From: Jeffrey Delapena
To: "Heidi Pozzo"; Rebecca Messinger
Cc: Oliver Orjiako; Jose Alvarez
Subject: RE: Comp Plan: Heartwood North
Date: Friday, October 9, 2026 8:09:00 AM

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

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.

-----Original Message-----
From: Heidi Pozzo <hcpheidi@yahoo.com>
Sent: Friday, October 9, 2026 7:53 AM
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: Heartwood North

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 comments on Heartwood North for inclusion in the Comp Plan Index. Exhibits referenced are already in the Comp Plan Index

Thank you,

Heidi

Technical Memo

Subject: HCM Segment v/c — NE 119th Street EB corridor (Upstream: NE 117th Ave → Downstream: NE 124th Ave) — 2029 PM Buildout
From: Craig Kathol, Engineer II
Date: September 18, 2026
Methods: Highway Capacity Manual (HCM) 7th Edition — Chapter 18 (Urban Street Segments) segment v/c check using downstream boundary intersection inputs; downstream capacity basis per HCM Chapter 19 (Signalized Intersections)/Chapter 20 (TWSC) conventions.

---

1) Purpose

Document the eastbound (EB) segment v/c for NE 119th Street between NE 117th Ave (upstream) and NE 124th Ave (downstream) for the 2029 PM peak hour and confirm the corridor is ≤ 0.90 v/c, following HCM methodology:

- In Chapter 18, the v/c screen for an urban street segment uses the downstream boundary intersection's demand and (optional) capacity fields for the subject direction; this is where the segment "exits" and thus the controlling boundary for v/c.
- At a Two-Way STOP-Controlled (TWSC) downstream intersection, the major-street EB movements (through & right) operate with priority/free and are not capacity-limited by signal control. Consequently, the v/c denominator can be represented by a free-discharge capacity per EB lane (i.e., saturation flow per lane), rather than a signal green share.

---

2) Corridor orientation (EB)

- **Upstream boundary: NE 117th Ave / NE 119th St**
- **Downstream boundary: NE 124th Ave / NE 119th** St (TWSC; NB approach is stop-controlled; EB on the major street is priority).
  This orientation matches HCM Chapter 18 practice: the downstream boundary provides the demand input for the segment v/c screen and the appropriate capacity representation for the subject direction.

EXHIBIT 111

3) Inputs (2029 PM buildout — EB at downstream boundary)

- **Downstream EB demand at NE 124th Ave:**
    - EB through = 682 veh/h (p. 164/180 of the TIA)
    - EB right = 185 veh/h (p. 164/180 of the TIA)
    - EB left: not provided (and not needed for the major-street EB exit of this segment)

Under TWSC, the major-street EB through and right are Rank 1 priority movements; the HCM TWSC method focuses v/c/delay on minor-approach movements, while major-approach movements are typically considered free/priority for control purposes. For the segment v/c denominator we therefore use the lane saturation flow (free-discharge) per EB lane.

---

4) Capacity basis (HCM-consistent)

- **Saturation flow per lane (planning default):** $s_0 = 1{,}900$ pc/h/lnfor large metro areas when local measurement is unavailable. (HCM encourages local calibration; if measured, substitute the local value.) [mctrans.ce.ufl.edu]
- **EB lane count at the downstream boundary: not specified; by default, assume one EB lane.** (If two EB lanes discharge through/right, capacity doubles and v/c drops proportionally.)

Note: When signal control applies, HCM Chapter 19 defines capacity as $c = s \cdot (g/C) \cdot N$. Here the downstream boundary is TWSC (major EB is free), so $g/C \approx 1.0$conceptually and capacity reduces to$c \approx s_0 \cdot N$. [fhwa.dot.gov], [hcm-calculator.com]

---

5) Calculations (Chapter 18 segment v/c using downstream EB approach)

5.1 Downstream EB approach demand (hourly)

$$V_{\text{EB,down}} = \text{EB through} + \text{EB right} = 682 + 185 = \boxed{867 \text{ veh/h}}$$

5.2 Downstream EB approach capacity (free-discharge, TWSC major)

With one EB lane:

$$c_{\text{down}} = s_0 \cdot N = 1{,}900 \cdot 1 = \boxed{1{,}900\ \text{veh/h}}$$

5.3 Segment v/c (hourly, HCM Chapter 18)

$$\boxed{\text{v/c}_{\text{segment,EB}} = \frac{867}{1{,}900} = \mathbf{0.456}}$$

Optional: If a peak-15-minute equivalent is required and a **PHF** is available for this boundary, form $v_p = V_{\text{hr}}/\text{PHF}$and compute $v/c_{15} = v_p/c$. (Chapter 18's v/c check itself is hourly; peak-15 is an intersection convention.) [hcmguide.com]

---

6) Compliance

- **NE 119th Street EB segment v/c (hourly): 0.456 → Meets v/c ≤ 0.90** with substantial margin.

These calculations follow Chapter 18 (downstream boundary inputs) and TWSC/Chapter 20 conventions for the major-street EB exit capacity (free-discharge per lane), which is appropriate since the downstream boundary is stop-controlled only on the minor approach.

Technical Memo

Subject: HCM Segment v/c (EB & WB) — NE 99th Street Corridor (NE 117th Ave ↔ NE 124th Ave) — 2029 PM Buildout
From: Craig Kathol, Engineer II
Date: September 18, 2026
Methodology: Highway Capacity Manual (HCM) 7th Edition — Chapter 18 (Urban Street Segments) for the segment v/c using downstream boundary intersection inputs; Chapter 19 (Signalized Intersections) for lane-group capacity and upstream intersection v/c (through movements).

---

1) Purpose

Demonstrate the volume-to-capacity (v/c) ratios in the EB and WB directions on NE 99th Street between NE 117th Ave and NE 124th Ave during the 2029 PM peak hour, using HCM's segment procedure (Chapter 18) and intersection lane-group procedure (Chapter 19). In the Chapter 18 segment method, the downstream boundary intersection provides the inputs for the v/c/LOS-F screen; an optional "Through Capacity" field can be populated from a Chapter 19 analysis of that boundary.

---

2) Corridor orientation & which intersection is downstream (by direction)

- **EB segment:** travel from NE 117th Ave (upstream) to NE 124th Ave (downstream). → Use the NE 124th Ave EB approach (through + left + right) for the segment v/c denominator and numerator.
- **WB segment:** travel from NE 124th Ave (upstream) to NE 117th Ave (downstream). → Use the NE 117th Ave WB approach (through + left + right) for the segment v/c denominator and numerator.

Capacity basis (Chapter 19): For a signalized approach, lane-group capacity is

$$c_i = s \cdot \left(\frac{g_i}{C}\right) \cdot N_i,$$

and approach capacity is $\sum c_i$ across the approach's lane groups (e.g., through + left + right).

Saturation flow default: When no local measured value is available, HCM practice uses $s_0 = 1{,}900$ pc/h/ln as a large-metro planning default (with guidance to calibrate locally when possible). [mctrans.ce.ufl.edu]

EXHIBIT 112

Peak-15-minute demand (intersection convention): $v_p = V_{hr}/\text{PHF}$. We provide peak-15 equivalents in addition to the Chapter 18 hourly segment v/c. [hcmguide.com], [ops.fhwa.dot.gov]

---

3) Inputs (2029 PM buildout — downstream boundary approaches)

Downstream for EB (NE 99th St / NE 124th Ave — signalized)

- **EB demands:** Through = 423, Left = 339, Right = 1 (p. 173/180 of the TIA).
- **Timing:** Cycle$C = 95.40$ s; EB through$g = 69.58$ s; EB left$g = 13.28$ s (Signal Timing Excel Spreadsheet).
- **PHF (PM):** 0.91.*(PHF is used only for peak-15 equivalents; Chapter 18 segment v/c is hourly.)*(p. 59/180 of the TIA)

Downstream for WB (NE 99th St / NE 117th Ave — signalized)

- **WB demands:** Through = 251, Left = 422, Right = 196 (p. 172/180 of the TIA).
- **Timing: Cycle**$C = 139.89$ s; WB through$g = 33.00$ s; WB left$g = 21.22$ s; WB right$g = 33.00$ s (Signal Timing Excel Spreadsheet).
- **PHF (PM):** 0.97 (p. 57/180 of the TIA).

Saturation flow assumption: $s = 1{,}900$ pc/h/lnfor each lane group (planning default). [mctrans.ce.ufl.edu]

---

4) Segment v/c (Chapter 18) using downstream approach capacity (Chapter 19)

4.1 EB segment (downstream = NE 124th Ave)

Lane-group green ratios & capacities (per lane, $N_i = 1$)

- **EB through:** $g/C = 69.58/95.40 = 0.7298 \rightarrow c_{thru} = 1{,}900 \times 0.7298 = 1{,}386.6$ pc/h.
- **EB left:** $g/C = 13.28/95.40 = 0.1391 \rightarrow c_{left} = 1{,}900 \times 0.1391 = 264.3$ pc/h.
- **EB right:** shared with through → no separate capacity term.
- **EB approach capacity:** $c_{EB} = 1{,}386.6 + 264.3 = 1{,}650.9$ pc/h. [fhwa.dot.gov]

EB downstream approach demand (hourly): $V_{EB} = 423 + 339 + 1 = 763$ veh/h.

EB segment v/c (hourly):

$$\boxed{\text{v/c}_{\text{EB segment}} = \frac{763}{1{,}650.9} = \mathbf{0.462}}$$

EB peak-15 equivalent: $v_p = 763/0.91 = 838.5$ veh/h;

$$\boxed{\text{v/c}_{\text{EB,15}} = \frac{838.5}{1{,}650.9} = \mathbf{0.508}}$$

(PHF usage per intersection convention; Chapter 18 segment v/c itself is hourly.) [hcmguide.com]

4.2 WB segment (downstream = NE 117th Ave)

Lane-group green ratios & capacities (per lane, $N_i = 1$)

- **WB through:** $g/C = 33.00/139.89 = 0.2359 \rightarrow c_{\text{thru}} = 1{,}900 \times 0.2359 = 448.2$ pc/h.
- **WB left:** $g/C = 21.22/139.89 = 0.1516 \rightarrow c_{\text{left}} = 1{,}900 \times 0.1516 = 288.0$ pc/h.
- **WB right (exclusive):** $g/C = 33.00/139.89 = 0.2359 \rightarrow c_{\text{right}} = 1{,}900 \times 0.2359 = 448.2$ pc/h.
- **WB approach capacity:** $c_{\text{WB}} = 448.2 + 288.0 + 448.2 = 1{,}184.4$ pc/h. [fhwa.dot.gov]

WB downstream approach demand (hourly): $V_{\text{WB}} = 251 + 422 + 196 = 869$ veh/h.

WB segment v/c (hourly):

$$\boxed{\text{v/c}_{\text{WB segment}} = \frac{869}{1{,}184.4} = \mathbf{0.734}}$$

WB peak-15 equivalent: $v_p = 869/0.97 = 896.9$ veh/h;

$$\boxed{\text{v/c}_{\text{WB,15}} = \frac{896.9}{1{,}184.4} = \mathbf{0.757}}$$

---

5) Upstream signalized intersections — EB & WB through v/c (Chapter 19)

The following upstream **through** lane-group v/c values are computed using **PHF** for the **peak-15** within the hour and lane-group capacity $c = s \cdot (g/C) \cdot N$. [fhwa.dot.gov], [hcmguide.com]

5.1 EB upstream (NE 117th Ave/NE 99th St — signalized)

- **Hourly EB through demand:** $V_{\text{hr}} = 235$ veh/h; PHF = 0.97 → $v_p = 235/0.97 = 242.3$ veh/h. [hcmguide.com]
- **Capacity:** $c = 1{,}900 \times (33.00/139.89) \times 1 = 448.4$ pc/h. [fhwa.dot.gov]
- **v/c (peak-15):** $\boxed{242.3/448.4 = \mathbf{0.540}}$ → **≤ 0.90**.

5.2 WB upstream (NE 124th Ave/NE 99th St — signalized)

- **Hourly WB through demand:** $V_{\text{hr}} = 404$ veh/h; PHF = 0.91 → $v_p = 404/0.91 = 444.0$ veh/h. [hcmguide.com]
- **Capacity:** $c = 1{,}900 \times (56.57/95.40) \times 1 = 1{,}126.0$ pc/h. [fhwa.dot.gov]
- **v/c (peak-15):** $\boxed{444.0/1{,}126.0 = \mathbf{0.394}}$ → **≤ 0.90**.

---

6) Compliance statement

- **EB segment v/c (hourly): 0.462 → Meets ≤ 0.90**.
- **WB segment v/c (hourly): 0.734 → Meets ≤ 0.90**.
- **EB upstream through v/c (peak-15): 0.540 → Meets ≤ 0.90**.
- **WB upstream through v/c (peak-15): 0.394 → Meets ≤ 0.90**.

All EB and WB corridor segment v/c values and upstream intersection through v/c values meet the 0.90 threshold in the 2029 PM peak hour, under the stated assumptions and HCM procedures. [hcm-calculator.com], [fhwa.dot.gov]

---

7) Assumptions & notes

1. **Saturation flow s:** The 1,900 pc/h/ln value is a planning default; HCM provides guidance for field measurement/calibration (Vol. 4/Ch. 31). If you have measured s locally, substitute it to refine capacity and v/c. [mctrans.ce.ufl.edu]

2. **PHF usage:** PHF is applied only for peak-15-minute equivalents; Chapter 18 segment v/c is hourly. [hcmguide.com]

CLARK COUNTY WASHINGTON

clark.wa.gov

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

October 1, 2026

Project Name:	Heartwood North Subdivision
Land Use Case Number:	PLD-2025-00114
Staff Engineer:	David Jardin, Traffic Engineering Section Manager
Land Use Hearing Date:	September 10, 2026

Dear Mr. Kearns:

Staff would like 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 68. The implementation of this code language was in the 2014 time frame. This correction is given because it does not appear that the document making that correction as a part of the PLD-2026-00002 174th Street Subdivision was included in Heidi Pozzo's exhibit package.

As this open record period relates to the volume-to-capacity analysis for PLD-2025-00114, 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-2025-00114 Heartwood North Subdivision provide operational capacity to support the proposed development under existing and buildout conditions. Therefore, staff recommends the Hearing Examiner approve PLD-2025-00114 Heartwood North Subdivision with conditions of approval as listed in the concurrency staff report (Exhibit 54).

