From: Jeffrey Delapena
To: Heidi Pozzo; Rebecca Messinger
Cc: Oliver Orjiako; Jose Alvarez
Subject: RE: Comp Plan: Furth email to Council and license status
Date: Wednesday, September 23, 2026 12:52:00 PM
Attachments: FOR Hedrie Furth Email in Concurrence.pdf
Heidi Pozzo.pdf

Hello Heidi,

Thank you for providing this comments and attachment. Confirming these have all been received and will be added to the Comprehensive Plan Index of Record.

Best,

Jeff Delapena
Program Assistant
COMMUNITY PLANNING

564.397.4558

NOTICE OF PUBLIC DISCLOSURE: This e-mail account is public domain. Any correspondence from or to this e-mail account may be a public record. Accordingly, this email, in whole or in part may be subject to disclosure pursuant to RCW 42.56, regardless of any claim of confidentiality or privilege asserted by an external party.

From: Heidi Pozzo <hcpheid@yahoo.com>
Sent: Wednesday, September 23, 2026 12:23 PM
To: Jeffrey Delapena <Jeffrey.Delapena@clark.wa.gov>; Rebecca Messinger <Rebecca.Messinger@clark.wa.gov>
Cc: Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Jose Alvarez <Jose.Alvarez@clark.wa.gov>
Subject: Comp Plan: Furth email to Council and license status

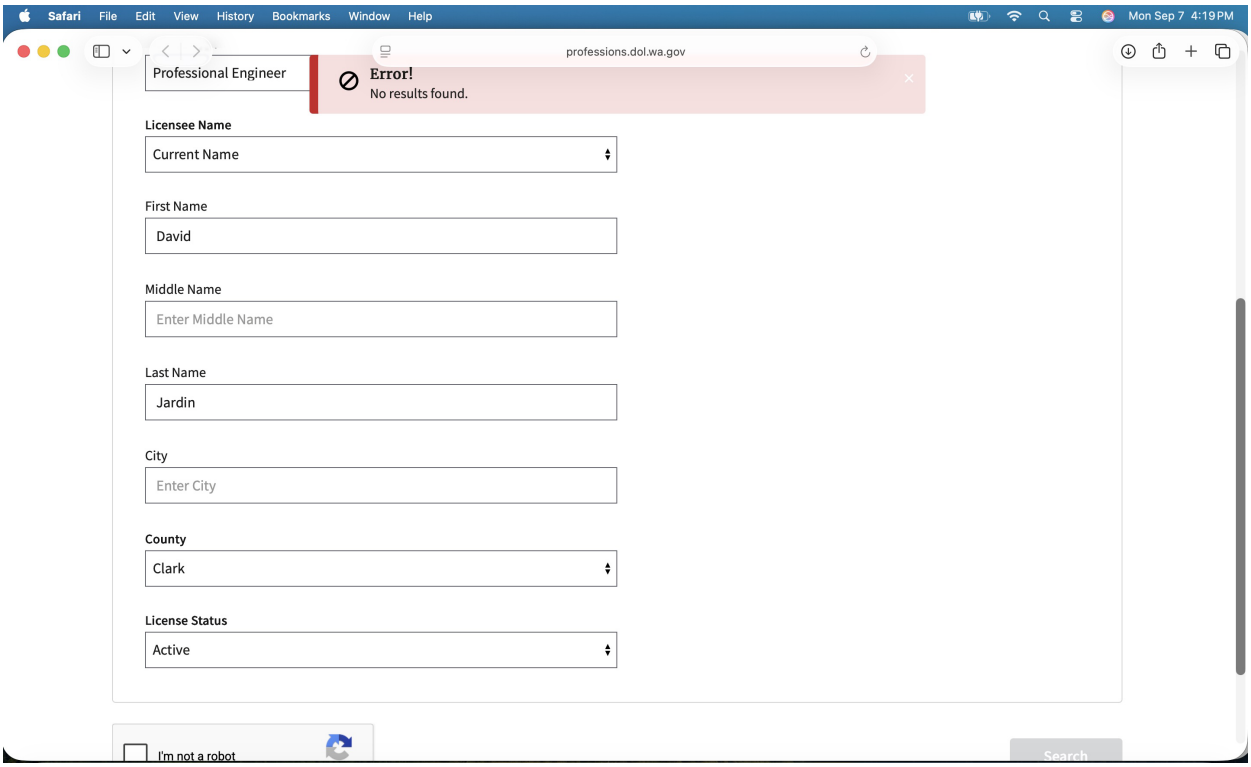
EXTERNAL: This email originated from outside of Clark County. Do not click links or open attachments unless you recognize the sender and know the content is safe.

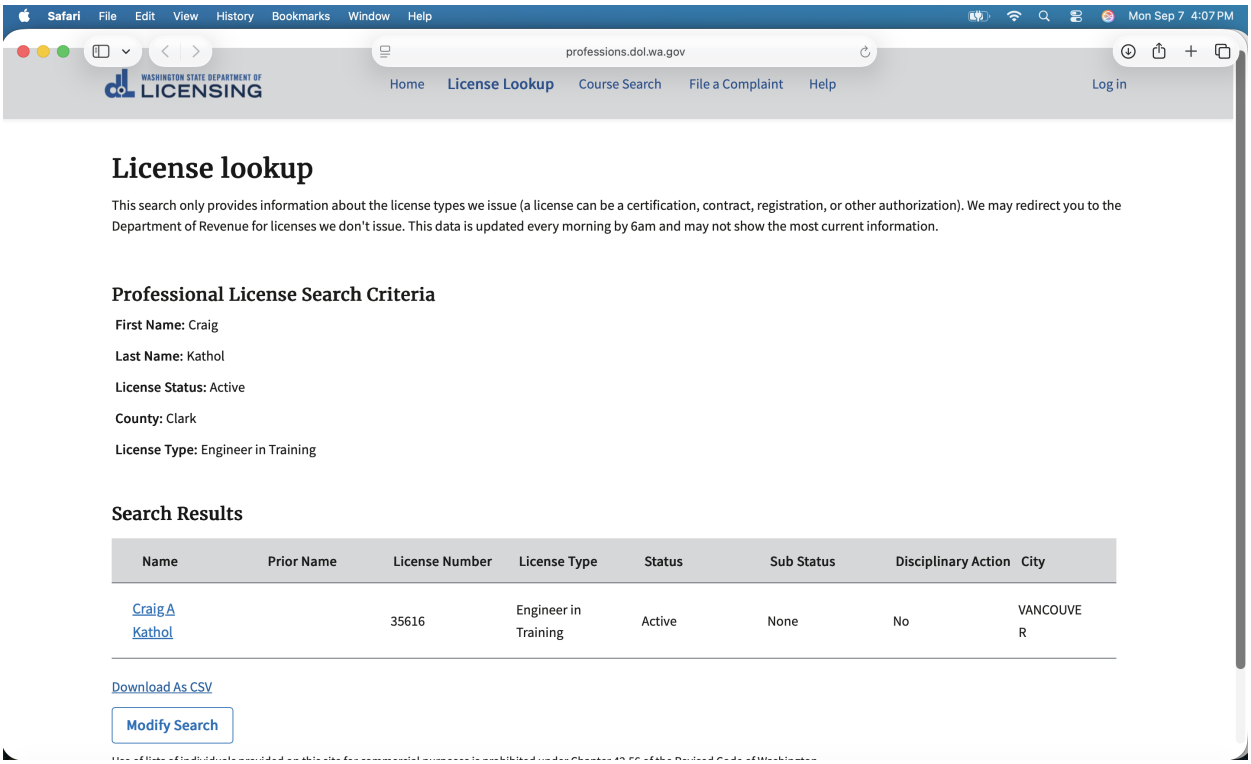
Dear Jeff,

Please find attached for inclusion in the Comp Plan Index of Record the license status of D Jardin and C Kathol. Separately, I've uploaded an email sent by A Further to Council regarding concurrency to the link you provided to me.

