From: Jeffrey Delapena
To: "Heidi Pozzo"; Rebecca Messinger
Cc: Oliver Orjiako; Jose Alvarez
Subject: RE: Comp Plan: Concurrency working as a cost allocation tool
Date: Thursday, October 1, 2026 4:55:00 PM

Hello Heidi,

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

Best,

Jeff Delapena
Program Assistant
COMMUNITY PLANNING

564.397.4558

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-----Original Message-----
From: Heidi Pozzo <hcpheidi@yahoo.com>
Sent: Thursday, October 1, 2026 4:54 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: Concurrency working as a cost allocation tool

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Dear Jeff,

Please find attached a memo that outlines how the concurrency system is functioning as a tool to allocate cost. I have uploaded two third party transcriptions of BOCC work sessions. There labeling is per the file name, which can be seen when clicking from the Council grid to the recording. I have listened to the work sessions multiple times and have read the transcripts while listening and confirm they are accurate, in addition to the certification provided. Additionally, in the link is the recording of the 2016 work session. Three files uploaded to the link today starting at ~4:40 to go with this submission. Links to the recordings are in the print outs of the Council grid.

Thank you,

Heidi

MEMORANDUM

DATE: October 1, 2026

FROM: Heidi Pozzo

RE: Clark County 2025–2045 Comprehensive Plan Update, Transportation Element — transportation concurrency as administered

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I. Summary

Transportation concurrency exists to ensure that road capacity is adequate to serve new development. The code and the administrative manual provide two outcomes when it is not: the development is denied, or the facility is brought back to the adopted standard. The administrative record shows the program operating differently.

The default is approval. A development below the trip thresholds in CCC 40.350.020(G)(1)(c) is exempt from mitigating a failing unsignalized intersection, and the exemption was adopted because substantial mitigation would be disproportionate to a small applicant. The intersection is no better for the exemption, and the trips are added to it. Intersections and corridors degrade accordingly. When a development large enough to be captured by the thresholds arrives, it is required to mitigate — but the record shows the County treating restoration to the pre-development condition as sufficient, including where that condition is failing. At no point in that sequence is the facility returned to the adopted standard. Under the rule the record describes as preceding 2010, a development either built the deficient infrastructure or waited until the County built it; since the exemption was adopted, denial does not appear as an outcome in this record.

What the program manages is the allocation of cost between applicants and the County. That is a mitigation mechanism, not a concurrency mechanism, and the transportation element relies on it to demonstrate that its level of service standards will be maintained.

II. What the Code and the Manual Require

RCW 36.70A.070(6)(b) requires local jurisdictions to adopt and enforce ordinances prohibiting development approval where the development causes level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element, unless improvements or strategies to accommodate the impacts are in place at the time of development or financially committed for completion within six years.

CCC 40.350.020(E)(3) implements that requirement. The Public Works Director shall issue a concurrency approval where the Director determines that the development's impacts do not result in the operating levels for the transportation corridors, signalized intersections, and unsignalized intersections falling below the adopted level of service standards established in Section 40.350.020(G). The standard for the facilities at issue here is set by the first two sentences of

(G)(1)(c): unsignalized intersections of regional significance shall achieve level of service E or better where signal warrants are not met, and level of service D or better where warrants are met.

Subsection (G)(2) provides that the level of service standards "shall be applied and interpreted as stated in the administrative manual prepared pursuant to Section 40.350.020(N)." The most recent manual adopted under that authority is the Clark County Concurrency Administrative Manual, March 2011. It remains the instrument through which the level of service standards are applied and interpreted under (G)(2). The standard at issue here has not changed since the manual was adopted: (G)(1)(c) expressed the unsignalized intersection standard in level of service in 2011 and does so now.

The manual states the requirement four times. Concurrency, it begins, is the requirement that infrastructure needed to serve new development be in place or funded before the development is approved, and where adequate capacity is not available "the development must be denied or the developer can elect to make improvements to add capacity to the road system." The same two outcomes are repeated in its description of the concurrency test, in the requirement that an applicant "substantiate that the mitigation will remedy the problem and restore the intersection or corridor delays to an acceptable level-of-service," and in the direction that where no mitigation is identified to remedy the failing level of service, staff "will recommend denial of the application."