Additionally, this response addresses issues as identified in the following documents:

- Email dated June 10, 2026, prepared by Steve Thalberg (Ex 62)
- Letter dated June 11, 2026, prepared by Heidi Pozzo (Ex 64)
- Email dated June 7, 2026, prepared by Erica Frazier (Ex 89)

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

"1. Clark County staff states that a failed volume to capacity ratio does not represent roadway deficiencies, but rather corridor mobility is facilitated with good intersection level of service." (Ex 62)

As provided in Exhibit 68, when "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."

EXHIBIT 113

"2. No matter how the Clark County staff tries to reword or reinterpret Clark County Code, it is in error, and they don't have that authority – only the Clark County Council or the Superior Court can do that." (Ex 62)

"If no code authority can be identified for the intersection substitution methodology and no compliant cumulative analysis can be demonstrated, deny the project on the grounds that the concurrency finding in the staff report is not supported by the adopted code." (Ex 89)

Application of CCC 40.350.020 requires that the corridor and intersection operations must be determined under CCC 40.350.020(F) Determination of Operation Levels before compliance is tested under CCC 40.350.020(G) Level of Service Standards.

When reviewing the factors under CCC 40.350.020(F), it has been determined by the Public Works Director and the Transportation Division Manager that other factors have an impact on the operating level of transportation corridors that require further evaluation when a prescriptive evaluation of v/c exceeds a 0.9. CCC 40.350.020(F)(9) grants the Public Works Director the authority to make that determination.

Staff's application of this code section is not to reword, or to reinterpret the code but to make sure that the factors that can have impact on an operating level (existing operational characteristics of the roadway) are more accurately represented when evaluating development related impacts. This type of analysis ensures that the required v/c ratio of 0.9 is not exceeded. CCC 40.350.020(F)(9) provides flexibility to identify other factors for consideration through the Public Works Director's authority.

"3. CCC 40.350.020(G)(1)(a) states each roadway segment shall not exceed the volume to capacity ratio of 0.9." (Ex 62)

"VIII. The Corridor V/C Standard Is Binding, Not Discretionary" (Ex 64)

This 0.9 v/c ratio is the concurrency level-of-service threshold that was established and codified in compliance with the Growth Management Act.

"4. For traffic capacity, Clark County Code does not allow intersection findings to substitute for corridor roadway segments." (Ex 62)

"Require county staff to identify, by specific code citation, the legal authority that permits substitution of intersection delay analysis for segment volume-to-capacity compliance under Clark County Unified Development Code Section 40.350.020(G)(1)(a) before making a finding of concurrency compliance for this project."(Ex 89)

Staff's evaluation of corridor roadway segments does not substitute intersection findings for corridor level of service. Intersection operations is one of the characteristics used in the evaluation of how a corridor is operating. Roadway operations breakdown/degrade at intersections because of poor levels-of-service and/or queueing issues.

"5. According to CCC 40.350.020, there is no intersection mobility standard that overrides the volume to capacity ratio for road segments." (Ex 62)

Intersection operations is one of the characteristics used in the evaluation of how a corridor is operating. It should be noted that the applicant could volunteer mitigation to offset the impacts of their development. This is allowed under CCC 40.350.030(B)(6). While the applicant has not volunteered mitigation, it is something the county could consider when the 0.9 v/c has been determined to be exceeded.

"6. The Heartwood North project is using very newly invented methodology to get concurrency approved." (Ex 62)

"The applicant's own traffic study documents the eastbound segment of NE 119th Street between SR-503 and NE 124th Avenue at a volume-to-capacity ratio of 1.09 in the 2029 evaluation year, with 119th Street Station included in the baseline as required by Clark County Unified Development Code Section 40.350.020(F)(5). The corridor fails the G(1)(a) standard before this project adds a single trip. Require

staff to identify the specific code authority that permits substituting intersection delay analysis for that documented failing result, or deny the project on the grounds that no such authority exists." (Ex 89)

Staff has not used "invented" methodology. Staff has used application of code and authorities granted by code to ensure that the 0.9 v/c roadway capacity is not exceeded. In order to consider the existing roadway influence factors as determined by the Public Works Director, staff has used the Highway Capacity Manual (HCM), a nationally accepted comprehensive engineering reference document for capacity analysis.

Staff's evaluation of the v/c for NE 99th Street and NE 119th Street using HCM analysis methods and considering the factors under CCC 40.350.020(F), including other existing factors as determined by the Public Works Director under CCC 40.350.020(F)(9) found:

- NE 99th Street (See attachment for full analysis)
    - EB segment v/c (hourly) = 0.46
    - WB segment v/c (hourly) = 0.73
- NE 119th Street (See attachment for full analysis)
    - EB segment v/c (hourly) = 0.46

"7. The Heartwood North staff report contains the same non-code override methodology that the Traffic Engineering Section Manager and Transportation Division Manager utilized. This practice that has never been adopted through the Planning Commission or Board of County Councilors." (Ex 62)

"VII. CCC 40.350.020(F)(9) Does Not Authorize the Override" (Ex 64)

Staff's application of the code has remained consistent and in compliance with the authorities it provides. So, whether development seeks to pursue a conservative approach to the concurrency code and follow it prescriptively, or a more robust analysis using existing real-world roadway influences in an HCM analysis is performed, or volunteering mitigation to offset the impacts of their development, staff strives to ensure use of best engineering practices to ensure that development is in compliance with CCC 40.350.020.

"The Two-Mile Study Area the Code Required" (Ex 64)

CCC 40.350.020(D)(8) allows the applicant to request limiting the scope of analysis and required elements of a traffic study. The submitted scoping memo showed that many intersections and corridors within the 2-mile radius did not have any trips assigned to those locations, or they had minimal impact with 5 or less trips. With little or no impact on a regionally significant intersection or corridor, regardless if it is within a study radius, it would be very difficult for the county to find nexus of development impacts to say the development needs to volunteer mitigation or deny the project.

"II. The Intersection Performance Relied Upon Does Not Hold Up" (Ex 64)

Intersection operations is one of the characteristics used in the evaluation of how a corridor is operating. Roadway operations breakdown/degrade at intersections because of poor levels-of-service and/or queueing issues.

In order to consider the existing roadway influence factors as determined by the Public Works Director, staff has used the HCM for capacity analysis. The HCM analysis performed for NE 99th Street did take into account the upstream and downstream intersections, signal timing, number of driveways, etc.. (See Ex xx for analysis).

The result of the HCM analysis showed that NE 99th Street and NE 119th Street did not exceed the code required 0.9 v/c.

"III. The Unsignalized Intersections Do Not Meet Their Applicable Standard" (Ex 64)

The unsignalized intersection of NE 124th Avenue/NE 119th Street was identified as meeting signal warrants in the applicant's traffic study. It was also shown that the development related trip impacts were in the east and west movements of the uncontrolled NE 119th Street. Because of this, when staff evaluated this

intersection against CCC 40.350.020(G)(1)(c) we found that none of the criterion was met. Because the criteria was not met, staff has determined that mitigation is not warranted at this intersection.

Staff compared the anticipated impacts against the criteria in CCC 40.350.020(G)(1)(c) and found that both of the criterion was met for the intersection NE 119th Street/NE 132nd Avenue. The applicant's traffic study suggests that the following minimum modifications to the NE 119th Street/NE 132nd Avenue intersection are required to accommodate Heartwood North site-generated traffic:

- Widen the northbound NE 132nd Avenue approach within the existing public right-of-way to provide a northbound left-turn lane with at least 150 feet of storage and a shared through/right-turn lane.

Because the Heartwood North Subdivision has direct impact on the NE 119th Street/NE 132nd Avenue intersection, the applicant has prepared and submitted a volunteer letter dated April 13, 2026, (Exhibit 26), in order to show compliance with concurrency. The Public Works Director has accepted and conditioned the volunteered mitigation as allowed by CCC 40.350.020(E)(5).

"V. The Recommended Approval Rests on Two Override Devices the Code Does Not Authorize" (Ex 64)

Staff's application of the code does not override the 0.9 v/c ratio concurrency level-of-service threshold that was established and codified in compliance with the Growth Management Act. The evaluation of intersection operations related to corridors is to ensure that staff considers all factors as we seek to ensure the 0.9 v/c ratio is not exceeded.

Staff's evaluation using HCM analysis methodologies will always be in response to a potential 0.9 v/c exceedance. It would not be a part of a routine analysis because, if the traffic study can show that it meet the prescriptive, more conservative threshold the more robust analysis is not necessary.

"VI. The Report Embeds the (F)(9) Theory as Standing Policy" (Ex 64)

CCC 40.350.020(F)(9) provides flexibility to identify other factors for consideration through the Public Works Director's authority. Although (F)(9) provides this authority for the Public Works Director, it does not dictate how staff evaluates the other factors. So, using the HCM and other best engineering practices provides the operational characteristic staff can test against the 0.9 v/c threshold.

"8. The Hearing Officer is obliged to follow the law, which includes CCC 40.350.020(G)(1) and CCC 40.350.020(F)(6), and therefore is obliged to deny the Heartwood North application." (Ex 62)

"IX. CCC 40.350.020(E)(3) Requires Denial of the Corridor Failures"(Ex 64)

"Require staff to identify the specific code authority that permits substituting intersection delay analysis for that documented failing result, or deny the project on the grounds that no such authority exists." (Ex 89)

Based on staff's evaluation of concurrency for PLD-2025-00114 Heartwood North Subdivision, we believe staff has shown that this development can comply with CCC 40.350.020. Therefore, concurrency recommends approval of PLD-2025-00114 Heartwood North Subdivision.

Heartwood North (PLD-2025-00114) – Concurrency Submission to the Hearing Examiner

Submitted by Heidi Pozzo — Before Hearing Examiner Daniel Kearns — Response to Exhibits 111, 112 and 113

October 8, 2026

Executive Summary

Heartwood North should be denied. The applicant's own traffic study shows NE 119th Street and NE 99th Street fail the corridor standard in CCC 40.350.020(G)(1)(a). No provision of the code lets staff set that result aside, and staff's new filings (Exs. 111–113) do not change the numbers the code requires. They replace them.

Concurrency is a state requirement, not a guideline. The Growth Management Act, RCW 36.70A.070(6)(b), and CCC 40.350.020(A) require the County to prohibit approval unless roads meet the adopted standard or a financial commitment is in place to complete the fix within six years. The staff who presented the 2014 corridor standard told the Board exactly that (see "What Concurrency Is For").

The test is simple, and the code supplies every number in it.

Step	What the code says	Heartwood North (NE 119th St EB, 2029 PM)
1. Operating level (volume)	Section (F): existing traffic ((F)(1)) + background traffic growth ((F)(8)) + approved, unbuilt (in-process) development ((F)(5)) + this development's trips ((F)(4)). (G)(1)(a): "the volume shall be determined based on the factors described in Section 40.350.020(F)."	993 vph: 2025 counts + 2% annual background growth + 16 in-process developments + project trips (TIA pp. 16–17; Table 9, p. 29)
2. Capacity	(G)(1)(a) and Table 40.350.020-1, by roadway type	900 vph (M-2cb)
3. Standard	(G)(1)(a): v/c "shall not exceed nine-tenths (0.9)" in each direction	**1.10 — FAILS** (1.09 before this project adds a trip)
4. Result	(E)(3): concurrency approval only where operating levels meet the (G) standards; (E)(1): no development approval without it	**Approval cannot issue**

Mr. Jardin's own words, October 12, 2016. Two years after the "2014 time frame" in which he now says the corridor standard was set aside, Mr. Jardin, speaking for Transportation Concurrency, told the County Council (Exhibit F, 0:01:57):

> "So, levels of service, delay times, volume-to-capacity levels, uh, those are established, uh, uh, by approval through the board. Uh, and there have been many times where, uh, we have, where staff has approached the board about, uh, about concurrency changes, uh, trying to help development move forward, maybe, uh, uh, changing some standard, uh, travel times, levels of service to allow development to occur. Um, but, uh, in other times, what that can do is, uh, is restrict development until, uh, public infrastructure, transportation infrastructure is in place, uh, to facilitate or to accommodate, uh, development or growth."

He was at that session to bring a concurrency problem to the Council, which fixed it by ordinance. The transcript contains no mention of a corridor override. Today he says the v/c standard "is not binding" and that staff have set it aside since 2014 without the Board (Point 7).