Thank you,

Heidi





License lookup

This search only provides information about the license types we issue (a license can be a certification, contract, registration, or other authorization). We may redirect you to the Department of Revenue for licenses we don't issue. This data is updated every morning by 6am and may not show the most current information.

Professional License Search Criteria

First Name: Craig

Last Name: Kathol

License Status: Active

County: Clark

License Type: Engineer in Training

Search Results

Name	Prior Name	License Number	License Type	Status	Sub Status	Disciplinary Action	City
Craig A Kathol		35616	Engineer in Training	Active	None	No	VANCOUVER

Download As CSV

Modify Search

Use of lists of individuals provided on this site for commercial purposes is prohibited under Chapter 42.56 of the Revised Code of Washington.

From:	April Furth
To:	Sue Marshall; Glen Yung; Wil Fuentes; Matt Little; Michelle Belkot
Cc:	Kathleen Otto; Amber Smith; Jordan Boege
Subject:	Concurrency
Date:	Friday, June 5, 2026 3:52:00 PM
Attachments:	6-4-26 Ex 88 Response - Final.docx 5-20-26 Joe Turner VC Ltr - DRAFT.docx Ex 88 Supplemental Submission.pdf image001.png image002.png image003.png image004.png

---

SENT TO ALL COUNCILORS FOR INFORMATIONAL PURPOSES – PLEASE DO NOT REPLY ALL

Good afternoon Councilors,

I thought I would provide some background on the concurrency conversation out there.

I have attached the letters that County staff have submitted into the record about how we have been applying concurrency code.
• These letters respond to questions raised during a land-use hearing about how the County evaluates traffic impacts from new development.
• They clarify how long-standing county traffic rules are applied and why staff use both corridor traffic volumes and intersection performance when making decisions.

Clarifying Misunderstandings
• Some comments suggested that staff were “overriding” or “ignoring” code requirements. Staff clarify this is not the case—using intersection information is explicitly allowed by code (CCC 40.350.020(F)(9)).
• Staff are not exempting developments from congestion standards; they are using a more complete picture of traffic operations to determine whether standards are met.
• The County’s method is not about lowering safety standards—Level of Service is a mobility measure, not a direct safety rating.

Why the Code Was Changed in the Past
• Earlier versions of the code relied on travel-time runs, which were unpredictable and difficult to apply evenly. The 2014 changes created clearer, more consistent volume standards.
• Over time, staff identified unintended consequences and started evaluating other factors, including volume/capacity, to determine —still within the authority granted by code—to ensure traffic impacts were evaluated accurately.

Hope this helps.

Thank you,

April Furth
Deputy County Manager
April.furth@clark.wa.gov

564.397.4996

CLARK COUNTY WASHINGTON

clark.wa.gov

1300 Franklin Street
PO Box 5000
Vancouver, WA 98666-5000
564.397.2000

June 4, 2026

Project Name: 174th Street Subdivision

Land Use Case Number: PLD-2026-00002

Staff Engineer: David Jardin, Traffic Engineering Section Manager

Land Use Hearing Date: April 23, 2026

Dear Mr. Turner:

The purpose of this letter is to correct the record regarding the time frame of the current code language of CCC 40.350.020(G)(1)(a) as identified in Exhibit 136 VC Ltr Final. The implementation of this code language was in the 2014 time frame as you will see with the exhibits provided into the record during the first open record period.

As this open record period relates to the approval with conditions of PLD-2026-00002 174th Street Subdivision, it is staff's position that the use of CCC 40.350.020(F)(9) allows concurrency staff to consider other factors that the Public Works Director has determined could have an impact on the operating level of the transportation corridors or intersections. Since the Public Works Director's determination of other factors and subsequent direction to staff in the 2014 time frame, concurrency staff has used the intersection level-of-service and queuing, along with existing roadway influences and, where applicable, potential mitigation options such as Transportation System Management (TSM) or Transportation Demand Management (TDM) strategies may be considered in whole or in part when determining compliance with or determining acceptable levels-of-service under CCC 40.350.020(G)(1)(a). Based on the evaluation method that has been applied and practiced since the 2014 time frame, the regionally significant corridors evaluated as a part of PLD-2026-00002 174th Street Subdivision provide operational capacity to support the proposed development under existing and buildout conditions. Therefore, staff recommends the Hearing Examiner approve PLD2026-00002 174th Street Subdivision with conditions of approval as listed in the reissued concurrency staff report (Exhibit 140).

Additionally, this response addresses issues as identified in the Supplemental Submission for the Open Record dated April 25, 2026, prepared by Heidi Pozzo (Ex 88).

Ms. Pozzo's issue(s) are formatted by the section headings shown in ***bold italics***. The County's responses will be shown without italics.

"I. Purpose of This Submission" (page 1)

Exhibit 88 and all of its supporting documents (Exs. 80 through 87 and Exs. 89 through 91) have been submitted to show the intent of the Clark County Council when it adopted CCC 40.350.020(G)(1). As the Concurrency Engineer in 2014, I was a part of preparing the presentation materials, as well as assisting traffic engineers from the County's Traffic Engineering Section as the methodologies for corridor volume-to-capacity were being developed to replace corridor travel time/travel speed monitoring approach.

Primary objectives of the Council to replace the corridor travel time/travel speed methodology:

- Predictability and prescriptiveness:
    - The volume-to-capacity model provided prescriptive hourly vehicle volumes per direction. So now a development could take the existing, background, and buildout volumes of the roadway

and compare them to the prescriptive number to determine operating levels on the corridor. If the developer's analysis did not exceed the prescriptive thresholds outlined in the code no further analysis was required. However, if the traffic study showed that the prescriptive thresholds were exceeded additional corridor analysis could be performed to determine acceptable operation outside of the prescriptive thresholds identified in the code.

- This is allowed under CCC 40.350.020(D) for the applicant/developer, and CCC 40.350.020(F)(9) for county review.
  - Background:
    - Travel time runs over multiple corridors in the county were run once a year. These corridors were sometimes miles long and included multiple intersections. The drivers would traverse these corridors during the PM Peak Period (4 PM – 6 PM) driving the speed limit trying to achieve as many runs as possible in both directions. Once the yearly travel times and speeds for a corridor were established, development would use their intersection related impacts (delay per approach per intersection) to determine their impacts to a corridor for travel time and estimated speeds.