The standard is therefore restoration. Mitigation is adequate when it returns the facility to the adopted level of service, and denial follows when it does not. CCC 40.350.020(E)(5) does not supply an alternative. It governs whether the Director accepts mitigation an applicant volunteers, asking only whether operating levels "will not further deteriorate because of the additional traffic generated by the proposed development." That measures the applicant's contribution against the pre-development condition and makes no reference to the standards in (G). The approval gate is (E)(3), which asks whether operating levels fall below the adopted standards. The one place the code permits approving a development on a facility that will remain below the standard is the second sentence of (E)(5), where the review authority may approve a development if the Director determines that achieving the level of service standards would cause significant negative environmental impacts identified in a SEPA review. That is not the route in use.

Subsection (N)(5) provides that where the provisions of the manual are inconsistent with the section, the provisions of the section control. There is no inconsistency to resolve. The manual states what (E)(3) and Section (G) already require.

No successor manual has been adopted in the fifteen years since. The County has certified that it has adopted no concurrency administrative manual subsequent to March 2011, notwithstanding the requirement in (N)(3) that the manual be published and regularly updated.

III. What the Record Shows

At the August 21, 2013 concurrency workshop, Steve Schulte told the Board what the program had produced. "Relatively few number of developers actually have ever had an off-site mitigation obligation," he said: "[o]nly 2 to 3%." Staff had read every condition of approval over the

preceding decade in which a developer was conditioned to provide concurrency mitigation, counting shared improvements once, and "[t]he total cost per year averaged about $150,000 per year for concurrency" (0:04:02). The figure covers concurrency-related conditions of approval only; as Mr. Schulte put it, "we're just talking concurrency now." Measured against the cost of a single signal or turn lane, that is the scale of improvement the program had generated in ten years.

At the October 12, 2016 work session, the subject before the Council is mitigation throughout — who can be required to provide it, who has escaped it, and what it costs the County when it is not provided. The condition of the affected facilities is not the question.

David Jardin, of Transportation Concurrency, opens by describing the code as the County's "mechanism for regulating . . . mobility standards" and tells the Council that staff has approached the board "many times . . . trying to help development move forward, maybe . . . changing some standard . . . travel times, levels of service to allow development to occur," while at other times the standards operate to "restrict development until . . . transportation infrastructure is in place" (0:01:57). In the same passage he describes the rule before 2010 in terms that match the manual: where a development triggered concurrency-related mitigation, the developer "had to volunteer to build the infrastructure that was deficient or wait for the county to build it." Build it, or wait until it is built.

Mr. Jardin describes the 2010 amendment as relief from that requirement for small applicants, adopted "to allow small developments, low trip generators, to . . . move forward with their development without being . . . assessed a large concurrency-related mitigation: lane adds, signals, you know, what have you." He then states the 2016 problem in the same terms: large developments were satisfying two of the three exemption conditions, and so "they don't have to mitigate. And that's what we're trying to prevent" (0:53:11). The 2017 presentation to the Development and Engineering Advisory Board states it identically — because the volume to capacity ratio of 0.9 on a stop-controlled approach is difficult to achieve, "there may be missed opportunities to require development to mitigate their impacts on Concurrency regulated unsignalized intersections."

The harm identified is fiscal. Carolyn Heniges tells the Council that the matter "isn't really about one or two developments" but about large developers applying the exemptions, and that "this is about the risk to Clark County to have to pay for large improvements . . . without those developers participating" (0:49:40). A councilor responds from the other direction, observing that the County has taken on large improvements itself, that it still has road funds and impact fees, and asking what the goal is "to be different than what we've already done" (0:50:08).

A participant states that the nine-tenths threshold "results in many projects being approved that never should have been approved," that it "just shouldn't be in the exemption," and that the object of the amendment is "not to stop small projects, but to make larger projects . . . not create significant increases in hazard until we fix intersections" (0:58:11). Set against the $150,000 per year Mr. Schulte reported in 2013, that suggests the mitigation the County was seeking had grown. No schedule, funding source, or capital commitment for fixing those intersections is identified anywhere in the session.

What the session is not about is visible when a concrete remedy is raised. A councilor proposes fixing a specific failing intersection, observing that the state has been a willing partner, that it is not unheard of for the state to place a stop sign on a major highway, and that he believes "it would be solved" (0:54:13). The reply is that "we still need the code change" (0:54:52). The remedy for the facility and the item before the Council are two different subjects.