What the record shows

- **The corridors fail.** Three segments exceed 0.90 on the applicant's own study. At the September 10 hearing, the Examiner observed they "clearly don't" meet the standard. (Point 1)
- **"Operating level" is not an open question.** Section (F), the 2011 Administrative Manual, and the 2013–2014 Board sessions all define it the same way: counted traffic plus in-process development plus the project. Kittelson did exactly that. (Point 2)
- **The Board chose a link-based standard on purpose.** In 2014 it replaced the travel-speed corridor standard with a road-capacity (link) test, and kept intersection standards only as "protective measures" beneath it. Staff now use those protections to excuse failing roads. (Point 3)
- **(F)(9) is an input, not an override.** It lets the Director add a traffic factor the other eight items miss. It does not let staff set aside (G)(1)(a). An attorney's analysis in the record (Ex. 73) reaches the same conclusion, and staff's response does not address it. (Point 4)
- **Staff now set road capacity themselves.** After Ex. 64 showed intersection delays of nearly three minutes, staff's Oct. 1 response rested on recalculated capacity instead. Exs. 111–112 more than double the code's 900 vph capacity, use lower volumes than the operating level, and turn 1.10 into 0.46. Staff claim nothing "dictate[s]" how they do it, though the code requires the Director to adopt and publish the method in the manual. The HCM they rely on appears nowhere in the code. They set aside a PE-stamped study, which the code and the County's own manual require, with unstamped capacity calculations by an Engineer in Training (Exs. 111–112). No review by a licensed engineer is noted. No provision of the code allows it. (Point 5)
- **The intersections fall short of their own standard too.** Where signal warrants are met, (G)(1)(c) requires LOS D. NE 124th Avenue at NE 119th operates at LOS E with warrants met, and NE 132nd Avenue at NE 119th at LOS F; the applicant's engineers call it "the failing northbound approach." The "good intersection LOS" that staff relied on does not exist. (Point 5)
- **The "long-standing practice" story keeps changing, and the record contradicts each version.** 2010, then 2014; the Director and Division Manager, then the Director alone, then both again. No filing names the official, gives a specific date, or produces a document. Staff now also claim they can change the road capacity the code assigns, and attribute that to the same long-standing direction. That claim first appeared on May 21, 2026. In 2014–2017 corridors were expected to have ample room before failure, road projects were dropped from the capital plan on that basis, and the County's concurrency work focused on intersections. Nothing in the record from that period shows a corridor override in use. (Point 6)
- **No record shows anyone with authority adopted it.** The County has produced no Director authorization, no written delegation, no manual under Section (N), and no Council action, and Mr. Jardin has put nothing in this record to show any of them exist. In 2016 Mr. Jardin told the Council that concurrency standards are set by the Board and that staff bring changes to it. He now attests to a practice the record does not show was ever brought to the Board. (Point 7)
- **The reports changed; the code did not.** After the Examiner asked in 174th Street, staff rewrote their corridor findings, cited (F)(9) for the first time, and stopped stating ratios. The same text now clears unrelated projects, including this one. (Point 8)
- **The study may understate the problem.** Another licensed engineer reports higher ratios on the same corridors, in both peaks. Staff have not shown that every approved, unbuilt development was counted, as (F)(5) requires. (Point 9)
- **The TIA did not evaluate SR 503 as a corridor.** The code requires it, Kittelson concedes County requirements apply at the SR 503 intersections, and in 2014 the Board was told no north-south

capacity was planned on SR 503. Ex. 65 reports it over 0.90, and WSDOT reports SR 503 / NE 119th reaching failure. (Point 10)

- **Denial is not a moratorium.** The Examiner decides this application alone. Concurrency is road-specific, other applicants can mitigate or wait for funded improvements, and only the Council can adopt a moratorium. (The Examiner's Role)

Request: Deny PLD-2025-00114 under CCC 40.350.020(C), (E)(1), (E)(3) and (G)(1)(a). Exhibits 111–113 are not a lawful basis for a concurrency approval.

What Concurrency Is For

Concurrency is a Growth Management Act requirement: roads must meet the adopted standard, or a financial commitment must be in place to complete the fix within six years, before development is approved. The staff who presented the 2014 corridor standard told the Board so, and the Council wrote it into its findings.

Source	What it says
RCW 36.70A.070(6)(b)	Counties "must adopt and enforce ordinances which prohibit development approval" where level of service would fall below the adopted standard, unless improvements are "made concurrent with the development," which means "in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years."
CCC 40.350.020(A)	The section implements RCW 36.70A.070 so the County will "ensure that such standards are met or reasonably funded before new development is approved."
Board workshop, Aug. 21, 2013 (Exhibit C)	Schulte, quoting the RCW from his slide ("this is right out of the RCW") (0:02:38): "We must adopt, uh, and enforce ordinances." A participant (0:33:44): the capacity test answers the question "within that six-year timeframe, which is what the state law requires."
Board work session, Feb. 12, 2014 (Exhibit D, 0:10:57)	"Concurrency is required under state law to tell us within six years is this road gonna fail? … concurrency is literally just set up to say, 'Alright, can you serve the people you got and who are coming?'"
Same session (0:11:50, Schulte)	"Years ago, we used to talk in terms, well, what it's for is in the event that capacity isn't there, development will shut down until we can get that capacity built by someone, be it the county or a private developer. I think that's still kind of a secondary need," alongside using concurrency to tell the Board when capacity is being reached.
Board adoption hearing, Aug. 19, 2014 (Exhibit E, 0:00:59)	Schulte: concurrency "came out of GOA… GMA in about 1990, and it's state-mandated."
Council work session, Oct. 12, 2016 (Exhibit F, 0:01:57)	Jardin: the code can "restrict development until, uh, public infrastructure, transportation infrastructure is in place."
Ords. 2016-10-11 and 2017-04-13 (Exs. 80, 85); shorter form in Ord. 2016-08-12 (Ex. 79); recitals	Council finding: the code "attempts to delay development in areas served by roads failing concurrency until the condition can be improved or mitigated."

- **The question is simple: can the roads serve the people already there and the people coming?** On NE 119th and NE 99th, the applicant's own study says no. The County's Public Works website says the same: "Under state law, roads must be able to handle traffic created by a new development for that project to receive approval" (Clark County Public Works, Congestion and Safety Management, https://clark.wa.gov/public-works/congestion-and-safety-management).

- **The GMA answer is a fix or a wait.** The record shows no improvement with a financial commitment to be completed within six years. The statute and the code require denial.
- **Staff's approach turns that around.** A failing road should prompt a fix or a wait. Here it prompts a new theory for approval.

Point 1 — The Corridors Fail the Code Test

Kittelson's study applied the code and found three segments over 0.90. (TIA, Table 9, pp. 29–30.)

Segment (2029 PM)	Dir.	Operating level	Code capacity	v/c	Before project (TIA, Table 6, p. 22)
NE 119th St, NE 117th Ave (SR 503) to NE 124th Ave	EB	993 vph	900	**1.10**	1.09
NE 99th St, NE 117th Ave (SR 503) to NE 124th Ave	EB	894 vph	900	**0.99**	0.95
NE 99th St, NE 117th Ave (SR 503) to NE 124th Ave	WB	869 vph	900	**0.97**	0.94

- **Staff do not dispute these numbers.** Staff testified on September 10 that "these corridors don't necessarily meet the prescriptive method." The Examiner responded: "they clearly don't." (Ex. 114, p. 5)
- **Staff agrees 0.90 is the standard.** Ex. 113 (p. 2) calls it "the concurrency level-of-service threshold that was established and codified in compliance with the Growth Management Act."
- **NE 119th fails before this project adds a trip.** It is at 1.09 with background and in-process traffic alone.
- **The record shows no funded improvement that fixes it.** No County project identified in the record, in place or funded and scheduled for completion of construction within six years under (F)(6), brings either segment under 0.90 (Ex. 64, § X).
- **WSDOT agrees there is a problem.** WSDOT told the County that the westbound approach at SR 503 / NE 119th, the west end of the failing NE 119th segment, already has delay exceeding level of service standards, and that it cannot improve without more capacity on NE 119th (Exhibit R, p. 3, comment 15; see Point 5).
- **The applicant's engineer applied the capacities the code prescribes.** In its Sept. 8, 2026 response (Ex. 107, p. 4), Kittelson explained: "The capacity values are prescribed by the table and the accompanying text below the table in 40.350.020.G.1.a." Ex. 107 does not recalculate capacity or report any ratio under 0.90. The TIA does conclude the project complies (TIA p. 31), but only through the same intersection-LOS sentence staff use: the NE 99th ratio "does not represent a roadway deficiency, rather corridor mobility facilitated with acceptable signalized intersection LOS" (TIA p. 30). Points 3–5 address that rationale.

Point 2 — "Operating Level" Is Defined, and Kittelson Followed It

Each of these sources defines the operating level the same way: traffic counted on the road, plus approved development not yet built, plus the proposed development. That is the "V" in v/c. Capacity is the fixed "C" from the code table.

Source	What it says
CCC 40.350.020(F)	"The operating level for a transportation corridor … shall be defined as the traffic characteristics of those roadways and intersections" considering nine listed factors: existing traffic, the project's trips, approved developments, background growth, reserved capacity, and so on.
CCC 40.350.020(G)(1)(a)	"In calculating the volume to capacity ratio, the volume shall be determined based on the factors described in Section 40.350.020(F)." Capacity comes from Table 40.350.020-1.
2011 Administrative Manual, the most recent finalized/published (Exhibit A, p. 4)	Traffic from the proposed development, "plus existing traffic on the road system, plus the estimated traffic from other new and approved developments (not yet built) … this estimated LOS is called the 'operating level.'" If it is worse than the standard, "the development is either denied or the developer can elect to make improvements."
Board workshop, Aug. 21, 2013 (Exhibit C, 0:12:25, Schulte)	The standard is "a theoretical capacity of a roadway classification. The operating level, which is what we're seeing today on the roads, uh, would be calculated as a percentage of that maximum capacity."
Board work session, Feb. 12, 2014 (Exhibit D, 0:04:39, Schulte)	NE 78th St example: existing traffic of about 2,200 plus 1,300 of "in-process traffic" (approved, not yet built) = 3,500, over capacity of 7,000 = 50%.
Board adoption hearing, Aug. 19, 2014 (Exhibit E, 0:02:37 and 0:05:48, Lebowsky, Community Planning; 0:05:08, Schulte)	Same example. The 1,300 is "approved development … We all call it in-process traffic." The corridor "would be operating at an operating level of only 50%. So it has 40 more percent points to go before it goes into failure."
Staff, Ex. 113, p. 2 (Oct. 1, 2026)	Operations "must be determined under CCC 40.350.020(F) Determination of Operation Levels before compliance is tested under CCC 40.350.020(G)."

Mr. Jardin agrees. In the 174th Street record he described the 2014 standard this way: 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" (Exhibit J, p. 1).

Kittelson did exactly this. It took 2025 counts, added 2% annual growth, added the 16 in-process developments the County supplied (TIA pp. 16–17, Table 5), added Heartwood North's trips, and divided by the code capacity (TIA pp. 9, 16–17, 29–30). The result is the operating level the code defines. There is nothing left for (F)(9) to correct.

Point 3 — The Board Deliberately Chose a Link-Based System. Intersection Standards Are Protective, Not a Substitute

In 2013–2014 the Board replaced the travel-speed corridor standard with a road-capacity (link) standard, and kept the intersection standards only as protections underneath it. Ordinance 2014-08-09 (Exhibit H) recites that the old standard measured level of service "according to travel speeds along a corridor." Staff's practice runs the new design backwards. The transcripts are clear:

Date	Source	What the Board was told
Aug. 21, 2013	Board workshop (Exhibit C), 0:16:57 (Schulte)	Capacity must "take in, take in account the, the lane carrying capacity and some spacing of intersections." Intersection impact goes **into** the capacity number.

Date	Source	What the Board was told
Aug. 21, 2013	Board workshop (Exhibit C), 0:22:10–0:22:30	"The level of service would be the capacity of the road." Schulte: "That is the standard." Reply: "So you don't have to pick a random number."
Aug. 21, 2013	Board workshop (Exhibit C), 0:48:57	The new system "would assign a capacity standard to every, to all of the roadways," not just 37 selected corridors.
Feb. 12, 2014	Board work session (Exhibit D), 0:02:50 (Schulte)	The measure is the roadway v/c ratio. Intersection standards are "safety net standards" for when "the corridor may be operating well, but one intersection is very problematic."
Feb. 12, 2014	Board work session (Exhibit D), 0:28:17 (Schulte)	The v/c table "helps keep mobility on the links, on the segments." Intersection capacity is handled separately in the capital plan.
June 5, 2014	Planning Commission presentation (Ex. 76, slide 4)	Roadway v/c "with a maximum of 90 percent," followed by "additional protective" intersection standards.
July 17, 2014	Planning Commission hearing (Ex. 78)	The new standard "looks at links and it's less focused on intersections."
Aug. 19, 2014	Board adoption hearing (Exhibit E), 0:02:37 (Lebowsky)	"What we call the protective measures for intersections. Because we're going to a link-based system, and we wanted to keep in place standards to protect intersections." "The new system will be … a link-based system, and it will, uh, be a simpler approach, easier to understand for both staff and for developers."

What that design means for this case:

- **Two separate tests, each able to stop a development.** A corridor that fails is a failure. A corridor that passes can still fail on a problem intersection. Nothing the Board adopted provides a third outcome: corridor fails, intersections pass, approve.
- **The protection runs one way.** Intersection standards were kept to catch problems a passing corridor would miss. Staff now use them to excuse a corridor that fails.
- **The Board retired the travel-speed standard on purpose.** Under the speed standard, intersection delay fed into corridor travel time, so a corridor could be judged through its intersections (Exhibit J; Exhibit N, § 3). The Board replaced that with a capacity test and kept intersection standards separate. Clearing NE 119th and NE 99th on intersection performance brings back the speed-era approach the Board retired.
- **Intersection effects are already in the capacity.** The Board was told intersection spacing goes into the capacity figures. Using intersection performance again to clear a segment counts it twice, only toward approval.
- **The code reflects the design.** The 2014 amendment replaced the corridor measure in (G)(1)(a) with a v/c ratio, separate from the intersection standards in (G)(1)(b) and (c). Staff concede "each subsection of section G represents different elements … County code has established individual levels of service for each" (Exhibit J).

What the Board was told the 0.90 line was for:

Date	Source	What the Board was told
Aug. 21, 2013	Board workshop (Exhibit C), 0:10:36 (Schulte)	Staff's guiding principles: a "more predictable model … for developers. A simpler process."

Date	Source	What the Board was told
Aug. 21, 2013	Board workshop (Exhibit C), 0:13:50 (Schulte)	A percentage of capacity is "simpler to understand … for the layperson" than a speed such as 27 mph.
Aug. 21, 2013	Board workshop (Exhibit C), 0:17:43 and 0:20:29	The speed standard had become "a political conversation" and "a political ping-pong … We just assign a number to it and then we have a reason, umm, to lower it or raise it if we wanted to stop or start something."
Aug. 21, 2013	Board workshop (Exhibit C), 0:29:44 (Schulte)	The Board could set the failure point wherever it chose: "You could start calling it concurrency failure when you just get to 60%." Reaching the number is the failure.
Aug. 19, 2014	Adoption hearing (Exhibit E), 0:06:37 (Schulte)	An annual color-coded status report "so you will know when … road segments are nearing failure, and then we can move monies around as needed to resolve those issues."

The Board picked a fixed number so the result would be objective and predictable, and so the County would fund fixes before a corridor reached it. Recalculating capacity case by case after a corridor fails brings back the discretion the Board set out to eliminate. (Exhibits C and E; Exhibit N, §§ 1 and 4.)

Mr. Jardin now calls it "a mistake" that the 2014 presentations never showed what happens above 0.90. It was not a mistake. No example was needed, because the answer was already stated: above 0.90 is failure, and failure means denial or mitigation.