"III. The Override Rational in Ex. 52" (page 2)
"Ord. 2016-10-11 at lines 1-6" (page7)
"6. The exemptions in Section H are exclusive and do not include the override." (page 12)
"11. The override has no foundation in the record." (page 13)

Staff's analysis outside of the code's prescriptive measures on corridor capacity was performed in compliance with CCC 40.350.020(F)(9), because other factors could have impact on the operating level of the transportation corridor. Staff's analysis looked at the overall roadway operations by considering the bounding intersections where mobility typically starts to breakdown causing congestion due to poor levels of service and/or queueing issues. Because staff did not use the prescriptive volume threshold and performed an evaluation with a more representative look at corridor operations and through put, our recommendation should not be considered or labeled an override or exemption.

"Intersection mobility standards were described as a separate, supplemental safety floor." (page 3)
"8. Intersection LOS is a supplemental safety floor, not an override." (page13)

Mobility standards for intersections play a significant part in determining overall corridor mobility. For example, if an intersection is not operating well, that intersection will create congestion on the corridor reducing through put/capacity. As identified in this section, the intersection mobility standards are not changing. Therefore, if intersection operations degrade to a point of failure, development that impacts that location and meets the threshold requirements to require mitigation, the developer/applicant would need to volunteer (CCC 40.350.030 (B)(6)) to construct the necessary mitigation to offset the impacts of their development (CCC 40.350.020(E)(5)) in order to move forward. Once the volunteered mitigation is constructed and operational, the model throughput/capacity of the corridor is improved.

"The 2014 package was financially structured around V/C as the trigger for identifying needed improvements." (page 4)
"Slides 11 and 12 show what was being removed from the capital plan." (page 4/5)
"The 2014 CFP confirms the same structure." (page 5)
"V/C >0.90 was described as the trigger for project identification." (page 5)
"D. The April 13, 2017 TIP Project Evaluation System Presentation (ex. I)" (page 10)
"7. V/C <0.90 is the corridor LOS standard." (page 13)

Application of concurrency related to the Transportation Improvement Program (TIP) or the Capital Facilities Plan (CFP) is used as a screening tool to determine project priority ranking. The TIP and CFP processes use straight reported values as identified in development through concurrency. Concurrency analysis is not applied to the TIP or CFP because those programs are not subject to the development code requirements.

"Slides 5 and 6 illustrate compliance." (page 4)

This slide show presentation showed a volume-to-capacity (v/c) calculation where the example roadway did not exceed the prescriptive values, therefore, no additional analysis was required and there was no need to show how a v/c that exceeded the threshold would be evaluated. This was a mistake staff made at the time of presentation.

"The staff report defines V/C >0.90 as a binding mitigation trigger." (page 5)
"Lebowski described the new systema as deliberately less focused on intersections." (page 5)
"Second, the staff report identifies the consequences of LOS failure under transportation concurrency." (page 9)
"10. Transportation concurrency specifies denial when LOS standards cannot be met." (page 13)

Statements were made by staff in presentations to the buildup of these code changes and prior to its implementation. Because of this, staff was unaware of the unintended consequences that came to light shortly after code implementation. Staff brought these issues to the Public Works Director who determined that the unintended consequences of reviewing corridors without considering the impacts of adjacent intersections could have an impact on the operating level of the transportation corridors and should be considered as other factors in the evaluation. Because of the determination of the Public Works Director and their evaluation guidance to staff, as allowed by CCC 40.350.020 (F)(9), the prescriptive v/c under CCC 40.350.020 (G)(1)(a) is not binding or a 'flat prohibition'. Please see exhibit 136 for further explanation and background on why the use of CCC 40.350.020(F)(9) allows concurrency staff to consider other factors that the Public Works Director has determined could have an impact on the operating level of the transportation corridors or intersections.

"A. Ordinance 2016-08-12 (Ex. E)" (page 6)

This Emergency Interim Ordinance amended the transportation concurrency code, enabling voluntary mitigation by developers at regionally significant intersections. It removed the intersection V/C language, since the 0.90 threshold allowed projects to avoid mitigation due to analysis limitations. This change helped prevent unmitigated impacts and facilitate voluntary developer-funded intersection improvements while permanent code updates were prepared.

"2. Approving developments on failing roads is a public health and safety problem." (page 6)

The constituent quoted the phrase ""failed to achieve safe levels of service," directly tying concurrency failure to safety, not merely mobility." Level of service is a performance measurement correlated to but not a determination of safety.

"Public Works admitted, on the record at DEAB, that the (G)(1)(c) language was allowing exemptions for large developments." (page 8)

This meeting with DEAB was to provide background information and discuss permanent code language changes to remove an exemption threshold from being exploited by large development. The Emergency Interim Ordinance (Ex 87) was in place, and the Commissioners had asked that we come up with permanent code language. This meeting with DEAB was one of the required meetings prior to taking the code change language to the Commissioners, at the time, for adoption and subsequent implementation into the code.

"What the PowerPoint actually said about the (G)(1)(c) exemption – and what is happening now." (page 8)
"The 2017 amendment removed one prong but not the others." (page 8)

The current code language contains the language adopted in 2017 related to unsignalized intersections, CCC 40.350.020(G)(1)(c) (1 & 2). This code language has been applied to all developments requiring a traffic study and, in some cases, has resulted in volunteered mitigation, in compliance with CCC 40.350.030(B)(6) and CCC 40.350.020(E)(5). These approved and conditioned volunteer mitigations have either offset the impacts of development on a regionally significant intersection, or they have added significant traffic control mitigation to an intersection in efforts to show compliance with concurrency, CCC 40.350.020.

"First, the staff report recites the GMA standard." (page 9)
"Third, the staff report recites the existing deficiency rule." (page 9)

Please see staff response in Exhibit 141 related to volunteered mitigation.

"5. The three subsections are independent, parallel standards." (page 12)

Each subsection of section G represents different elements of the county road network (G)(1)(a) Corridors, (G)(1)(b), Signalized Intersections, and (G)(1)(c) Unsignalized Intersections. County code has established individual levels of service for each. The code has also established what factors staff need to consider when determining those levels of service. Because each of these transportation elements work together, sometimes neighboring intersections and/or corridors must be included for a holistic and representative evaluation of the road network.

CLARK COUNTY WASHINGTON
PUBLIC WORKS
www.clark.wa.gov
1300 Franklin Street
PO Box 9810
Vancouver, WA 98666-9810
564.397.6118

May 21, 2026

Project Name:	174th Street Subdivision
Land Use Case Number:	PLD-2026-00002
Staff Engineer:	David Jardin, Traffic Engineering Section Manager
Land Use Hearing Date:	April 23, 2026

Dear Mr. Turner:

I have reviewed the land use hearing that took place April 23, 2026, and would like to respond to an inquiry the Hearing Examiner had presented to concurrency staff beginning at time mark 1:47:36.