Two things are absent from the session. Nothing states when the affected facilities will be brought to standard or what the capital program will do about them; when a councilor presses for which intersections are failing, saying he is not sure of any and that "we've never shared that we have failing developments going on," Ms. Heniges answers, "I didn't bring any of that with us" (0:52:24, 0:52:38). And there is no suggestion that any development should be denied. The remedy proposed, and later adopted, was to narrow the exemption so that more applicants would be required to mitigate.

IV. The Exemption Is Not a Standard

The provision the Council examined in 2016 is not a level of service standard. The standard in (G)(1)(c) is its first two sentences. The sentence that follows them provides that intersection control or mitigation of unsignalized intersections shall be at the discretion of the Public Works Director and shall not obligate the county to meet this LOS standard. That sentence addresses whether the county must itself build; it does not remove the standard from the approval gate in (E)(3), which conditions concurrency approval on operating levels not falling below the standards established in (G). What follows in turn provides that proposed developments "shall not be required to mitigate their impacts in order to obtain a concurrency approval" unless stated conditions are met. That is an exemption from the consequence of failing the standard, and it is keyed to the size of the applicant. The condition of the intersection is the same whether or not the exemption applies, and the exempted trips are added to it either way.

As adopted by Ordinance 2010-08-06 the exemption had three conditions: that the development add at least five peak period trips to a failing intersection approach, that the projected volume to capacity ratio of the worst lane movement on that approach exceed nine-tenths, and that the worst movement on the approach be worsened. The nine-tenths figure in the second condition is a measure of a single approach to a single intersection, not of a roadway segment, and it is difficult to reach at a stop-controlled leg because the minor approach cannot discharge into the through movement. Ordinance 2017-04-13 struck that condition, leaving the two conditions now at (G)(1)(c)(1) and (2).

The amendment did not reach the structure. Striking the approach volume to capacity condition returned large developments to a test they had been satisfying their way out of, and left the exemption in place for applicants below the trip thresholds. The Council recited in each of Ordinance 2016-08-12, Ordinance 2016-10-11 and Ordinance 2017-04-13 that the code "attempts to delay development in areas served by roads failing concurrency until the condition can be improved or mitigated." What is to be improved or mitigated is the condition of the facility. Where an intersection is below the adopted standard, the statute admits two outcomes: the facility is

brought back to the standard, or the development is denied. A standing exemption available by reason of an applicant's size is neither.

V. The Standard of Mitigation Applied

Where the exemption does not apply and mitigation is required, the record establishes what the County treats as adequate, and it is not restoration.

Mr. Jardin describes the test as follows: where an intersection is at level of service F and a development adds trips that worsen it, if the development volunteers mitigation that "brings it back to a pre-development . . . level of service F," then "they have mitigated their . . . development appropriately" (0:08:56). Earlier in the same session Heath Henderson describes a partial improvement "that keeps the level of service at the same level it was before the project" as sufficient, because "it may still be bad, but it would be the same level as it was before the project, then we would approve that" (0:06:26). Mr. Jardin confirms the characterization immediately after: "That, that is correct" (0:07:49).

That is a different standard from the one the manual states. The manual requires that mitigation remedy the problem and restore the level of service, and that staff review verify restoration. Under the standard described in the work session, a failing facility remains failing after mitigation, the development is approved, and the trips assigned to the facility increase.

The trips are nonetheless counted. The 2010 relief preserved the accounting: as the March 2, 2017 presentation records, trips from exempted developments were still "accounted for with a required background traffic growth rate of 2% per year." The program records the accumulation of demand on facilities below standard while approving the developments that generate it.

VI. Bearing on the Transportation Element

The transportation element satisfies RCW 36.70A.070(6) in part by adopting level of service standards and relying on an adopted and enforced concurrency ordinance to hold development to them. That reliance assumes the ordinance operates as the statute requires and as the manual directs.

If the operative question is whether an applicant will contribute rather than whether the facility meets the adopted standard, three consequences follow for the plan. The level of service standards do not constrain development approval as administered, because no approval turns on them. The program generates none of the feedback the statute contemplates: facilities below standard do not produce denials, denials do not produce pressure on the capital program, and the capital program is not disciplined by the standards it exists to maintain. And the reassessment obligation in RCW 36.70A.070(6)(a)(iv)(C) — requiring, where probable funding falls short of meeting the identified needs of the transportation system, a discussion of how additional funding will be raised or how land use assumptions will be reassessed to ensure that level of service standards will be met — is not triggered, because the program does not register the shortfall as a shortfall. Development continues to be approved, and the record shows compliance.