Mr. Jardin wrote that because the 2014 example "did not exceed the prescriptive values … 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" (Exhibit J, p. 3). The record shows what the Board, the Planning Commission and the public were told:

Date	Source	What it says happens above the standard
Mar. 2011	Administrative Manual (Exhibit A, pp. 4–5)	If the operating level is worse than the standard, "the development is either denied or the developer can elect to make improvements." If no mitigation remedies the failure, "staff will recommend denial."
Aug. 21, 2013	Board workshop (Exhibit C), 0:29:44 (Schulte)	The Board sets the failure point: "You could start calling it concurrency failure when you just get to 60%."
Feb. 12, 2014	Board work session (Exhibit D), 0:11:50 (Schulte)	Describing how concurrency was understood "years ago": "what it's for is in the event that capacity isn't there, development will shut down until we can get that capacity built." He called it "still kind of a secondary need" alongside using concurrency to inform the Board before capacity is reached.
June 5, 2014	Planning Commission presentation (Ex. 76)	At 50 percent, "if the maximum LOS is set at 90 percent, then the corridor is not in Concurrency failure." The converse needs no slide.
June 25, 2014	Staff report to the Planning Commission (Ex. 77, p. 2)	"Transportation improvements would be required of roadway segments that are either at a V/C of 0.90 or above."
Aug. 19, 2014	Board adoption hearing (Exhibit E), 0:05:08 (Schulte)	The example corridor "has 40 more percent points to go before it goes into failure."
Oct. 12, 2016	Council work session (Exhibit F), 0:58:11	The model "was designed and written" so that when "an intersection, or later a corridor … went into failure, you couldn't put any trips through it."
Mar. 16, 2017	Staff report to the Planning Commission (Ex. 81, p. 2)	"Transportation is the only area of concurrency that specifies denial of development if LOS standards cannot be met."

The presentations showed a passing corridor because the consequence of a failing one was already settled. None of the 2011–2017 materials in this record describes a further "evaluation" that could turn a failure into a pass. Mr. Jardin helped prepare those materials (Exhibit J, p. 1).

Point 4 — (F)(9) Adds an Input. It Does Not Override (G)(1)(a)

(F)(9) is the ninth item in a list of things that make up the operating level. It reads: "Any other factors that the Public Works Director has determined could have an impact on the operating level of the transportation corridors or intersections." It lets the Director capture traffic the first eight items miss. It says nothing about capacity, the 0.90 standard, or approval. It also predates the v/c standard: the 2014 ordinance carried Section (F), including (F)(9), over unchanged from the travel-speed code, with an amendment history running from 2007 to 2011 (Exhibit H, p. 6). It was not adopted as part of the 0.90 standard.

An attorney's analysis already in the record works through Section (F) item by item and reaches the same conclusion (Ex. 73, pp. 2–5). Neither staff's response nor the applicant's addresses it. Bryan Telegin of Telegin Law, writing in the 174th Street matter, sorted each (F) factor by what it feeds:

Section (F) item	What it informs (Ex. 73, pp. 2–3)
(F)(1), (4), (5), (7), (8): existing traffic, the project's trips, approved developments, background growth, reserved capacity	The "v" in the corridor v/c ratio
(F)(2), (3), (6): mitigation on approved developments, reasonably funded improvements, physical changes to the road	The physical road system, most relevant to intersection delay
(F)(9): "any other factors"	A "catchall" for factors "not otherwise captured in the preceding provisions"

- **Inputs, not standards.** "In essence, subsection F tells the County all the 'inputs' it must consider when it evaluates whether LOS standards will be met. Subsection G codifies the LOS standards themselves." (p. 3) The Board wrote that division into the 2014 amendment itself: "the volume shall be determined based on the factors described in Section 40.350.020(F)," and "the capacity shall be based on the factors described in Table 40.350.020-1 Roadway Capacities" (Exhibit H, pp. 6–7).
- **The standards are mandatory.** Each (G) standard is stated with "shall." "Each of these LOS standards is binding and mandatory. None of them can be ignored." (p. 3)
- **(F)(9) cannot substitute a standard.** It "does not authorize staff to replace the adopted LOS standards with different standards. Nor does it permit compliance to be determined based on considerations other than those standards themselves." (p. 3)
- **(E)(3) confirms it.** "A roadway operating above the maximum v/c ratio established in CCC 40.350.020.G.1.a does not satisfy those standards." (pp. 3–4)
- **A manual could not change it.** Under (N)(5), the code controls over any manual (p. 4 n.2).
- **The remedy is legislative.** "If the County believes the adopted concurrency standards no longer reflect its preferred methodology, the remedy is to amend the code through the County's legislative process" (p. 5).
- **Not addressed.** Staff's Oct. 1 response addresses Exs. 62, 64 and 89 (Ex. 113, p. 1), not Ex. 73. Neither does the applicant's Sept. 8 response (Ex. 107). The 174th Street decision lists the letter as an exhibit but never discusses it (Ex. 93). Instead, it held that limiting staff to the 0.9 standard "would render all of CCC 40.350.020(F) irrelevant and without effect" (Ex. 93, p. 32). Ex. 73 answers that concern: (F) supplies the inputs to the ratio, so (F) and (G) both have effect.

What (F)(9) can do	What staff are using it to do
Add a traffic factor to the volume side, before the ratio is computed	Set aside a computed ratio after it fails
Work inside Section (F), which defines operating level	Change capacity, which (G)(1)(a) and Table 40.350.020-1 fix
Apply to every analysis the same way	Apply only when a segment fails. Ex. 113, p. 4: the HCM analysis "will always be in response to a potential 0.9 v/c exceedance."
Be exercised by the Public Works Director	Be exercised by staff, with no Director determination in the record (Point 7)

- **The code's structure decides this.** (E)(3) allows approval only where operating levels do not fall "below the adopted level of service standards established in Section 40.350.020(G)." (G)(1)(a) says "shall not exceed." A catch-all input cannot repeal a mandatory standard.
- **Staff's own description admits it.** Mr. Jardin's June 4 comment (Exhibit J, pp. 2–3) calls the method an "analysis outside of the code's prescriptive measures" and says the v/c standard "is not binding." Staff findings since August 31, 2026 apply these factors "in lieu of the code-prescribed threshold values" (Exhibit L, p. 20; Exhibit M, *Compliance Without a Standard*).
- **The Examiner identified the problem.** On September 10 he called (F)(9) "extremely nonspecific" and "so like open ended so that it's almost an exception that consumes the rule." (Ex. 114, pp. 6, 9)
- **If (F)(9) worked the way staff says, (G)(1)(a) would mean nothing.** Any failing segment could be cleared by naming another factor. That is contrary to RCW 36.70A.070(6)(b), which requires an enforced standard.

Staff's own report (Ex. 54, p. 5) admits what it is doing:

Ex. 54 says	What it admits
"Evaluation of the concurrency corridor capacity levels represented in the County Code yielded capacity at acceptable levels except for" NE 119th and NE 99th.	Under the code's capacities, the corridors fail.
CCC 40.350.020(G) "establishes baseline service levels under ideal conditions."	Staff treat the adopted standard as a starting point to adjust. The Board knew the capacities were theoretical and chose them on purpose: Schulte described the standard as "a theoretical capacity of a roadway classification" and "a theoretical number" that takes into account "the, the lane carrying capacity and some spacing of intersections," and set the standard at "90% of full capacity, theoretical capacity" (Exhibit C, 0:12:25, 0:16:57; Exhibit E, 0:05:08). A theoretical capacity was the design, not a baseline for staff to adjust.
Throughput and intersection LOS "allow the Public Works Director and supporting staff to create an affirmative finding of compliance with CCC 40.350.020(G)(1)(a) and Table 40.350.020-1."	Compliance is created, not measured.
Real-world factors "may include, but are not limited to" five items and, "When necessary, … may warrant adjustments."	No rule says which factors apply, when, or by how much.

A reader of Ex. 54 cannot tell whether the development complies. It reports the failing corridors only as "greater than 0.9," names factors without saying whether any was applied or what it changed, and does not say how much intersection performance is enough, or how far above 0.90 a corridor may go and still be excused.

Point 5 — Staff Now Set Road Capacity Themselves

In this case, the rationale changed between the staff report and Exhibit 113.

Filing	What staff relied on
Ex. 54, pp. 5–6 (May 21, 2026)	Intersection LOS only. NE 119th / SR 503 "is expected to operate with approach delays that do not exceed the maximum 240 seconds, or 2 cycles"; the NE 99th intersections' delays "did not exceed the maximum delay." Conclusion: "corridor mobility facilitated with good intersection LOS."
Ex. 64, § II (June 11, 2026)	The TIA's own 2029 worksheets: NE 117th Ave (SR 503) / NE 119th St at overall LOS F (83.3 seconds, PM), every approach at LOS E or F, westbound 162.6 seconds in the AM, nearly three minutes. NE 117th / NE 99th westbound at LOS F (112.9 seconds PM, 136.8 AM). Movements over capacity at v/c 1.17 to 1.29.
Ex. 113, pp. 1, 3 (Oct. 1, 2026)	Does not dispute any of those delays. The Heartwood finding now rests on the HCM capacity recalculations in Exs. 111–112, not on intersection LOS.

- **"Good intersection LOS" only meant under four minutes.** Staff measured the intersections against the (G)(1)(b) ceiling of 240 seconds of delay per movement. Waits of two to nearly three minutes at the ends of a failing segment are not "mobility." And on NE 119th, the unsignalized intersections fail the code's own intersection standard. Where signal warrants are met, (G)(1)(c) requires LOS D. NE 124th Avenue, at the east end of the 1.10 segment, operates at LOS E with warrants met (TIA pp. 31–32; Ex. 54, p. 4). At NE 132nd Avenue, which operates at LOS F, the applicant's engineers describe "the failing northbound approach" (Ex. 107, p. 3). Staff applied the mitigation exemption at both, but intersections that fail their own standard cannot be the "good intersection LOS" that clears the corridor.
- **The rationale changed; the code did not.** Ex. 113 still lists intersection LOS in its general preamble (p. 1), but its compliance finding for Heartwood North rests on recalculated capacity.
- **WSDOT says the intersection staff relied on is failing.** In its comments on the County's Comprehensive Plan transportation element (Exhibit R, p. 3, comment 15), WSDOT wrote that at SR 503 & NE 119th St "the westbound approach experiences delay that exceeds level of service standards," that WSDOT "has received feedback from the public about delay and congestion," and that "the signal operations cannot improve without improvements made on local roadway network," because "adding capacity on 119th will facilitate improve LOS scoring." WSDOT also noted its SR 503 Corridor Plan shows this intersection "reaching failure in PM peak-hour" (Exhibit R, p. 1, comment 3). The County's draft response: it "was not flagged by the consultant" (Exhibit R, p. 3).

Exhibits 111 and 112 do not apply the code. They change both numbers in the ratio. Volume goes down from the Section (F) operating level, capacity goes up past anything the code allows, and a 1.10 failure becomes 0.46.

Segment (2029 PM)	Code / TIA volume	Staff volume	Code capacity	Staff capacity	Code v/c	Staff v/c
NE 119th St EB (Ex. 111, pp. 2–3)	993	867	900	1,900	**1.10**	0.46
NE 99th St EB (Ex. 112, pp. 2–3)	894	763	900	1,651	**0.99**	0.46
NE 99th St WB (Ex. 112, p. 3)	869	869	900	1,184	**0.97**	0.73

- **The code fixes capacity.** (G)(1)(a): for roads built to standard, capacity "shall be based on" Table 40.350.020-1 (900 vph for an M-2cb). For roads not built to standard, the code sets 800, 700 or 600 vph per lane. Nothing in the code produces 1,900 vph for one lane of a two-lane arterial.

- **Most of the change is capacity, and it more than doubles the failure point.** With volume unchanged, replacing 900 with 1,900 alone takes NE 119th EB from 1.10 to 0.52. Under the code the segment reaches 0.90 at 810 vph; under Ex. 111 it would not reach 0.90 until 1,710 vph in a single lane. That is a segment whose westbound approach at SR 503 already waits nearly three minutes (above).
- **Staff's 1,900 is a national default, not a measurement of this road.** Ex. 111 (p. 2) uses a "planning default" saturation flow and states the lane count is "not specified; by default, assume one EB lane." It is not the segment-specific professional opinion the Examiner asked for on September 10.
- **Staff's volumes are not the operating level.** Ex. 111 uses 867 vph; the (F) operating level for that segment is 993 vph. Ex. 112 uses 763 vph for NE 99th EB against 894. Neither memo explains the missing 126 and 131 vehicles.
- **Neither memo identifies a missing (F) factor.** They change the volume without pointing to any Section (F) input Kittelson left out.
- **The Board was told intersection and access effects were built into the table capacities.** Using them again to raise capacity counts the same influence twice, and only toward approval. (Exhibit N, *Corridor Override Origin Memo*, § 4.)
- **Exs. 111–112 apply none of the HCM factors staff cite.** Ex. 54 and Ex. 113 list lane width, shoulders, heavy vehicles, grades and access spacing. Under the HCM, every one of those factors lowers capacity below the ideal base rate (Ex. 72, p. 10, citing FHWA HPMS Appendix N). Exs. 111–112 skip all of them and use the unadjusted 1,900 base for every lane. Ex. 112 also compares demand in vehicles per hour to capacity in passenger cars per hour, without the heavy-vehicle conversion the HCM requires. Staff cite the factors that would reduce capacity, then use the ideal-condition maximum.

The code's capacities already account for these factors. The Board knew real roads vary and chose one simple number on purpose.

Factor staff now cite	How the code and the 2013–2014 record already handle it
Lane width and shoulders	Written into (G)(1)(a): roads not built to standard get 800, 700 or 600 vph per lane by lane and shoulder width. That schedule only lowers capacity. Nothing in the code raises it above Table 40.350.020-1.
Number and spacing of intersections and driveways	Built into the table capacities. Schulte, Aug. 21, 2013 (Exhibit C, 0:16:57): "We'd have to take in, take in account the, the lane carrying capacity and some spacing of intersections … a metric to somehow put and adopt in, uh, intersection, uh, impact on that, that standard." A participant (0:18:09): with more access points, "your capacity will be adjusted functionally."
Heavy vehicles, grades and other road-by-road conditions	No separate adjustment in the code. Under the HCM these factors only lower capacity (Ex. 72, p. 10). The Board adopted one value per roadway type, knowing it was "a theoretical number" (Schulte, 0:16:57) and "theoretical capacity" (Aug. 19, 2014, Exhibit E, 0:05:08).