Paraphrasing, *'CCC 40.350.020(G)(1)(a) states "The maximum volume to capacity ratio for each roadway segment shall not exceed nine-tenths (0.9), when measured independently for each direction of travel. …" it does not say anything about looking at the level-of-service of intersections at either end, how do you get there based on the code language?*'

As the former concurrency engineer and now the manager of the concurrency position, I have been responsible for administering and overseeing the application of the concurrency code for over 19 years. I have prepared this letter to provide insight and background in the application of CCC 40.350.020(G)(1)(a) and to provide a framework in how the concurrency code allows the county the authority to use best engineering practices in the determination of operating levels, A.K.A Volume/Capacity (v/c) (corridors) & Level-of-Service (LOS) (intersections).

In 2010, the current language of CCC 40.350.020(G)(1)(a) was implemented in the Transportation Concurrency Management System code. With the initial application of this code section, it was determined by the then Transportation Division Manager and the Public Works Director that intersection performance and other existing factors could have an impact on the operating level of transportation corridors.

In consideration and application of CCC 40.350.020(F)(9), the Transportation Division Manager and Public Works Director at that time directed concurrency staff to use intersection performance, such as intersection level-of-service and queuing bounding the study corridor, in the evaluation of v/c ratio compliance.

Per direction of the Transportation Division Manager and Public Works Director since that time, concurrency staff has used the v/c ratio as an initial screening tool/indicator of roadway and intersection performance, not as an absolute. Used as an indicator, the v/c ratio provides insight into roadway corridor locations that should be subjected to a site-specific study with a detailed operational analysis.

DRAFT

For other formats, contact the Clark County ADA Office
Voice 564.397.2322 / **Relay** 711 or 800.833.6388
Fax 360.397.6165 / **Email** ADA@clark.wa.gov

It has been my experience as the former Concurrency Engineer to see roadway operations breakdown/degrade at intersections because of poor levels-of-service and/or queueing issues, validating the direction of the Public Works Director under CCC 40.350.020(F)(9) and its current application and evaluation to determine compliance of CCC 40.350.020(G)(1)(a).

However, because concurrency typically bounds the study corridor by regionally significant intersections, volunteered mitigation is typically offered by the applicant for intersections with failing levels-of-service. This volunteered mitigation increases capacity of the intersection and in turn, facilitates mobility on the corridor. Volunteered mitigation is taken into account at buildout level-of-service when evaluating corridor v/c. That is why failure of a regionally significant intersection can be discussed, but an associated regionally significant corridor could be shown to comply with concurrency.

It should also be noted that corridor v/c ratio thresholds may appear to be exceeded even when intersection operations remain within acceptable limits. In such cases, higher corridor volumes indicate that intersections are operating efficiently enough to allow more vehicles to pass through with minimal delay, thereby increasing the overall throughput of the corridor.

In addition to intersection performance and as a part of a broader more detailed evaluation of corridor operations, it was determined the existing roadway influences that may also affect roadway capacity include, but are not limited to:

- Lane width
- Presence or absence of shoulders
- Heavy vehicle volumes
- Roadway grades
- Number and spacing of intersections and/or driveway accesses

These existing roadway influences are found in the Highway Capacity Manual (HCM), a nationally accepted comprehensive engineering reference for capacity analysis. The HCM also provides adjustment factors for these roadway influences and supports their application in operational analyses.

In conclusion, the use of CCC 40.350.020(F)(9) allows concurrency staff to consider other factors that the Public Works Director has determined could have an impact on the operating level of the transportation corridors or intersections. Since the Public Works Director's determination of other factors and subsequent direction to staff in 2010, concurrency staff has used the intersection level-of-service and queuing, along with existing roadway influences that may be considered in whole or in part when determining compliance with or determining acceptable levels-of-service under CCC 40.350.020(G)(1)(a). Based on the evaluation method that has been applied and practiced since 2010, I believe that the regionally significant corridors evaluated as a part of PLD-2026-00002 174th Street Subdivision provide operational capacity to support the proposed development under existing and buildout conditions.

Sincerely,

_____ _____

David Jardin Date

Traffic Engineering Section Manager

DRAFT

Clark County Hearing Examiner

Supplemental Submission for the Open Record

Case: NE 174th Street Subdivision (PLD-2026-00002)
Hearing Examiner: Joe Turner
Topic: Legislative intent of CCC 40.350.020(G)(1) and the V/C standard
Submitted by: Heidi Pozzo
Date: April 25, 2026

I. Purpose of This Submission

This submission addresses one focused question: what the Clark County Council intended when it adopted, and later re-adopted, CCC 40.350.020(G)(1). It is meant to stand on its own and to add to, rather than repeat, my earlier filings.

What this submission adds. The Concurrency Staff Report (Ex. 52) at page 5 says that the V/C results on the NE 179th Street, NE 10th Avenue, and NE 15th Avenue corridors "do not represent roadway deficiencies, rather corridor mobility facilitated with good intersection LOS," and that "no further analysis or mitigation is required with this development." That sentence is the basis for staff's no-mitigation conclusion. The County's own legislative record tells a different story. V/C ≤ 0.90 is the corridor LOS standard. Intersection LOS in (G)(1)(b) and (G)(1)(c) is a supplemental safety check, not an override. And in 2016 and again in 2017, the Council formally found that approving developments on failing roads is contrary to the code's purpose and a public health and safety problem.

What this submission does not address. I am not addressing the volunteer letter (Ex. 51), cross-exclusion of concurrent corridor projects, the Arterial Atlas capacity question, the TIP-credit question, WSDOT jurisdictional issues, or the SEPA threshold here. Those issues are in my other filings.

II. Exhibits Submitted with This Filing

The documents listed below are the contemporaneous record of the 2014 concurrency ordinance, the 2016 emergency response, and the 2017 amendment process that produced the operative text of CCC 40.350.020. They are submitted as exhibits to this filing and referenced in the analysis that follows.

- **Ex. A:** Development and Engineering Advisory Board (DEAB) Adopted Meeting Minutes, May 1, 2014.

Exhibit 88

- **Ex. B:** Clark County Public Works / Community Planning, "Transportation Concurrency and the Capital Facilities Plan (CFP) Update," Planning Commission Presentation, June 5, 2014.
- **Ex. C:** Revised Staff Report to the Planning Commission, Concurrency: Proposed changes to the Title 40 development code and Capital Facilities Plan (Oliver Orjiako, Community Planning Director; prepared by Laurie Lebowsky, Transportation Planner), June 25, 2014, including proposed text of CCC 40.350.020 and Draft CFP 2014–2033.
- **Ex. D:** Clark County Planning Commission Hearing Minutes, July 17, 2014, Case No. CPZ2014-00009 (Concurrency Code & Capital Facilities Plan Updates).
- **Ex. E:** Ordinance 2016-08-12, "An emergency interim zoning ordinance relating to land use, suspending exemptions to the Concurrency Standards under CCC 40.350.020," adopted August 30, 2016.
- **Ex. F:** Ordinance 2016-10-11, extending Ord. 2016-08-12, with accompanying Public Works staff report dated October 25, 2016.
- **Ex. G:** Clark County Department of Community Planning, Revised Staff Report to the Planning Commission (Oliver Orjiako, Community Planning Director; Matt Hermen, Transportation Planner), "Concurrency: Proposed changes to the Title 40 development code (Amended)," March 16, 2017.
- **Ex. H:** Clark County Public Works Transportation, "Clark County Code Language: Concurrency – 40.350.020(G)(1)(c)," March 2, 2017 (slides presented at DEAB).
- **Ex. I:** Clark County Development and Engineering Advisory Board, April 13, 2017 Meeting Packet, including (1) DEAB Adopted Minutes of March 2, 2017 (incorporated for adoption at the April 13 meeting) and (2) Clark County Public Works, "Clark County 2018–2023 Transportation Improvement Program (TIP) Project Evaluation System" presentation by Susan Wilson and Michael Derleth.
- **Ex. J:** Board of County Councilors, Minutes of April 25, 2017.
- **Ex. K:** Ordinance 2017-04-13, "An ordinance concerning concurrency standards and amending Clark County Code (CCC) Section 40.350.020 Transportation Concurrency Management System," adopted April 25, 2017 (the operative code text now in effect).
- **Ex. L:** Clark County Planning Commission, Minutes of Public Hearing, Thursday, March 16, 2017 (concurrency code amendments).

