source. Vested rights are determined based on applicable state law of the State of Washington.

SECTION 10. SEVERABILITY.

If any section, paragraph, subsection, clause, sentence, or provision of this ordinance is adjudged by any court of competent jurisdiction to be invalid or unconstitutional, the

remainder of this ordinance shall not be affected by such judgment and shall remain in full force and effect.

SECTION 11. EFFECTIVE DATE.

This ordinance shall come into full force and effect, the 22nd day of January 2001.

Dated this 22nd day of January, 2001.

BOARD OF COUNTY COMMISSIONERS FERRY COUNTY,
STATE OF WASHINGTON

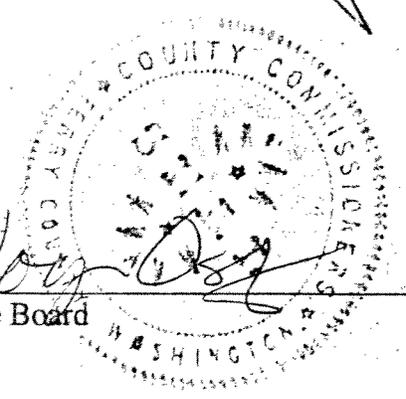
Dennis A. Swood
Chairman

James M. Hall
Member

W. J. Berg
Member

ATTEST:

John D. [Signature]
Clerk of the Board



APPROVED AS TO FORM:

S. [Signature]
Prosecuting Attorney