Simple and objective was the point:

- **The Board wanted a number people could understand.** A percentage of capacity is "simpler to understand … for the layperson" (Schulte, Aug. 21, 2013, 0:13:50).
- **It wanted politics out.** A participant on Feb. 12, 2014 (Exhibit D, 0:27:54) called it "a very objective way to have the real world inform us … this leaves politics out of it, this leaves agendas out of it."
- **Mr. Jardin agrees.** He told the 174th Street Examiner that the Council's primary objective was "Predictability and prescriptiveness": 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" (Exhibit J, p. 1).

The Board knew many factors affect capacity, including intersection delay, and had them built into the numbers (Exhibit C, Aug. 21, 2013):

- **Different conditions, one objective number.** A participant (0:16:21): the capacity standard is "fully objective, self-informing … the metrics of the road itself provides the information." A participant (0:17:43): "an objective standard based on the capacity of the roadways given different conditions."
- **Intersection delay included.** Schulte (0:16:57): a five-lane road with no intersections carries more than one with ten, so staff needed "a metric to somehow put and adopt in, uh, intersection, uh, impact on that, that standard … a simple, understandable measure."
- **Precision was never the goal.** Schulte (0:19:19): concurrency "is never going to be a very precise measurement. Traffic's too fluid … we're talking about a simpler platform that gets the job done."

Those factors are already in the code's capacities. Staff now use them a second time, after the fact, and only to raise capacity.

Re-adjusting capacity road by road with HCM factors undoes the choice the Board made.

Staff claim no rule governs how they do this. The code says the opposite: the Director must adopt the method and publish it in the manual staff follow.

Staff's position (Ex. 113, pp. 3–4)	What the code requires
(F)(9) "provides this authority for the Public Works Director, [but] it does not dictate how staff evaluates the other factors."	(N)(1): the Director "shall establish and adopt the methodology and criteria to be used to … evaluate the operating level for each transportation corridor."
Staff choose "the HCM and other best engineering practices," case by case.	(N)(3): the Director "shall publish and regularly update an administrative manual setting forth the methodology and criteria adopted."
An applicant may follow the code "prescriptively" or a "more robust analysis" may be performed instead.	(G)(2): the LOS standards "shall be applied and interpreted as stated in the administrative manual." (N)(5): the manual must "be consistent with and implement" the section, and the section controls.

- **The HCM is not in the code.** CCC 40.350.020 never mentions the Highway Capacity Manual. Corridor capacity comes from one place: Table 40.350.020-1, or the lane-width schedule in (G)(1)(a) for roads not built to standard. The 2011 Manual refers to the HCM only for analyzing intersection level of service in traffic studies, not for setting corridor capacity. Choosing the HCM to replace the code's capacities is staff's choice, not the code's.
- **The method is not left to staff.** The code makes the Director responsible for setting the method, in writing, in the manual. Staff are to apply what the manual says.
- **The 2011 Manual does not contain this method.** It is the most recent finalized/published manual (Exhibits A–B), and it has no HCM capacity recalculation and no intersection override.
- **The result is a method with no limits.** Staff pick the factors, the reference, the inputs and when to use it, only after a road fails. Exs. 111–112 show what that produces: a 1.10 failure becomes 0.46, with no manual, no Director, and no licensed engineer behind it.

The code and the County's manual both require a study by a licensed engineer. The applicant's engineers followed the code and stamped it. Staff set it aside with unstamped memos.

- **The code:** CCC 40.350.020(D)(3): "A transportation impact study shall be prepared by and/or under the supervision of a registered professional engineer in the state of Washington." Under (D)(2)(b) that study analyzes "the projected impact of the proposed development upon the current operating level" of each affected corridor.
- **The Manual (Exhibit A, p. 5), Step 2:** "The TIS must be prepared and stamped by a Professional Engineer licensed to practice in the State of Washington." Its review checklist requires a "Current Washington PE stamp and signature" (Exhibit A, p. 9).
- **The County's own website:** "The county requires traffic studies to have a professional engineer stamp to be accepted." (Clark County Public Works, Congestion and Safety Management, https://clark.wa.gov/public-works/congestion-and-safety-management)

	Kittelson TIA (Feb. 12, 2026)	**Staff memos, Exs. 111–112 (Sept. 18, 2026)**
Prepared by	Kittelson & Associates; Kristine Connolly, PE, and Chris Brehmer, PE	Craig Kathol, Engineer II. Washington DOL lists him as an Engineer in Training (license no. 35616), not a licensed PE (Exhibit P)
PE stamp and signature	Yes, digitally signed Feb. 12, 2026	None
Required by CCC 40.350.020(D)(3) and the Manual	Yes	No. Not a transportation impact study under (D)
Volume	Section (F) operating level: Dec. 2025 counts + 2% growth + 16 in-process developments + project trips	Downstream intersection approach volumes, lower than the operating level
Capacity	Code values from (G)(1)(a) and Table 40.350.020-1, cited in the study	HCM planning defaults; lane count "not specified"
Accepted by the County	Application found fully complete (Ex. 3); relied on in the concurrency report (Ex. 54, p. 2)	Produced after the hearing, in response to the Examiner's questions
Result	NE 119th EB 1.10; NE 99th EB 0.99, WB 0.97	0.46, 0.46, 0.73

- **The licensed engineers applied the code's volumes and capacities.** Ex. 113 does not identify an error in the study's inputs or arithmetic.
- **Ex. 113 confirms the stamped study followed the code.** Ex. 113 (pp. 3–4) calls the code method the "prescriptive, more conservative threshold" an applicant may "follow … prescriptively." That is what the applicant's engineers did.
- **The Examiner asked for a professional opinion. None was provided.** On September 10 the Examiner said the (F)(9) catch-all "warrants a professional opinion about really why under the circumstances of this particular road segment, these other factors are X, Y, and Z" (Ex. 114, p. 9). What came back were unstamped calculations by an Engineer in Training (Exs. 111–112). The only stamped professional work in the record is the Kittelson TIA. It reports the segments over 0.90 using the code capacity, and its conclusion of compliance rests on the intersection-LOS sentence (TIA p. 30), not on any recalculation of capacity.
- **An opinion would not change what the code measures.** A professional view that a road "functions adequately despite the volume to capacity problem" applies a different test from the one the Council adopted. (G)(1)(a) measures volume against the capacity the code sets, and (E)(3) allows approval only where that standard is met. An engineer can supply inputs under Section (F). An opinion cannot change the capacity or the 0.90 standard.

- **The licensed engineers identified the capacities as code-prescribed.** Kittelson's Sept. 8, 2026 response (Ex. 107, p. 4), again PE-signed, states the capacities "are prescribed by the table." Staff's unstamped memos are dated ten days later and were filed Oct. 1.

The record does not show that a licensed engineer made or checked the engineering judgment that set the stamped study aside.

Exhibit	Prepared by	Review or approval noted	PE stamp	License
Kittelson TIA	Kristine Connolly, PE, and Chris Brehmer, PE	—	Yes, digitally signed Feb. 12, 2026	Professional engineers
Ex. 54 (concurrency report)	Craig Kathol, Staff Engineer	Approved by David Jardin, Manager	None	Mr. Kathol: Engineer in Training, no. 35616 (Exhibit P). Mr. Jardin: no professional engineer license returned (Exhibits Q, Q-1)
Exs. 111–112 (HCM capacity recalculations)	Craig Kathol, Engineer II	None noted	None	Engineer in Training (Exhibit P)
Ex. 113 (response memo)	David Jardin, Traffic Engineering Section Manager (listed as "Staff Engineer")	None noted	None	No professional engineer license returned (Exhibits Q, Q-1)

- **The stamp is the professional standard.** The code requires a professional engineer to prepare or supervise the study ((D)(3)), and the 2011 Manual requires it to be "prepared and stamped" by a Washington PE (Exhibit A, p. 5). State law requires that "[p]lans, specifications, plats, and reports prepared by the registrant shall be signed, dated, and stamped," and that the stamp "shall constitute a certification by the registrant that the same was prepared by or under the registrant's direct supervision" (RCW 18.43.070).
- **Unlicensed staff may do engineering work only under a licensee's responsibility.** These rules bind the County. A public agency that performs engineering "shall perform its duties and responsibilities in the same manner as an individual" (WAC 196-25-080). The engineering registration law excepts the work of an unlicensed employee only where "such work does not include final design or decisions and is done under the direct responsibility, checking, and supervision of a person holding a certificate of registration" (RCW 18.43.130(2)). Direct supervision means "[m]aintaining control over those decisions that are the basis for the findings, conclusions, analyses, rationale, details, and judgments required for the preparation of engineering … reports," and review "after preparation without involvement in the design and development process as described above cannot be accepted as direct supervision" (WAC 196-25-070(1), (5)).
- **The record shows no licensed engineer taking responsibility for this work.** Recalculating corridor capacity with Highway Capacity Manual factors is engineering analysis, and a concurrency determination under (E)(3) is a decision. None of Exs. 54, 111, 112 or 113 is stamped or notes review, checking or supervision by a licensed engineer. Exs. 111–112, the calculations that changed the result, note no review at all. The Director is a licensed engineer, but nothing in the record shows he performed, checked or supervised Exs. 54, 111, 112 or 113. And no record delegates the Director's authority to the staff who did it (Point 7).

- **The result.** A corridor failure reported in a study stamped by two licensed engineers was set aside by an engineering judgment that the record does not show any licensed engineer made or checked.

Staff's claim that they can change the road capacity the code assigns is new. It first appeared on May 21, 2026, in the middle of the 174th Street hearing. Until then, staff cleared failing corridors by pointing to intersection LOS, and the capacities in Table 40.350.020-1 were not questioned in any finding reviewed. Starting May 21, staff claimed they could adjust the capacity itself with HCM "real-world" factors, and tied that claim to the Director's long-standing direction.

Date	What happened
Apr. 21, 2026	174th St concurrency report (Ex. 66, p. 5) clears failing corridors on intersection LOS. No code provision cited. No claim that capacity can be changed.
Apr. 23, 2026	Examiner Turner asks how (G)(1)(a) allows it. Staff cannot cite a provision and ask to consult a manager (Ex. 69, p. 6).
May 21, 2026	Reissued report (Ex. 67, p. 4), Jardin letter (Ex. 68, p. 2) and Gallup letter (Ex. 70, pp. 1–2) add (F)(9) and HCM "real-world" capacity for the first time. The same day, the Heartwood North report (Ex. 54, p. 5) carries the same text.
July–Aug. 2026	Findings in other cases describe an evaluation "outside of the code's prescriptive measures," then apply factors "in lieu of the code-prescribed threshold values" (Exhibits K–M).
Sept. 18, 2026	Exs. 111–112 compute new capacities for Heartwood North (entered in the record Oct. 1, with Ex. 113).

A supplemental submission filed with this one, *Measuring the Leap*, shows how the County's position has moved from report to report and how Exhibit 113 leaps past it.

Point 6 — The "Long-Standing Practice" Story Keeps Changing, and the Record Contradicts It

Staff's account of where the practice came from:

Filing	When it started	Who decided	Document
Ex. 68, pp. 1–2 (Jardin letter), May 21, 2026	"In 2010"; "applied and practiced since 2010"	"the then Transportation Division Manager and the Public Works Director"	None
Exhibit I, pp. 3, 5, 6 (staff response, 174th Street record), May 21, 2026	"since 2010" (three times)	Refers to Jardin and Gallup letters	None
Exhibit J, pp. 1, 3 (Jardin open-record comment, 174th Street record), June 4, 2026	"the 2014 time frame," from "unintended consequences that came to light shortly after code implementation"	The Public Works Director	None
Ex. 113, pp. 1–2, Oct. 1, 2026	"the 2014 time frame"	"the Public Works Director and the Transportation Division Manager"	None

The date moved only after the 2014 legislative record was in the 174th Street record. I filed it on April 25, 2026 (174th Street Ex. 88; the same records are Exs. 74–86 here). Mr. Jardin's May 21 letter still said "2010"; his June 4 comment moved the date to "the 2014 time frame." The conclusion never moved. No filing names the official, gives a specific date, or produces a document.

Exhibit 113 says "it does not appear that the document making that correction as a part of the PLD-2026-00002 174th Street Subdivision was included in Heidi Pozzo's exhibit package" (Ex. 113, p. 1). That document is attached as Exhibit J.

Who held the offices staff now rely on. Staff attribute the direction to "the Public Works Director and the Transportation Division Manager" (Ex. 68, pp. 1–2; Ex. 113, pp. 1–2) but never name them. The record and public sources do (Exhibit S).

Period	Public Works Director	Transportation Division Manager	Sources
May 2000 – Dec. 2013. Covers "in 2010" (Ex. 68)	Pete Capell	Not identified in the record for 2010. In Aug. 2013 Steve Schulte spoke as "county traffic engineer" and referred to "Pete" as county engineer (Exhibit C, 0:01:30)	Exhibit S, sources [1]–[4]
Dec. 2013 (interim) – Sept. 11, 2018. Covers "the 2014 time frame" (Ex. 113; Exhibit J)	Heath Henderson	Steve Schulte in 2014, introduced by Henderson as "our transportation division manager" (Exhibit D, 0:00:41). Carolyn Heniges by Oct. 2016 (Exhibit F, 0:01:13)	Exhibit S, sources [3], [5], [6]; Exhibit F, 0:01:10
Sept. 12, 2018 (interim) – July 2021	Ahmad Qayoumi	—	Exhibit S, sources [5], [7], [8]
July 2021 (interim) – Jan. 2023	Eva Haney	—	Exhibit S, sources [8], [9]
Jan. 2023 – present	Ken Lader, PE	—	Exhibit S, sources [9]–[12]

- **The officials staff name said the opposite, on the record.** In 2014 the Director and Transportation Division Manager were Heath Henderson and Steve Schulte. Schulte told the Board that setting the standards "is a board and community call. It's not a staff's call" (Exhibit C, 0:28:33), and that intersection standards are "safety net standards" beneath the corridor test (Exhibit D, 0:02:50). The County has produced no writing from either official directing the practice staff now attribute to them.
- **The 2014 Director spoke to the Council in 2016 and described no override.** Henderson opened the Oct. 12, 2016 work session as "Heath Henderson, Public Works Director," offering to "walk through, uh, some code history, uh, over the past several years" (Exhibit F, 0:00:21, 0:01:10). Of a concurrency problem staff had found, he said: "now it's become apparent that it's a potential issue that, um, we just think should be looked at further and, and addressed, and, you know, do we need to change something here? … You try things for a while and then realize it's not working quite right" (0:44:08). Neither he nor Mr. Jardin, presenting with him, mentioned a corridor override.
- **Five Directors since 2010, and no writing from any of them has been produced.** Staff name none. The County's own delegation form states "Delegation is for the individual, not the position" (Ex. 106, p. 3). On the reasoning of the County's own form, an unwritten direction from a former Director would not carry forward to his successors.