III. The Override Rationale in Ex. 52

The April 8, 2026 Concurrency Staff Report (Ex. 52) acknowledges that the developer's traffic study identifies multiple corridor segments operating at V/C ratios above the 0.90 standard in

CCC 40.350.020(G)(1)(a). Staff does not dispute that those segments fail the V/C standard. Instead, staff concludes:

> *"[I]n the buildout horizon, staff believes that the reported v/c ratio over the NE 179th Street, NE 10th Avenue, and NE 15th Avenue corridors does not represent roadway deficiencies, rather corridor mobility facilitated with good intersection LOS. Therefore, staff concludes that no further analysis or mitigation is required with this development."*

Ex. 52 at p. 5. The same paragraph then describes the V/C results as "an indicator that these roadway segments should be subjected to site-specific study with a more detailed operational analysis before any major design, reconstruction, or investment decisions are made." So the V/C exceedances are set aside on the strength of separate intersection LOS findings, and the V/C result is treated as a soft indicator for future study rather than a binding LOS finding under the code.

The rest of this submission walks through whether the ordinances that produced the operative code text support that move. They do not.

IV. The 2014 Record: V/C Adopted as the Corridor LOS Standard

The 2014 amendments to CCC 40.350.020 were developed jointly by Public Works Transportation and Community Planning, reviewed by DEAB on May 1, 2014, presented to the Planning Commission in work session on June 5, 2014, heard by the Planning Commission on July 17, 2014, and adopted by the Board by Ordinance 2014-08-09 in August 2014. The contemporaneous record of that process consists of the four documents at Exhibits A through D.

A. May 1, 2014 DEAB Meeting (Ex. A)

The change from travel-speed LOS to V/C was framed as a complete replacement, not as the addition of a second metric alongside intersection LOS. Steve Schulte of Public Works explained that V/C is "a completely different measurement tool" from the prior travel-speed approach, and that "what's changing is monitoring corridor travel times, travel speeds minutes and seconds and going to VC ratios." Ex. A at p. 2.

Intersection mobility standards were described as a separate, supplemental safety floor. Schulte stated that "intersection mobility standards or safety net standards—these bare minimums for safety are being carried forward in the code." Ex. A at p. 2 (emphasis added). He further explained: "safety standards are not changing—they are national. We are retaining our mobility standards for intersections." Ex. A at p. 2. The words "safety net" and "bare minimums" are inconsistent with treating intersection LOS as a metric capable of overriding the corridor V/C standard. A floor cannot, by its nature, displace the standard above it.

The 2014 package was financially structured around V/C as the trigger for identifying needed improvements. The DEAB minutes record that "TIF rates will decrease when a revised CFP is adopted later this year" and that "2007 CFP costs were reduced by 30%—TIFs will decrease by that same percentage rate." Ex. A at p. 2. The DEAB motion approving the proposal was grounded in "predictability, simplicity and possible TIF reductions." Ex. A at p. 2. The trade was transparent: a simpler corridor metric (V/C) coupled with a smaller capital program. Nothing in this record indicates that the simpler corridor metric was intended to be displaced by intersection LOS when the V/C result was unfavorable.

B. June 5, 2014 Planning Commission Presentation (Ex. B)

Slide 4 establishes the LOS hierarchy. Under "Key Elements of the Concurrency Program Update," Slide 4 lists, in order:

> *1. Using the adopted Comprehensive Plan population growth rate of 1.12 percent per year — OFM medium projection*
>
> *2. A 20 year planning horizon*
>
> *3. Level-of-service measurement is a "roadway volume to capacity ratio" with a maximum of 90 percent*
>
> *4. "Additional protective" LOS standards for individual intersections*
>
> *5. In addition to LOS standards, national safety standards will apply and may be more restrictive*

Ex. B, Slide 4 (verbatim). Item 3 identifies V/C ≤ 0.90 as **the** "level-of-service measurement." Item 4 describes intersection LOS standards as **"additional protective."** "Additional" is the operative word. Additional protections supplement the baseline; they do not subtract from it. The framework presented to the Planning Commission treats V/C as the LOS measurement and intersection LOS as a supplemental layer that adds protection beyond what V/C provides.

Slides 5 and 6 illustrate compliance. The single worked example provided was Highway 99 at 78th Street: capacity 7,000, volume 3,500, V/C of 0.50, "since the maximum LOS is set at 90 percent, then the corridor is not in Concurrency failure." Ex. B, Slides 5–6. The example performs no parallel intersection LOS calculation and presents no scenario in which an intersection LOS finding overrides a failing V/C result. The Planning Commission was taught that the test is V/C ≤ 0.90, full stop.

Slides 11 and 12 show what was being removed from the capital plan. Slide 11 is the 2007 adopted CFP map. Slide 12 is the 2014–2033 draft CFP map. The 2014 map's legend includes a category for "2014–2033 CFP Deletion" — projects struck from the plan as part of the 2014 ordinance package. The deletions are concentrated in several parts of the county, including in and around the NE 179th Street corridor, where a meaningful number of previously planned

projects no longer appear on the new map. The corridors staff now describes as "not roadway deficiencies" (Ex. 52 at p. 5) sit on a network from which planned improvements were affirmatively removed in 2014. I ask the Examiner to compare the two maps directly. The visual comparison is the most direct way to see what the 2014 ordinance package took out of the capital plan.

C. June 25, 2014 Revised Staff Report and Proposed Code Text (Ex. C)

The staff report defines V/C ≥ 0.90 as a binding mitigation trigger. On page 1, the staff report from Director Orjiako states: "Under our proposed policy, transportation improvements would be required of roadway segments that are either at a V/C of 0.90 or above." Ex. C at p. 1. The staff report does not say "may be required" or "are subject to further evaluation in light of intersection mobility." It says "would be required."