A program that produces contributions rather than adequate facilities is also a poor basis for the plan's capital assumptions. What gets built depends on which applications come forward, where they are located, and what they choose to offer. That is not a funding strategy, and it is not scheduled against the twenty-year horizon the plan must address.

VII. Conclusion

The program described in the administrative record approves development as its default, exempts smaller applicants from mitigating failing intersections because the cost would be disproportionate to them, counts the exempted trips against those same intersections, and then requires larger applicants to restore only the pre-development condition. Facilities below the adopted standard are not brought back to it, and denial — the consequence the code and the manual specify — does not appear in the record of the program's administration.

That is a mechanism for allocating the cost of road improvements between applicants and the County. It is not the mechanism the Growth Management Act requires, and it is not the standard the administrative manual adopted under CCC 40.350.020(N) directs. The plan should not rely on it to demonstrate that its adopted level of service standards will be maintained.

VIII. References

The documents relied on in this memorandum are listed in Table 1. References 4 and 5, the certified transcripts of the August 21, 2013 workshop and the October 12, 2016 work session, are submitted with this memorandum; the remaining documents are already in the index of record.

Table 1. Documents cited.

No.	Document	Date submitted to record
1	Ordinance 2010-08-06, Clark County Board of County Commissioners ("Retooling Our Code" Batch #1), adopted August 2010; Section 27 amends CCC 40.350.020(G)(1)(d)	September 20, 2026
2	Clark County Concurrency Administrative Manual, Clark County Public Works, March 2011	September 3, 2026
3	Clark County public records response certifying that no concurrency administrative manual has been adopted subsequent to March 2011 (PRR P057715-071426), July 14, 2026	September 3, 2026
4	Clark County Board of County Commissioners transportation concurrency workshop, August 21, 2013, certified verbatim transcript, 37 pp. (the recording announces the date as August 20)	Submitted herewith
5	Clark County Council work session on concurrency, October 12, 2016, certified verbatim transcript, 35 pp.	Submitted herewith
6	Ordinance 2016-08-12, interim emergency ordinance amending CCC 40.350.020(G)(1)(c), adopted August 30, 2016	August 20, 2026
7	Ordinance 2016-10-11, extending the interim ordinance and adopting a work plan, adopted October 25, 2016	August 20, 2026
8	"Clark County Code Language: Concurrency – 40.350.020(G)(1)(c)," Clark County Public Works Transportation, presentation to the Development and Engineering Advisory Board, March 2, 2017	August 20, 2026
9	Ordinance 2017-04-13, permanent amendment to CCC 40.350.020(G)(1)(c), adopted April 25, 2017	August 20, 2026

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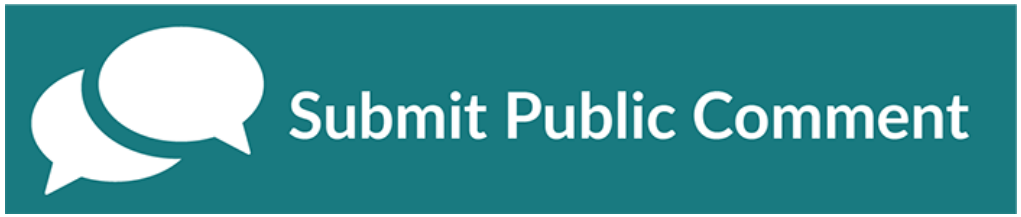

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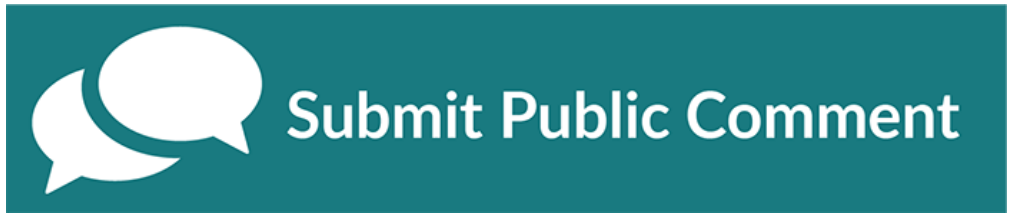

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	Board Time Agenda Board Time Minutes	**Board Time Items:** - Minutes for September 28 and October 5, 2016 - Countywide and department specific web calendar - Annual review vs. docket questions	Board Time: Part I Board Time: Part II

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