Staff also fold a newer claim into the long-standing practice: that they can change the road capacity the code assigns. Ex. 68 (p. 2) did so first, on May 21, 2026, and Ex. 113 repeats it for "the 2014 time frame." No staff document in the record before May 21, 2026 makes that claim.

What Ex. 113 claims	What the record shows
Since the Director's determination "in the 2014 time frame," staff have used intersection LOS and queuing "along with existing roadway influences" and "potential mitigation options such as … TSM or TDM."	Mr. Jardin's own May 21 account (Ex. 68, p. 1) says the Director directed staff "to use intersection performance, such as intersection level-of-service and queuing." The HCM capacity factors appear on the next page of the same May 21, 2026 letter (Ex. 68, p. 2), after the Examiner's question in 174th Street. No earlier document in the record links them to any direction.
The method "has been applied and practiced since the 2014 time frame."	No finding reviewed before May 21, 2026 mentions roadway influences, the HCM, or any capacity adjustment. That includes staff's own Apr. 21, 2026 report in 174th Street (Ex. 66, p. 5) and earlier findings back to 2023 (Exhibit M).
—	The claim that staff can change capacity first appeared on May 21, 2026, in the Gallup letter (Ex. 70, pp. 1–2) and the reissued 174th report (Ex. 67, p. 4), after the Examiner's question. The first capacity recalculation for this project is dated Sept. 18, 2026 (Exs. 111–112), and was entered in the record Oct. 1.

A theory that first appeared in May 2026 cannot be part of a practice dating to 2014.

What the record actually shows:

Date	Record	What it shows
2010	Ord. 2010-08-06 (Exhibit G, pp. 56–57)	Added three conditions to the unsignalized-intersection standard, all of which had to be met before a development could be required to mitigate: it adds at least five peak-period trips to a failing approach; the projected v/c for the movement with the highest delay exceeds 0.9; and that movement is worsened by the development. The corridor standard was still travel speed. A corridor v/c practice could not exist in 2010.
Mar. 2011	Administrative Manual (Exhibit A, pp. 4–5)	Corridors and intersections are separate tests. A failing corridor means denial or mitigation. No intersection override.
Feb. 12, 2014	Board work session (Exhibit D, 0:02:50)	Schulte: v/c is the corridor standard; intersection standards are "safety net standards" for when "the corridor may be operating well, but one intersection is very problematic."
Oct. 12, 2016	Council work session (Exhibit F, 0:01:57)	Jardin: standards "are established, uh, uh, by approval through the board," and "there have been many times where, uh, we have, where staff has approached the board about, uh, about concurrency changes." No mention of a corridor determination.
2016–2017	Ords. 2016-08-12, 2016-10-11, 2017-04-13 (Exs. 79, 80, 85)	The one documented "unintended consequence" was the 0.9 v/c test on individual approaches at unsignalized intersections, added in 2010, which let developments avoid mitigation. The Council removed it by ordinance, through DEAB, the Planning Commission and two Council hearings. (G)(1)(a) was re-adopted unchanged.
Apr. 23, 2026	174th hearing (Ex. 69, p. 6)	Staff could not identify any code provision for the practice.
June 11, 2026	This record (Ex. 110, pp. 4–5)	Applicant's counsel calls it "a glitch in the county's concurrency ordinance" and staff's reading "a little bit at odds with some of the language in the code," and seeks a continuance to wait for an interim ordinance.
Sept. 10, 2026	Hearing transcript	Applicant's counsel (Ex. 114, pp. 9–10): the issue "has been sort of hiding in the weeds for a long time … no one's ever raised it before."

In 2014–2017 the record shows corridors were expected to have ample room before failure, and the County's concurrency work was about intersections.

- **The corridor standard was built with ample room before failure.** The Board's example corridor was at 50%: "if the LOS standard is 90%, we're not in failure" (Exhibit D, 0:04:39). It "has 40 more percent points to go before it goes into failure" (Exhibit E, 0:05:08). Corridors were to be color-coded, with green meaning "there's plenty of capacity left, highly unlikely it will fail anytime soon" (Exhibit D, 0:05:09).
- **The 2014 standard was adopted as a package with a smaller capital plan and lower impact fees.** The ordinance says so: "because the change in the concurrency standards will impact traffic impact fee (TIF) rates, the new concurrency standards will go into effect the same time the revised Capital Facilities Plan (CFP) is adopted" (Exhibit H, p. 1). The new standard was expected to "reduce the CFP," after which "you would recalculate the traffic impact fees based on that lower level of CFP." Schulte: "Right. That's correct." (Exhibit C, 0:37:58, 0:39:01). Staff "set out to cut about 150 million from the bottom line" (Exhibit D, 0:48:15). The advisory board was told "Traffic Impact Fee (TIF) rates will decrease when a revised CFP is adopted later this year," and that "[t]he BOCC approves of the VTC ratio and the downsized CFP" (Ex. 75, minutes pp. 1–2).
- **Concurrency money was aimed at intersections.** Schulte: "this table helps keep mobility on the links, on the segments. We still have issues at individual intersections not having capacity… Urban arterial intersections. We're proposing about $20 million a year that would be money we could move to fix intersections if they do begin to fail" (Exhibit D, 0:28:17).
- **The 2016–2017 code work was about individual intersection approaches, not corridors.** Mr. Jardin showed the Council "a large development using the current exemptions to justify compliance": a stop-controlled approach at LOS F with a v/c of 0.62, and "no mitigation was required" (Exhibit F, 0:26:54). The problem was that "the projected volume-to-capacity ratio of 0.9 is very difficult to achieve," so "we may have some missed opportunities to require or get mitigation from development" (0:32:21). The Council closed that gap by ordinance (Exs. 79, 80, 85).
- **Nothing in the record from that period mentions a corridor override.** In 2016, staff and the Director were before the Council specifically to fix how a v/c test let developments avoid mitigation. If corridors over 0.90 had been cleared by Director direction since 2014, that practice would have been directly relevant. It was not mentioned at the 2016 session.
- **The 2014 plan for failing corridors was monitoring and prioritization, not an override.** The new standard was expected to "reduce the CFP" (Exhibit C, 0:37:58), and staff "set out to cut about 150 million from the bottom line" (Exhibit D, 0:48:15). In place of the dropped projects, the Board was promised an annual status report "so you will know when … road segments are nearing failure, and then we can move monies around as needed to resolve those issues" (Exhibit E, 0:06:37). That reporting has not continued: a records request for the Council's annual corridor reviews returned nothing for six years (Exhibit M). Mr. Jardin described the test as comparing existing volumes "to the capacity that's allowed" (Ex. 75, minutes p. 1). The record shows no need for an override in 2014.

Three conclusions follow:

1. If a Director ever directed staff to judge corridors by their intersections, it fits only the pre-2014 travel-speed standard, where intersection delay was part of the corridor measure. That standard was repealed in 2014.
2. In 2014 Mr. Jardin was the Concurrency Engineer and helped prepare the Board presentation materials (Exhibit J, p. 1). Staff told the Board the opposite of what he now says they were directed to do that same year.

3. When a concurrency provision did not work, Mr. Jardin took it to the Board. The record does not show that he did for this one. Nothing in the record shows the practice was ever authorized; the record shows no challenge before the 174th Street hearing.

Point 7 — No Record Shows Anyone With Authority Adopted This Practice

The code says who decides and how. The County has produced no record that any of it happened.

In 2016 Mr. Jardin described to the Council the very process this practice skipped.

What Mr. Jardin told the Council, Oct. 12, 2016 (Exhibit F)	What he says now
"Volume-to-capacity levels, uh, those are established, uh, uh, by approval through the board" (0:01:57).	The v/c standard "is not binding," and staff may evaluate corridors "outside of the code's prescriptive measures" (Exhibit J, pp. 2–3).
When a standard stands in the way, "staff has approached the board about, uh, about concurrency changes, uh, trying to help development move forward, maybe, uh, uh, changing some standard, uh, travel times, levels of service to allow development to occur" (0:01:57).	A Director directed staff to clear failing corridors "in the 2014 time frame," with no Board action (Ex. 68, pp. 1–2; Ex. 113, pp. 1–2).
A standard can "restrict development until, uh, public infrastructure, transportation infrastructure is in place" (0:01:57).	Development proceeds on corridors over 0.90 with no improvement in place or funded (Point 1).
Before 2010 a developer "had to volunteer to build the infrastructure that was deficient or wait for the county to build it" (0:01:57).	Failing corridors are cleared by recalculating capacity, with nothing built (Point 5).
He was there to bring the 2010 intersection exemption problem to the Council, which fixed it by ordinance (Exs. 79, 80, 85).	The record does not show the corridor practice was ever brought to the Board (Point 6).

- **The timing matters.** These statements came two years after the 2014 date Mr. Jardin now gives for the override. Describing to the Council how concurrency standards are set and changed, he said nothing about a corridor override. If a 2014 override existed, his own account of how standards change left it out. If it did not exist in 2016, it cannot be a practice dating to 2014.
- **Others at the session said the same.** A participant explained that if a project causes "a road, intersection or corridor to fail, then they either have to wait for the county to come in and do those, or they have to suggest some mitigation" (Exhibit F, 0:16:07).

What the code requires	What the record contains
A Public Works Director determination under (F)(9)	None produced. Ex. 113 names no Director, gives no date, and cites no document. Mr. Jardin asserts the determination in Exs. 68 and 113 and approved Ex. 54, but has put nothing in this record to show it was made.
A written delegation if anyone else exercises the Director's authority	None produced. My records request (P058816, Aug. 25, 2026) asked for the Director's authorization for staff to use (F)(9) to approve developments above 0.9. The County produced one record: a delegation for Development Engineering approvals under CCC 40.540.080(A), 40.540.070(B), 40.520.040(F) and 40.550.010. It does not mention CCC 40.350.020. The County stated there are no other records (Ex. 106, pp. 1–4, 11).

What the code requires	What the record contains
A published, regularly updated manual — (G)(2) requires the standards to be "applied and interpreted as stated in the administrative manual" prepared under Section (N)	The most recent finalized/published manual is March 2011 (PRR P057715, Exhibit B, p. 1). It treats corridors as a separate test and contains no intersection override. Mr. Jardin called it "the outdated version" (Apr. 30, 2026 email, Exhibit A, p. 1), yet no newer manual exists.
Council action to change a standard — (G)(3) requires annual Council review of corridor standards and operating levels	None in the record. (G)(1)(a) was re-adopted unchanged in 2016 and 2017. A records request for the Council's annual corridor reviews returned nothing for six years (Exhibit M, *Compliance Without a Standard*).
The Director's signature on the concurrency approval — (E)(3)	Ex. 54 speaks for "the Public Works Director" but was prepared by Craig Kathol, an Engineer in Training, and approved by David Jardin, the Traffic Engineering Section Manager. Exs. 111–112 were prepared by Mr. Kathol with no review noted. Ex. 113 lists Mr. Jardin, Traffic Engineering Section Manager, as staff engineer. None is stamped. A Department of Licensing search returned no professional engineer license for Mr. Jardin (Exhibits Q, Q-1).

The one record the County did produce shows how Public Works actually delegates. It is a written form (24FORM-DEL-PW), names the specific code sections, requires the Director's approval, is "for delegating authority which exists within the current laws and regulations of the county," and states: "No additional authority may be assumed that is beyond the authority expressly granted herein" (Ex. 106, pp. 2, 4). It also states that "Delegation is for the individual, not the position," that "Sub-delegation of this authority is prohibited," and it withholds a decision the code assigns solely to the County Engineer (Ex. 106, pp. 3–4). The County produced no equivalent instrument for CCC 40.350.020. The request named no employee. It asked for "the document from the Public Works Director providing authorization for Staff to use F(9) of the Concurrency code (or other authorization without citing the code) to recommend concurrency approval for developments with v/c ratios above .9" (Ex. 106, p. 1). The County identified one record, the Development Engineering delegation, and stated "there are not any additional known responsive documents" (Ex. 106, p. 1). Asked a follow-up, it replied that "[t]he previously provided policy is responsive" and that "[t]he PRA does not require that I answer questions about the provided responsive records" (Ex. 106, p. 11). If an authorization exists, it has not been made public and is not in this record. A member of the public should not need to know the County's organization, or guess which employee to name, to learn who is authorized to run a state-mandated concurrency program. The code requires the method to be published ((N)(3)), the County's own form requires delegations to be in writing (Ex. 106, pp. 2–4), and the applicant bears the burden of showing the standards are met (Ex. 110, pp. 1–2).

Nothing connects the Director's authority to the staff who acted here. CCC 40.350.020 assigns its determinations to the Public Works Director. The only delegation the County produced was granted by Jeremy Provenzola to Dan Kaler, with approval by Public Works Director Ken Lader. It covers construction plans and road modifications, not CCC 40.350.020, and it prohibits sub-delegation (Ex. 106, pp. 2–4). Nothing in this record, and nothing the County produced in response to a records request, delegates concurrency authority from any Director to Mr. Jardin or Mr. Kathol. Yet Mr. Kathol prepared the concurrency report and the capacity calculations, and Mr. Jardin approved the report and issued the response (Exs. 54, 111–113).

Even a proper delegation or manual could not do what staff are doing.

- A delegation passes along authority the code gives. The code gives no one authority to set aside (G)(1)(a).