The 2014 CFP confirms the same structure. The Draft CFP 2014–2033 attached to the staff report (Ex. C at pp. 17–18) lists "Concurrency Driven Projects" in Category II, with a footnote defining them as "County road segments with v/c > 90%." This is the County's own contemporaneous definition of a concurrency-driven project: a road segment whose V/C exceeds 0.90. The CFP does not identify a parallel category of projects driven by intersection LOS findings overriding V/C.

D. July 17, 2014 Planning Commission Hearing (Ex. D)

Lebowsky described the new system as deliberately less focused on intersections. In response to a question from Planning Commissioner Barca, Lebowsky stated: "The new standard looks at links and it's less focused on intersections." Ex. D at p. 5. The phrase is not consistent with a framework in which intersection LOS is empowered to override a failing corridor V/C.

V/C ≥ 0.90 was described as the trigger for project identification. Lebowsky explained that Category II "concurrency-driven projects" were identified by examining "what showed up in red and what was at that 90 percent capacity and above that was predicted over the next 20 years—and these are the projects that jumped off the map for us." Ex. D at p. 5. V/C ≥ 0.90 is the trigger for project identification, not a soft flag to be reconsidered if intersection LOS is acceptable.

The Planning Commission recommended adoption on a unanimous roll call. Ex. D at p. 8. There is no record at any point of a discussion of intersection LOS as an override pathway, of "corridor mobility facilitated with good intersection LOS," or of any equivalent concept.

V. The 2016 Emergency Response: Council Findings That Approving Developments on Failing Roads Is Contrary to the Code's Purpose

In 2016, the Council formally addressed a separate concurrency-related concern: that the (G)(1)(c) intersection-exemption provision adopted in 2010 was being used to approve developments at failing intersections without mitigation. The Council's response was to adopt emergency interim ordinances suspending the exemption while staff developed a permanent fix. Although those ordinances addressed the (G)(1)(c) unsignalized-intersection exemption, the findings the Council adopted bear directly on the present override question, because they articulate the Council's formal view of the purpose and structure of CCC 40.350.020.

A. Ordinance 2016-08-12 (Ex. E)

On August 30, 2016, the Council adopted Ordinance 2016-08-12. The recital provisions, adopted as findings under Section 1, state in pertinent part:

> *"WHEREAS, the Council finds that Clark County code attempts to delay development in areas served by roads failing concurrency; and*
>
> *"WHEREAS, recent amendments applied to intersections may not achieve that goal; and,*
>
> *"WHEREAS, developments may be approved even though served by roads that have failed to achieve safe levels of service; and*
>
> *"WHEREAS, immediate suspension of these exemptions is necessary, due to Washington's vesting laws, to provide time to reevaluate the road standards and protect the public health and safety;"*

Ord. 2016-08-12 at lines 1–8. Section 1 of the ordinance states: "In compliance with the requirements of this statute, the Board of County Commissioners adopts as findings the pronouncements contained in the above recital provisions." The recitals are therefore not preamble; they are formal legislative findings of the Council.

Three points from these findings bear on the override question:

1. **The purpose of the code is to delay development on failing roads.** The Council found, as a matter of legislative finding, that the code "attempts to delay development in areas served by roads failing concurrency." There is no qualifier; the finding is unambiguous. Approving a development on a failing road is contrary to that purpose unless and until the road is improved or mitigated.
2. **Approving developments on failing roads is a public health and safety problem.** The Council framed approval on failing roads as something requiring emergency action to "protect the public health and safety." The 2016 ordinance characterizes failing roads

as having "failed to achieve safe levels of service," directly tying concurrency failure to safety, not merely mobility.

3. **When (G)(1) provisions are not achieving the code's purpose, the procedural response is emergency suspension followed by noticed code amendment.** The Council's response to the (G)(1)(c) problem was not staff workaround. It was: emergency suspension; six-month extension; DEAB review; Planning Commission review; SEPA notice; BOCC public hearing; permanent code amendment. This is the procedural path the Council itself uses when it concludes that a (G)(1) provision is producing the wrong outcomes.

B. Ordinance 2016-10-11 (Ex. F)

On October 25, 2016, the Council adopted Ordinance 2016-10-11, extending the interim ordinance for six months. The 2016-10-11 recitals are even sharper than 2016-08-12 in stating the Council's view of how concurrency is supposed to work:

> *"WHEREAS, the Council finds and concludes that Clark County code attempts to delay development in areas served by roads failing concurrency until the condition can be improved or mitigated; and*
>
> *"WHEREAS, recent amendments applied to intersections may not achieve that goal; and,*
>
> *"WHEREAS, developments may be approved, through exemptions in the Road Standards, even though served by roads that have failed to demonstrate acceptable levels of service…"*

Ord. 2016-10-11 at lines 1–6. The added clause is dispositive. Concurrency, in the Council's own articulation, "attempts to delay development in areas served by roads failing concurrency **until the condition can be improved or mitigated.** Two outcomes are contemplated: improvement or mitigation. There is no third pathway by which a failing road becomes a non-failing road through reframing.

The October 25, 2016 staff report by Public Works (accompanying Ord. 2016-10-11) is similarly direct. It states: "Concurrency code amendments adopted by the BOCC in 2010 allowed exemptions to be applied to regionally significant unsignalized intersections that may not achieve required level of service standards. Through the application of these exemptions, developments could be approved even though the regionally significant stop controlled intersections failed to achieve required level of service standards." Ex. F (PW staff report, October 25, 2016). Public Works identified the practice of approving developments at failing facilities as the problem the emergency ordinance was suspending.

VI. The 2017 Amendment Process and the Operative Code Text

Following the 2016 emergency ordinances, the Council directed staff to develop a permanent code amendment through the customary process: DEAB review, Planning Commission review, SEPA notice, BOCC public hearing. The result was Ordinance 2017-04-13, adopted April 25, 2017. This is the ordinance that produced the operative text of CCC 40.350.020 now before the Examiner.

A. The March 2, 2017 DEAB Meeting and Public Works Presentation (Exs. H, I)

Public Works admitted, on the record at DEAB, that the (G)(1)(c) language was allowing exemptions for large developments. David Jardin and Matt Hermen presented at the March 2, 2017 DEAB meeting. The minutes record their characterization: "The approved code was approved with a threshold that was believed to resolve intersection delay. Unfortunately, the threshold does not apply to all types of intersections universally; therefore allowing exemptions for large developments. Staff is proposing to amend CCC40.350.020(G)(1)(c); permanently removing a de Minimis exemption threshold." Ex. I (DEAB Minutes, March 2, 2017) at p. 2. Public Works recognized the (G)(1)(c) language was operating to exempt larger developments contrary to the code's purpose, and proposed a noticed amendment as the remedy.

What the 2017 PowerPoint actually said about the (G)(1)(c) exemption — and what is happening now. Slide 4 of the March 2, 2017 PowerPoint (Ex. H) reports that "there have been no small development cases that used the current exemptions in order to move forward." Slide 5 then describes the unintended consequence: "Large developments use the current exemptions to justify compliance with the Concurrency Code." The example on Slide 5 is a development generating 281 PM peak hour trips, of which only 5 land on a failing intersection approach with V/C 0.62 and LOS F — the development qualified for no-mitigation under (G)(1)(c) because two of the three prongs were not met. Public Works framed this practice in 2017 as a problem requiring code amendment.

