

From: [Bart Catching](#)
To: mark@eriksonlaw.com
Cc: "[Kris Eklove](#)"; [Wendy Baird](#); [Jeffrey Delapena](#)
Subject: RE: Comprehensive Plan Update
Date: Tuesday, April 28, 2026 1:08:27 PM

Mark,

We will add this to the public comment record.

For your information, Sonja Wiser has retired. I've included my co-worker Jeff Delapena for future correspondence with the Community Planning department.

Thanks,



Bart Catching
Planner III
COMMUNITY PLANNING

564.397.4909

From: mark@eriksonlaw.com <mark@eriksonlaw.com>
Sent: Tuesday, April 28, 2026 12:55 PM
To: Bart Catching <Bart.Catching@clark.wa.gov>; 'Sonja Wiser' <Sonja.Wiser@clark.wa.gov>; Wendy Baird <Wendy.Baird@clark.wa.gov>
Cc: 'Kris Eklove' <kris@eriksonlaw.com>
Subject: Comprehensive Plan Update
Importance: High

EXTERNAL: This email originated from outside of Clark County. Do not click links or open attachments unless you recognize the sender and know the content is safe.

CONFIDENTIALITY NOTICE: This transmittal and any accompanying documents may contain information belonging to the sender which is protected by the attorney-client privilege. This information is confidential.

RESTRICTED USE: You may not use the information in this transmittal in any way if you are not the intended recipient. Do not read any part of this transmittal if you are not the person to whom it was directed. Call us immediately to arrange for a return of the documents if you received this transmittal in error.

TAX ADVICE NOTICE: According to Internal Revenue Service Circular 230, we are required to advise you as follows: Any tax advice contained in this communication is not intended to be used for the purposes of: (i) avoiding tax related penalties, nor (ii) promoting, marketing, or recommending any transaction, plan, or arrangement. Taxpayers may rely upon professional advice to avoid tax related penalties only if contained in a comprehensive tax

opinion that conforms to stringent requirements.

All:

Last night's Public Hearing dragged on beyond my availability, so I have provided my comments in the attached correspondence to the Council.

Mark A. Erikson
Attorney at Law
ERIKSON & ASSOCIATES, PLLC
110 West 13th Street
Vancouver, Washington 98660
(360) 696-1012

Erikson & Associates, PLLC
Attorneys at Law

Erikson

110 West 13th Street
Vancouver, Washington 98660-2904

(360) 696-1012 • Facsimile (360) 737-0751

Mark A. Erikson
Licensed in Oregon & Washington
mark@eriksonlaw.com

April 28, 2026

E-MAIL & HAND DELIVER

Clark County Councilors
c/o: Bart Catching
 Sonja Wiser
 Wendy Baird
1300 Franklin Street
Vancouver, WA 98660
E-mail: bart.catching@clark.wa.gov
 sonja.wiser@clark.wa.gov
 wendy.baird@clark.wa.gov

Re: Comprehensive Plan Update

Dear: Councilors and Staff:

On April 24, 2026, I reported that a Clark County Hearing Examiner had ruled that County Code volume-to-capacity ratios are mandatory for each project, rather than something to consider in overall analysis of transportation concurrency, which has resulted in defacto moratoria upon development, stifling compliance with the following provision of the Growth Management Act:

After adoption of the comprehensive plan by jurisdictions required to plan or who choose to plan under RCW 36.70A.040, local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned or locally or regionally operated 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. [1]

However, the Washington Court of Appeals has recognized “Screenline methodology” to utilize volume-to-capacity ratios in overall concurrency analysis rather than imposing a mandatory requirement upon each application:

¹RCW 36.70A.070(6)(b).

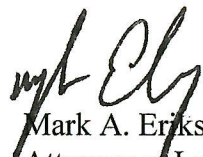
Screenline methodology, also referred to as an aggregated roadway level of service standard, is an alternative to traditional individual intersection and roadway segment measures. . . . Instead of expressing a volume-to-capacity ratio for each individual arterial, the aggregated standard approaches traffic problems by considering larger corridors and geographic zones. . . . Screenline methodology is used to promote growth and minimize the effect of stringent level of service standards in target growth areas. . . . The essential concept is that no single intersection or arterial operates in isolation. . . . If traffic congestion on one arterial increases, it may not make sense to expand the capacity of that arterial. . . . A city, instead, may want to shift traffic to a nearby underused arterial, or to implement measures that will reduce travel demand – or a combination of these strategies. . . . Traffic planning that uses a screenline methodology focuses on a “traffic-shed” of interrelated arterials. . . . [2]

In the foregoing case, “[t]he 1994 Seattle Comprehensive Plan combined the Montlake Bridge and the neighboring University Bridge into a single ‘Ship Canal’ screenline, and adopted it as one of the screenlines the City uses to assess concurrency.” [3] The Court of Appeals denied a challenge to the Ship Chanel screenline as follows:

The Growth Management Act requires that challenges to a comprehensive plan, or amendments thereto, be filed within 60 days of publication. RCW 36.70A.290(2). The [Growth Management Hearings] Board ruled that [Montlake Community] Club’s transportation and concurrency arguments were untimely. “[Montlake Community Club’s] opportunity to challenge the City’s ‘screenline’ LOS [level of service] methodology was five years ago when the City adopted its comprehensive plan in 1994. Petitioner cannot now challenge the City’s LOS methodology.” [4]

In the present case, it seems highly more likely that appeals to the Growth Management Update will result from defacto moratoria than from the adoption of Screenline methodologies.

Sincerely,


Mark A. Erikson
Attorney at Law

MAE/ke
SILB0108.L02.wpd

²*Montlake Community Club v. Central Puget Sound Growth Management Hearings Board*, 110 Wash.App. 731, 736, 43 P.3d 57 (2002); citing Municipal Research & Services Center of Washington, *Level of Service Standards: Measures for Maintaining the Quality of Community Life* 46 (1994); citations omitted.

³*Montlake Community Club*, 110 Wash.App. at 737.

⁴*Id.*