- Under (N)(5), if a manual conflicts with the section, "the provisions of this section shall control."
- Mr. Jardin told the Council on Oct. 12, 2016 that standards "are established, uh, uh, by approval through the board" and that staff have "approached the board about, uh, about concurrency changes" many times (Exhibit F, 0:01:57). He then took the 2010 exemption problem to the Board by ordinance (Point 6). The record does not show he brought this practice to the Board, yet he now attests that staff have applied it since 2014.
- **Staff told the Board the standard is not staff's call.** Schulte, Aug. 21, 2013 (Exhibit C, 0:28:33): "The actual setting of the level of service standards, that is a board and community call. It's not a staff's call."

Point 8 — The Concurrency Reports Changed After the Examiner Asked. The Code Did Not.

After the Examiner in 174th Street asked what in the code allowed the practice, staff rewrote their corridor findings mid-hearing. That rewrite became boilerplate, including in this case. CCC 40.350.020 was not amended in between. (Exhibit M)

	Before: 174th Street report, signed Apr. 21, 2026 (Ex. 66, p. 5)	**After: 174th Street reissue (Ex. 67, pp. 4–5) and Heartwood North (Ex. 54, p. 5), both May 21, 2026**
Failing segments	Five, listed	The same five, in the same sentence
Clearing language	"does not represent roadway deficiencies, rather corridor mobility facilitated with good intersection LOS"	The same words
Code authority cited	None	(F)(9), the first time in any finding reviewed
New language about road capacity	None	The code "establishes baseline service levels under ideal conditions," and "there are real-world influences that also affect roadway capacity," with HCM adjustment factors listed (Ex. 54, p. 5)

- **The same staff apply two different rules.** On Apr. 2, 2026, concurrency staff told the applicant that because the NE 132nd / NE 119th intersection fails, it "shall prepare and submit a volunteer letter" ensuring the improvements "are constructed and operational prior to approval of the final plat," and that without one, "staff will be unable to show how the development impacts will be mitigated … and may result in a concurrency denial" (Ex. 12, p. 4). The same study showed three corridor segments over 0.90. Staff did not flag them. They cleared them first on intersection LOS (Ex. 54, p. 5) and then on recalculated capacity (Exs. 111–112), using methods found in neither the code nor the manual. A failing intersection obligates the developer to pay for a fix. A failing corridor is excused by a method staff devised.
- **When the Examiner asked, staff changed the justification, as they did in 174th Street.** In 174th Street, after the Examiner asked on Apr. 23 what code provision allowed the practice, staff reissued the report with (F)(9) and HCM capacity language (Ex. 69, p. 6; Ex. 67, pp. 4–5). Here, after the Examiner asked on Sept. 10 for "a professional opinion about really why under the circumstances of this particular road segment, these other factors are X, Y, and Z" (Ex. 114, p. 9), staff came back with HCM capacity recalculations (Exs. 111–112) instead of the intersection-LOS rationale in Ex. 54.

- **The new language is aimed at capacity.** Before May 21, 2026, no finding reviewed questioned the capacities in Table 40.350.020-1. The rewrite recast the code's capacities as "baseline service levels under ideal conditions" and asserted "real-world influences that also affect roadway capacity." That is the groundwork for staff's later claim that they can change the capacity itself (Point 5).
- **It is boilerplate, not analysis.** The "before" text appears word for word in Four Creeks North (Dec. 24, 2025; Exhibit U, p. 21) and Three Creeks East (Jan. 7, 2026; Exhibit V, p. 25). By Aug. 26, 2026 the new (F)(9) and capacity language appeared even in a report whose corridors passed the prescriptive test (Pleasant Wood North, Exhibit X, pp. 20–21). Different applicants, different traffic engineers; only the street names change. The same sentence appears in Kittelson's TIA for this project (TIA p. 30).
- **It kept moving.** By July 2026 findings described an evaluation "outside of the code's prescriptive measures" (Livingstone Meadows, Exhibit K, pp. 15–16), and again in August (NW 9th Avenue Subdivision, Exhibit W, pp. 3–4). By Aug. 31, 2026 the factors were applied "in lieu of the code-prescribed threshold values" (Andersen Dental, Exhibit L, p. 20).
- **The numbers disappeared.** Earlier findings with the same clearing sentence reported the ratios. Recent ones, including Heartwood North, do not.

Finding	Date	Ratio stated
Legacy Village II (Exhibit T, p. 10)	June 2023	1.13
Salmon Creek Terrace (Exhibit T, p. 3)	Mar. 2024	1.03, 0.99, 1.24
Mill Creek Terrace (Exhibit T, p. 18)	June 2024	"greater than 0.9"
2025–2026 findings, including Heartwood North (Ex. 54, p. 5)	2025–2026	None given; "greater than 0.9" at most

A segment at 1.24, 38% over the maximum, was cleared with the same sentence used for segments just over 0.90. As the findings are now written, the Examiner cannot tell the two apart.

- **Staff's own findings said these segments needed study before investment.** The same findings that cleared them added: "the reported v/c in the applicant's traffic study should be used 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" (Exhibit T, pp. 3, 10, 18). The failures were acknowledged, and the developments were approved anyway.

Point 9 — The Traffic Study May Understate the Problem

Two licensed engineers report different results for the same corridors, and Kittelson's are lower. That suggests traffic may be missing from the operating level. If so, the failures shown are a floor, not a ceiling.

Corridor	Kittelson TIA (2029 PM, Table 9, pp. 29–30)	PLS Engineering, Daniel Stumpf, PE (Ex. 65, p. 3)
NE 119th St east of SR 503	Fails only from SR 503 to NE 124th (EB 1.10). 0.81 to NE 132nd; 0.85 to NE 152nd.	Fails from SR 503 to NE 152nd Ave (0.97 to 1.10, PM).
NE 99th St, SR 503 to NE 124th	EB 0.99, WB 0.97. PM peak only.	0.92 to 1.01, AM and PM.
NE 152nd Ave near NE 99th	0.77 NB (NE 99th to NE 111th).	0.93 PM (NE 99th to Padden Pkwy).
SR 503	Not evaluated as a corridor.	0.928 to 1.066, AM and PM.

- **The operating level must include all approved, unbuilt development.** Section (F)(5) requires "the traffic impacts of other approved developments not yet fully built-out," and (E)(2) tests applications in order of their fully complete dates. Kittelson used the 16 in-process developments "provided by Clark County staff" (TIA pp. 16–17, Table 5). Nothing in the record shows that list is complete, or reconciles it with the other studies.
- **Stumpf's figures come from other developments' traffic studies.** His memo draws on 27 studies prepared over five to eight years (Ex. 65, p. 2). Different studies counted different in-process traffic and found higher ratios on the same roads.
- **Kittelson tested corridors in the PM peak only.** Stumpf reports NE 99th and SR 503 failing in the AM as well. The Manual says "any peak traffic period during the day can be tested" (Exhibit A, p. 4).
- **Staff checked in the wrong direction.** Before relying on any finding, staff should confirm that every approved, unbuilt development is counted. Instead, they recalculated capacity upward. Any missing traffic makes these corridors worse, not better.
- **The study area was chosen, not set by the code.** In practice, studies select which intersections and corridors to analyze instead of covering the radius the code requires (Ex. 64, § I). Ex. 113 defends the narrower scope by asking whether the County could find a "nexus" to require mitigation or deny the project (p. 3). That is the wrong question. The study area exists to find concurrency problems early, by analyzing "the projected impact of the proposed development upon the current operating level" of each affected corridor ((D)(2)(b)), not to decide what a developer can be charged.
- **Small increments add up, and no one is looking.** Ex. 113 treats locations receiving "5 or less trips" as having "minimal impact" and leaves them out of the study (p. 3), and (G)(1)(c) does not require a development to mitigate at a failing approach unless it adds at least five trips. Applied one development at a time, with background growth layered on ((F)(8)), these rules mean a location that many developments each add a few trips to is never studied and never mitigated. It degrades in increments that no single study captures. The code's safeguard is the Council's annual review of corridor standards and operating levels ((G)(3)). A records request returned no such review in six years (Exhibit M).

Point 10 — The TIA Did Not Evaluate SR 503 as a Corridor, Though the Code Requires It

(G)(1)(a) requires that corridor "measurements shall also be made for state highways of regional significance." Kittelson's own study says County performance requirements apply "at the study intersections along SR 503," and it measured SR 503 only at those intersections. Heartwood trips heading west on NE 119th and NE 99th reach SR 503, and the County has known for more than a decade that SR 503 is a problem.

Date	Source	What it shows
Feb. 12, 2014	Board work session (Exhibit D, 0:25:07, Schulte)	"We're not adding any north-south capacity on 503." Over the next 20 years, the only new north-south capacity planned was on NE 72nd.
Feb. 12, 2014	Same session (0:37:09, Schulte)	Describing a capital project at the Padden Parkway / SR 503 interchange: "Padden Parkway, SR 503, will be failing in the future."

Date	Source	What it shows
Feb. 12, 2014	Same session (0:52:30, Wright)	The Padden Parkway / SR 503 interchange was not expected within the 20-year horizon. NE 99th from NE 107th to SR 503 would get spot improvements instead of a full three-lane widening.
Oct. 12, 2016	Council work session (Exhibit F, 0:55:04)	A participant: "We did the emergency resolution here recently to address 182nd and 503."
Feb. 12, 2026	Kittelson TIA, p. 6	SR 503 is not a highway of statewide significance, so "County performance requirements apply at the study intersections along SR 503." No SR 503 corridor segment appears in Tables 3, 6 or 9.
May 11, 2026	PLS Engineering, Stumpf, PE (Ex. 65, p. 3)	SR 503 at 0.928 to 1.066, UGA north boundary to NE 65th St, AM and PM.
May 21, 2026	Concurrency report (Ex. 54, p. 7)	SR 503 / NE 99th exceeds one crash per million entering vehicles (75 crashes). The project adds 43 AM and 56 PM peak trips there. No mitigation recommended.
Sept. 2026	WSDOT comments (Exhibit R, pp. 1, 3; County response form printed Sept. 17, 2026, marked draft)	WSDOT's SR 503 Corridor Plan shows SR 503 / NE 119th "reaching failure in PM peak-hour," and the westbound approach already exceeds level of service standards.

- **Ex. 113 does not fix this.** It says an applicant may ask to limit a study's scope under (D)(8), and relies on "the submitted scoping memo" (Ex. 113, p. 3). No scoping memo or (D)(8) determination is in the TIA, which says the study area was set by "a review of existing travel patterns and consistency with the scope of analysis prepared for the approved Heartwood Subdivision to the south" (TIA p. 5). And this project adds dozens of peak-hour trips to SR 503 (Ex. 54, p. 7).
- **The County has known for over a decade.** In 2014 the Board was told no north-south capacity was coming on SR 503 and that the Padden Parkway / SR 503 interchange would fail. In 2026 WSDOT reports SR 503 / NE 119th reaching failure.
- **A complete operating-level analysis must include SR 503.** Until it does, the concurrency finding is incomplete, and on Ex. 65's figures SR 503 fails too.

If the Applicant Raises These Objections

If the applicant raises any of the following objections, none changes the result. Most are arguments about whether the code is good policy or complies with the GMA. Those belong to the Council or the Growth Management Hearings Board, not to this hearing (see "The Examiner's Role," below). Applicant's counsel has already described the provision as a "glitch" for the Council to fix (Ex. 110, pp. 4–5).

Objection	Response
The code is a "glitch," and applying it as written would be absurd.	Unambiguous code is applied as written (*Dep't of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1 (2002)). Denying development on failing roads until they are fixed is exactly what the Council said the code is for (Exs. 80, 85, recitals) and what the Board was told in 2011–2017 (Point 3). A result the legislative body intended is not absurd. Counsel's own remedy is a Council fix (Ex. 110, pp. 4–5).
Intersections are the choke points, so corridor capacity does not matter.	The Board considered this and built intersection spacing into the capacity numbers (Exhibit C, 0:16:57), keeping intersection standards as a separate safety net (Point 3). Here the bounding intersections fail anyway (Point 5; Exhibit R).

Objection	Response
Applying the code as written leaves no way to mitigate, contrary to RCW 36.70A.070(6).	Mitigation is available here. NE 119th and NE 99th are two-lane minor arterials: Table 40.350.020-1 gives them 900 vph, and 1,800 vph as four-lane minor arterials. The code also allows volunteered mitigation ((E)(5); CCC 40.350.030(B)(6)(a)) and credits funded improvements ((F)(6)). Ex. 113 (p. 2) says the applicant "could volunteer mitigation." The applicant has not. But mitigation is a means, not the end. The code's purpose is to "ensure that such standards are met or reasonably funded before new development is approved" (CCC 40.350.020(A)), and (E)(3) conditions approval on operating levels that meet the (G) standards. Mitigation under (E)(5) that only keeps a road from getting worse does not satisfy that gate. The 2011 Manual says the same: the applicant "must substantiate that the mitigation will remedy the problem and restore the intersection or corridor delays to an acceptable level-of-service," and if no mitigation does, "staff will recommend denial" (Exhibit A, p. 5). In practice the County treats concurrency as a way to share costs: in 2016 the Transportation Division Manager framed the exemption problem as "the risk to Clark County to have to pay for large improvements on our own without those developers participating" (Exhibit F, 0:49:40), and over time staff have moved from requiring mitigation that restores the standard to accepting mitigation that leaves a facility no worse than before. Before 2010 a developer "had to volunteer to build the infrastructure that was deficient or wait for the county to build it"; by 2016 staff described mitigation that "brings it back to a pre-development, uh, level of service F" as sufficient (Exhibit F, 0:01:57, 0:08:56). Exhibit O explains why that is cost allocation, not concurrency. The GMA requires the road to meet the standard, not just that a developer contribute toward it.
Widening would destroy homes and is not needed.	That is a policy choice for the Council and the capital plan, not a reason to approve development on roads that fail the adopted standard. The Board was promised annual monitoring so fixes could be funded before roads failed (Exhibit E, 0:06:37).
The County has approved development this way for years.	Past approvals are not before the Examiner, and an unchallenged practice is not an authorized one (Points 6–8). The Examiner "can't be more stringent nor more lenient" than the code (Ex. 110, pp. 1–2).
No engineering testimony shows the corridors fail.	The applicant's own PE-stamped study (TIA pp. 29–30), reaffirmed by its engineers (Ex. 107, p. 4), and a second PE (Ex. 65, p. 3) report the corridors above 0.90. Staff's contrary numbers come from unstamped memos by an Engineer in Training (Point 5; Exhibit P).
Denial conflicts with the GMA housing goal.	GMA goals "are not listed in order of priority" (RCW 36.70A.020), and Goal 12 requires facilities "adequate to serve the development at the time the development is available for occupancy … without decreasing current service levels below locally established minimum standards" (RCW 36.70A.020(12)). Concurrency under RCW 36.70A.070(6)(b) is a mandatory requirement. Housing targets are addressed in the Comprehensive Plan, not by approving one subdivision on failing roads.
Denial would be a de facto moratorium under RCW 36.70A.390.	See "Denial is not a countywide moratorium" under The Examiner's Role. A requirement that roads be adequate before development is not a moratorium, and only the Council can adopt one ((G)(4)). If the applicant cites *Skagit D06*, it is an unpublished 2012 opinion with no precedential value (GR 14.1(a)), and the ordinances there, which conditioned development on adequate sewer capacity, were found not to be a moratorium.
The Examiner should wait for an interim ordinance, and the applicant will waive vesting.	No interim ordinance was adopted (Ex. 110, pp. 4–5). The application is decided under the code in effect when it vested (Ex. 110, pp. 1–2).
The 174th Street decision approved the same practice.	It is not binding, as applicant's counsel acknowledged. The Examiner noted it contains little analysis (Ex. 114, p. 9). It is on appeal (Exs. 93, 104).