The 2017 amendment removed one prong but not the others. Ordinance 2017-04-13 struck the V/C 0.9 prong from (G)(1)(c) but kept the 5-trip prong in place. The structural workaround Public Works documented in 2017 — large developments routing trip distributions so fewer than 5 trips land on any one failing approach — remains available under the post-2017 code text. The documents in this case demonstrate the workaround is in routine use:

- In Ex. 52 at p. 4, staff applies (G)(1)(c) to NE 159th Street/NE 72nd Avenue (LOS F) and finds "none of the criterion was met"; staff applies (G)(1)(c) to NE 179th Street/NE 50th Avenue (LOS F) and reaches the opposite finding only because the 5-trip prong was met there.
- The applicant's own traffic study (PLS Engineering, December 4, 2025) invokes (G)(1)(c) at NE 159th/NE 72nd: "the proposed development is not projected to add any site trips

to the failing westbound approach… no concurrency related mitigation for the intersection can be imposed on the NE 174th Street Subdivision application."

- The Three Creeks East PUD staff report (PAC-2024-00346) applies (G)(1)(c) at the same NE 159th/NE 72nd intersection and at NE 179th/NE 50th and reaches a no-mitigation finding under the 5-trip prong.

The pattern Public Works in 2017 said was not happening with small developments is the standard pattern in the corridor today — used by large developments. The practice the 2017 PowerPoint described as the "unintended consequence" of the 2010 amendment is still operating, on the same corridor, applied to subdivisions of 100 and 200 lots.

B. The March 16, 2017 Planning Commission Staff Report (Ex. G)

The staff report from Director Orjiako and Matt Hermen, transmitted to the Planning Commission for the March 16, 2017 hearing, contains the County's own statement of the GMA framework and the consequence of LOS failure under transportation concurrency. Three statements are relevant.

First, the staff report recites the GMA standard. "The GMA requires that transportation improvements or strategies to accommodate development impacts need to be made concurrently with land development. 'Concurrent with the development' is defined by the GMA to mean that any needed '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 six years.' RCW 36.70A.070(6)(b)." Ex. G at p. 1.

Second, the staff report identifies the consequence of LOS failure under transportation concurrency: "Transportation is the only area of concurrency that specifies denial of development if LOS standards cannot be met." Ex. G at p. 1. This is the County's own statement, transmitted to its own Planning Commission, of what is supposed to happen when LOS standards cannot be met. The "corridor mobility facilitated with good intersection LOS" rationale at Ex. 52, p. 5 is, in operative effect, a workaround to avoid the denial that follows from V/C exceeding 0.90.

Third, the staff report recites the existing-deficiency rule. "[L]ocal jurisdictions must have a program to correct existing deficiencies and bring existing transportation facilities and services up to locally adopted standards. A developer may not be required to pay for improvements to correct existing deficiencies." Ex. G at p. 1. The existing-deficiency rule limits what a developer may be required to pay for. It does not authorize the County to declare a corridor non-deficient because intersection LOS is acceptable. Under GMA, the County must either (a) have a program in place that delivers V/C-restoring improvements within six years with funding, or (b) deny the development. The "corridor mobility" rationale is a third pathway that GMA does not recognize.

C. The March 16, 2017 Planning Commission Public Hearing (Ex. L)

On March 16, 2017, the Clark County Planning Commission held a public hearing on the proposed concurrency code amendment. All seven members of the Commission were present: Steve Morasch (Chair), Ron Barca (Vice Chair), Robin Grimwade, Bill Wright, Karl Johnson, Richard Bender, and Matt Swindell. Ex. L at p. 1. Matt Hermen of Community Planning presented the proposed amendment. David Jardin of Public Works responded to questions from the Commission.

The Planning Commission voted unanimously to recommend adoption. On a roll call vote, all seven commissioners voted aye: Wright, Bender, Grimwade, Johnson, Swindell, Barca, and Morasch. Ex. L at p. 7. The recommendation was forwarded to the Council, which held its public hearing on April 25, 2017 (Ex. J) and adopted Ordinance 2017-04-13 unanimously (Ex. K).

D. The April 13, 2017 TIP Project Evaluation System Presentation (Ex. I)

Eight days before the BOCC public hearing on Ordinance 2017-04-13, Public Works presented to DEAB its 2018–2023 TIP Project Evaluation System. The system is the County's own internal ranking system for prioritizing capital road projects. The Concurrency criterion (Ex. I, TIP Slides 14–15) treats intersection LOS and corridor V/C as separate, parallel categories of failure, each independently warranting points for capital investment:

> *"Improves Intersections of Regional Significance — Failing (LOS: E,F): 6 Points; Within 10% of failing (LOS: D): 4 Points*
>
> *"Improves a Concurrency Corridor — Failing (V/C: > 0.90): 3 Points; Within 10% of failing (V/C 0.80–0.89): 2 Points"*

Ex. I (TIP Slide 14). The slide is titled "Concurrency" and cited to "(CCC 40.350.020)." The County's own ranking system, contemporaneous with the 2017 ordinance, treats V/C > 0.90 as a binding indicator of corridor failure warranting capital investment—parallel to, not subsumed by, intersection LOS failure. The County cannot consistently maintain that V/C > 0.90 is a binding failure standard for purposes of allocating road funds while simultaneously maintaining that the same V/C > 0.90 is "not a roadway deficiency" for purposes of requiring developer mitigation.

E. The April 25, 2017 BOCC Public Hearing and Adoption (Exs. J, K)

On April 25, 2017, the Council held a public hearing on the proposed concurrency amendment and adopted Ordinance 2017-04-13 unanimously. Ex. J (Boldt, Stewart, Olson, Blom, Quiring all voting aye). Matt Hermen of Community Planning presented; David Jardin of Public Works joined the discussion; Christopher Horne (Deputy Prosecuting Attorney) joined the discussion. Ex. J. The Council adopted Section 1 of the ordinance, which states: "The Board hereby adopts as findings and conclusions those facts and conclusions contained in the recitals above." Ord. 2017-04-13 at § 1.

The recitals adopted as findings include the following:

> *"WHEREAS, the Council finds and concludes that Clark County code attempts to delay development in areas served by roads failing concurrency until the condition can be improved or mitigated; and*
>
> *"WHEREAS, recent amendments applied to intersections may not achieve that goal; and,*
>
> *"WHEREAS, developments may be approved, through exemptions in the Road Standards, even though served by roads that have failed to demonstrate acceptable levels of service…"*

Ord. 2017-04-13 at lines 6–11. These are the formal legislative findings of the Council, contemporaneously made when adopting the operative text of CCC 40.350.020 now in effect. They re-affirm, three times in three ordinances (2016-08-12, 2016-10-11, 2017-04-13), that:

- the code's purpose is to delay development on failing roads
- "until the condition can be improved or mitigated";
- intersection-related amendments that allow approval despite failing roads do not achieve that purpose; and
- approving developments through such workarounds is the problem the ordinance was adopted to fix, not a feature of the code to be preserved.

F. The Operative Code Text Adopted by Ordinance 2017-04-13 (Ex. K)

The operative text of CCC 40.350.020(G)(1) as adopted by Ordinance 2017-04-13 reads, in pertinent part:

> **(G)(1)(a).** "The maximum volume to capacity ratio for each roadway segment shall not exceed nine-tenths (0.9), when measured independently for each direction of travel. Measurements shall be made for all collector and arterial roadway segments located within the Vancouver Urban Growth Area, but outside of the City of Vancouver. Measurements shall also be made for state highways of regional significance.… For roadways not fully built-out to county standards, the capacity shall be determined based on the current roadway condition." Ord. 2017-04-13 at lines 182–199.
>
> **(G)(1)(b).** "Individual movements at each signalized intersection of regional significance in the unincorporated county shall not exceed an average of two (2) cycle lengths or two hundred forty (240) seconds of delay (whichever is less)." Id. at lines 200–202.

(G)(1)(c). "All unsignalized intersections of regional significance in the unincorporated county shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better…" Id. at lines 203–209.

Three structural features of this text are decisive on the override question:

4. **Subsection (G)(1)(a) is a flat prohibition.** The corridor V/C standard "shall not exceed nine-tenths (0.9)." There is no qualifier, exception, or override carveout in the operative text. The Council had three years between June 2014 and April 2017 to write an override into the code if that was the legislative intent. It did not.
5. **The three subsections are independent, parallel standards.** The 2017 ordinance dropped the "Within the designated transportation corridors" preamble that, in the 2014 proposed text, prefaced the signalized intersection standard. The 2017 (G)(1)(b) is now a freestanding requirement parallel to (G)(1)(a). The result is that subsections (a), (b), and (c) each establish distinct standards that must each be satisfied. Intersection LOS in (b) and (c) cannot save a corridor that fails (a), because (a), (b), and (c) are conjunctive, not alternative.
6. **The exemptions in Section H are exclusive and do not include the override.** The code identifies four narrow categories of development applications "not subject to a concurrency denial": K–12 public schools incorporating commute trip reduction commitments, fire/police stations, public transit facilities, and neighborhood parks. CCC 40.350.020(H); Ord. 2017-04-13 at lines 233–239. "Corridor mobility facilitated with good intersection LOS" is not among them. The enumerated-exemption structure of Section H forecloses unenumerated exemptions created by staff practice.

On the buildout question. I note that the June 5, 2014 PC presentation contained a proposal (Slide 7) that "once roadways and intersections are fully built out to Arterial Atlas standards, they will not be further tested for concurrency." Ex. B, Slide 7. That proposal was not adopted into the code. The Council, in 2014 by Ordinance 2014-08-09 and again in 2017 by Ordinance 2017-04-13, declined to include any provision exempting built-out roads from V/C testing. The operative (G)(1)(a) text instead does the opposite: it specifies how to calculate capacity for both built-out and not-built-out roads, with both subject to the same V/C ≤ 0.90 standard. The reason a buildout exemption is absent from the code is straightforward: a road built to its classified standard can still be overwhelmed by demand, and a concurrency code that ceased to test such roads would defeat its own purpose by allowing unlimited development to fill any road to any V/C without consequence.

VII. The "Corridor Mobility Facilitated with Good Intersection LOS" Rationale Has No Foundation in the Legislative Record

Pulling the threads of the legislative record together, the operative text of CCC 40.350.020 establishes the following structure:

7. **V/C ≤ 0.90 is the corridor LOS standard.** The 2014 PC presentation (Ex. B, Slide 4), the 2014 staff report (Ex. C at p. 1), the operative code text adopted by Ordinance 2017-04-13 (Ex. K, (G)(1)(a)), and the County's own 2017 TIP ranking system (Ex. I, TIP Slide 14) all treat V/C ≤ 0.90 as the binding corridor LOS standard.
8. **Intersection LOS is a supplemental safety floor, not an override.** Public Works' own 2014 description called the intersection standards "safety net" and "bare minimums" (Ex. A); the 2014 PC presentation called them "additional protective" (Ex. B); and the 2014 PC hearing record described the new system as "less focused on intersections" (Ex. D). The structural placement of (G)(1)(b) and (G)(1)(c) as freestanding requirements parallel to (G)(1)(a) is consistent with that framing.
9. **The Council has formally found, three times, that approving developments on failing roads is contrary to the code's purpose.** Ordinance 2016-08-12 (Ex. E), Ordinance 2016-10-11 (Ex. F), and Ordinance 2017-04-13 (Ex. K) each contain Council findings that the code "attempts to delay development in areas served by roads failing concurrency until the condition can be improved or mitigated" and that approving developments on failing roads is the problem to be fixed, not a feature to be preserved.
10. **Transportation concurrency specifies denial when LOS standards cannot be met.** The County's own March 16, 2017 staff report states: "Transportation is the only area of concurrency that specifies denial of development if LOS standards cannot be met." Ex. G at p. 1. The code does not contemplate a third pathway by which a failing corridor is reframed as a non-deficiency.
11. **The override has no foundation in the record.** There is no statement in the 2014 record (Exs. A–D), the 2016 emergency response (Exs. E, F), the 2017 amendment process (Exs. G–L), or the operative code text adopted by Ordinance 2017-04-13 (Ex. K) that authorizes intersection LOS to override a failing corridor V/C. There is no worked example of such an override in any presentation. There is no Council, Planning Commission, or DEAB discussion of such an override. The override theory now used by staff has no foundation in the legislative record.

The contrast with the actual record is stark. When the Council identified that a (G)(1) provision was producing the wrong outcomes, it acted: emergency suspension, six-month extension, DEAB review, Planning Commission hearing, SEPA notice, BOCC public hearing, permanent code amendment. The "corridor mobility" override now used by staff has not been the subject of any such process. It exists, on this record, only as a recurring sentence in concurrency staff reports.

VIII. Implication for This Application

The Hearing Examiner is asked to determine whether the proposed development complies with the concurrency standards in CCC 40.350.020. The applicant's traffic study identifies multiple corridor segments operating in excess of V/C 0.90 under 2028 conditions. Staff (Ex. 52 at p. 5) treats those V/C exceedances as not constituting "roadway deficiencies" because intersection LOS is acceptable. The legislative record of the ordinances that produced the operative code text does not support that treatment.

I ask the Examiner to consider this submission together with the broader concurrency record I have placed before him. The narrow point here is that the override rationale in Ex. 52 is contradicted by the legislative record of the very ordinances it claims to apply. The corridor V/C standard in CCC 40.350.020(G)(1)(a) was adopted, and re-adopted in 2017, as the corridor LOS measure. Intersection LOS in (G)(1)(b) and (G)(1)(c) was retained as a supplemental safety check. The Council formally found, three times, that approving developments on failing roads is contrary to the code's purpose. Reading the code in light of its legislative record produces a coherent structure. The override theory does not.

Sincerely,

_____

Heidi Pozzo

NE 179th Street corridor, Clark County

Mailing Address: 13023 NE Highway 99, Ste 7-298, Vancouver, WA 98686


CLARK COUNTY, WASHINGTON






You
Tube