The Examiner's Role: Returning to the Question Before Him

The applicant's arguments invite the Examiner to decide questions that belong to other bodies: whether the corridor standard is a "glitch," whether it serves the GMA, and whether it should be changed. The Examiner described his role at the June 11 hearing. This submission asks only that the application be decided on the terms he set out.

Who	When	What was said
Examiner Kearns	June 11, 2026 (Ex. 110, p. 1)	"We are independent land use lawyers. We are not county employees. We are not staff. We are independent. We provide an unbiased, independent evaluation of these proposals." The task is to "determine if there is sufficient credible evidence to demonstrate that each of those standards is met or can be met through conditions of approval."
Examiner Kearns	June 11, 2026 (Ex. 110, pp. 1–2)	The code standards "control the outcome." Examiners "can't be more stringent nor more lenient than those standards allow." "The applicant has the burden of proof, the burden of proving that they meet the applicable approval standards."
Applicant's counsel (Morasch)	June 11, 2026 (Ex. 110, pp. 4–5)	"There's basically a glitch in the county's concurrency ordinance and the ordinance. It says that that roads shall meet 9/10 volume capacity on the corridor. And this 119th doesn't." Staff's reading is "a little bit at odds with some of the language in the code." "We'd rather not get a denial if there's a code fix that's, you know, in the in the works."
Examiner Kearns	Sept. 10, 2026 (Ex. 114, pp. 5–9)	The corridors "clearly don't" meet the standard. (F)(9) is "so like open ended so that it's almost an exception that consumes the rule." Looking at "the underlying purpose behind concurrency, which comes out of the Growth Management Act … I think their points are valid." "I am doubtful that I could rule the same way that Mr. Turner ruled."

- **The applicant's GMA arguments are for another forum, as its counsel recognized.** Whether a development regulation complies with the GMA is decided by the Growth Management Hearings Board, and adopted regulations are presumed valid (RCW 36.70A.280, .290, .320(1); *Woods v. Kittitas County*, 162 Wn.2d 597, 174 P.3d 25 (2007)). Whether the standard should change is for the Council. Applicant's counsel said as much in June when he asked for time to pursue a code fix (Ex. 110, pp. 4–5).
- **No code change has come.** None was adopted. What came back instead was Exs. 111–113.
- **Staff recommend; the Examiner decides.** Ex. 54 and Ex. 113 are staff recommendations. As the Examiner explained, the question is whether there is "sufficient credible evidence to demonstrate that each of those standards is met" (Ex. 110, p. 1).
- **The question returns to the code as adopted.** The Examiner observed on September 10 that the (F)(9) catch-all is "so like open ended so that it's almost an exception that consumes the rule" (Ex. 114, p. 9). Applying CCC 40.350.020 so the 0.90 standard keeps its effect answers the question actually before him.

Denial is not a countywide moratorium. It is concurrency working as intended, applied to this application.

Applicant's counsel argued on September 10 that denial would be a "de facto moratorium" because other corridors in the County also exceed 0.90 (Ex. 114, p. 9). That is not the question before the Examiner.

- **The Examiner decides this application, on this record.** Whether another development passes or fails is decided in its own review, on its own traffic study. A moratorium is a legislative act the Council alone may take under (G)(4) and RCW 36.70A.390. A denial of one application is not.

- **Concurrency is road-specific.** A finding that NE 119th, NE 99th and SR 503 exceed 0.90 is a finding about those roads. The memo counsel relies on (Ex. 65, p. 3) lists specific corridors in specific areas, not the whole County.
- **Other applicants still have paths forward.** The code allows volunteered mitigation ((E)(5); CCC 40.350.030(B)(6)(a)), credits improvements funded and scheduled for completion of construction within six years ((F)(6)), and lets a development proceed once capacity is built. Ex. 113 (p. 2) itself says the applicant "could volunteer mitigation."
- **The code itself says denial is available.** CCC 40.350.030(B)(6): "nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020." Staff quote this provision in their own findings (Exhibit T, pp. 4, 11, 19, 26).
- **The County has dealt with this before, area by area.** Schulte told the Board in 2013 that the County's concurrency history was "dominated by Pipeline 1" and two more events "in Salmon Creek in '04 and '07" (Exhibit C, 0:02:38). On September 10 the Examiner recalled that the pipeline projects "were forced to stall and … come up with a comprehensive mitigation plan" (Ex. 114, p. 10).
- **This is the result the Council wrote into the code.** The code "attempts to delay development in areas served by roads failing concurrency until the condition can be improved or mitigated" (Ords. 2016-10-11 and 2017-04-13, Exs. 80, 85, recitals). The Board was promised annual monitoring so money could be moved before roads reached failure (Exhibit E, 0:06:37). That this did not happen is a reason to fund fixes, not to approve development on failing roads.
- **Counsel identified the remedy himself.** On June 11 he asked for time to pursue a code change (Ex. 110, pp. 4–5). Changing the standard is for the Council, not this hearing.

Requested Decision

Deny PLD-2025-00114 under CCC 40.350.020(C), (E)(1), (E)(3) and (G)(1)(a). Three corridor segments exceed 0.90 on the operating level the code defines, so a concurrency approval cannot issue.

Find that Exhibits 111–113 are not a lawful basis for approval, because they:

1. replace the capacities fixed by (G)(1)(a) and Table 40.350.020-1 with staff's own numbers;
2. use volumes lower than the Section (F) operating level, without explanation;
3. rely on (F)(9), which adds inputs and does not override (G)(1)(a); and
4. rest on a Director determination that no one can identify, date, or produce.

The decision should also address three other failures in the record. The denial rests on (G)(1)(a). But the record also shows:

1. NE 124th and NE 132nd Avenues at NE 119th operating below the LOS D standard that applies where signal warrants are met ((G)(1)(c); Point 5);
2. SR 503, which the code requires to be measured as a corridor, not evaluated by the TIA ((G)(1)(a); Point 10); and
3. a study area set by the consultant's choice of locations rather than the code's radius, with no (D)(8) determination in the record, under a practice that lets locations degrade through small increments no single study captures (Point 9).

Each shows that the concurrency review in this case did not apply the code as written.

Notes on the Record and Exhibits

This submission builds on my prior submissions in this record (Exs. 63–88 and 104–106). Items already in the record are cited by exhibit number and not repeated. Page cites refer to the page of the exhibit as filed. The Kittelson study is cited as "TIA" (Ex. 1, Application Package, item 13) with its own page numbers.

The Board and Council transcripts (Exhibits C, D, E and F) are cited by timestamp. They were prepared and certified by a third-party transcription service (Scribie). In addition to that certification, I have listened to each recording multiple times and confirmed the transcripts are accurate. Each transcript is labeled with the file name of its audio recording; the exhibit list identifies the meeting and date for each. The County's meeting pages with links to the audio are Exhibits C-1, D-1 and F-1. The Aug. 19, 2014 recording is not available on the County website (Exhibit E-1); Exhibit E-2 is the Washington State Archives correspondence showing where it was obtained.

New exhibits, lettered A–X, are listed below.

Exhibits Attached

Exhibit	Document	Cited in
A	Clark County Concurrency Administrative Manual, March 2011 (as produced, with D. Jardin's Apr. 30, 2026 transmittal email)	Points 2, 3, 5, 6, 7, 9; Objections
B	Public Works response to PRR P057715, July 14, 2026 (2011 Manual is the most recent finalized/published)	Points 2, 5, 7
C	Certified transcript, Board of County Commissioners concurrency workshop, Aug. 21, 2013. Labeled "Concurrency," the file name of the County's audio recording of that session (Exhibit C-1). The opening reference to "20 August" is a misstatement; the County's meeting page lists the session on Aug. 21, 2013 (Exhibit C-1).	Purpose; Examiner's Role; Points 2, 3, 5, 6, 7; Objections
C-1	Clark County Council meeting page, Aug. 21, 2013, with links to the audio	Executive Summary
D	Certified transcript, Board work session, Feb. 12, 2014. Labeled "WS021214" (work session, 02/12/14), the file name of the County's audio recording (Exhibit D-1).	Purpose; Points 2, 3, 5, 6, 10
D-1	Clark County Council meeting page, Feb. 12, 2014, with links to the audio	Executive Summary
E	Certified transcript, Board public hearing adopting Ord. 2014-08-09, Aug. 19, 2014. Labeled "4_public_hearing-concurrency," the file name of the recording provided by the Washington State Archives, which identifies it as the "August 19, 2014-Public Hearing on Concurrency" (Exhibit E-2).	Purpose; Examiner's Role; Points 2, 3, 5, 6; Objections
E-1	Clark County Council meeting page, Aug. 19, 2014 (no audio available on the County website)	Executive Summary
E-2	Washington State Archives correspondence, Sept. 18–22, 2026, providing the Aug. 19, 2014 recording	Executive Summary
F	Certified transcript, County Council concurrency work session, Oct. 12, 2016. Labeled "101216WS_Concurrency" (10/12/16, work session), the file name of the County's audio recording (Exhibit F-1).	Purpose; Executive Summary; Points 3, 6, 7, 10; Objections
F-1	Clark County Council meeting page, Oct. 12, 2016, with links to the audio	Executive Summary
G	Ordinance 2010-08-06	Point 6
H	Ordinance 2014-08-09	Points 3, 4, 6
I	Staff response to public comments, 174th Street Subdivision (PLD-2026-00002), May 21, 2026 (filed in the 174th Street record as Ex. 141)	Point 6

Exhibit	Document	Cited in
J	D. Jardin open-record comment, 174th Street Subdivision (PLD-2026-00002), June 4, 2026 (filed in the 174th Street record as Ex. 144)	Points 2, 3, 4, 5, 6
K	Concurrency findings, Livingstone Meadows (PLD-2025-00106), Finding 21, July 8, 2026 (pp. 15–16)	Points 5, 8
L	Concurrency findings, Andersen Dental (PSR-2026-00006), Aug. 31, 2026 (pp. 20–21)	Points 4, 5, 8
M	*Compliance Without a Standard* (Heidi Pozzo), Comprehensive Plan index	Points 4, 5, 6, 7, 8, 9
N	*The 2014 Corridor Concurrency Standard Is Being Set Aside Without Council Action* — Corridor Override Origin Memo (Heidi Pozzo), Sept. 28, 2026	Points 3, 5, 6
O	*Transportation Concurrency as Administered* memo (Heidi Pozzo), Oct. 1, 2026	Point 7; Objections
P	Washington State Department of Licensing license lookup, Sept. 7, 2026: Craig A. Kathol, Engineer in Training, license no. 35616, Active	Points 5, 7; Objections
Q	Washington State Department of Licensing search, Sept. 7, 2026: Professional Engineer; David Jardin; Clark County; Active. No results.	Points 5, 7
Q-1	Washington State Department of Licensing search, Oct. 6, 2026: Professional Engineer; last name Jardin; no county or status filter. No results.	Points 5, 7
R	WSDOT Southwest Region comments and County responses on the Comprehensive Plan Transportation Element and Capital Facilities Plan (County response form printed Sept. 17, 2026 and marked "DRAFT – For internal discussion only," as posted on the Clark County Council's Comprehensive Plan webpage)	Points 1, 5, 10; Objections
S	*Clark County Public Works Directors, 2010 to Present* (Heidi Pozzo), compiled Oct. 4, 2026 from Clark County news releases and published news reports, with source links	Point 6
T	Public Works response to PRR P059078: concurrency findings for Salmon Creek Terrace (PLD-2023-00069, Mar. 12, 2024), Legacy Village II (PLD-2022-00120, June 21, 2023), Mill Creek Terrace (PLD-2024-00015, June 19, 2024) and South Ridge Central Apartments (PSR-2023-00158, Oct. 17, 2023)	Point 8; Examiner's Role
U	Staff Report and Recommendation, Four Creeks North Subdivision (PLD-2025-00040), Dec. 24, 2025	Point 8
V	Staff Report and Recommendation, Three Creeks East, Jan. 7, 2026	Point 8
W	Concurrency Staff Report, NW 9th Avenue Subdivision (PLD-2025-00021), Aug. 7, 2026 (Ex. 47 in that case)	Point 8
X	Staff Report and Recommendation, Pleasant Wood North Subdivision (PLD-2026-00021), Aug. 26, 2026 (Ex. 49 in that case)	Point 8

Measuring the Leap

Supplemental Submission — Heartwood North (PLD-2025-00114) — Submitted by Heidi Pozzo — Before Hearing Examiner Daniel Kearns

October 8, 2026

Summary

Staff are replacing the corridor standard with their own practice, one development at a time. Exhibit 113 is not another step. It is a leap.

Before October 1, 2026, the County's filings on the corridor standard took two forms. Some claimed that staff's practice complied with the code. Others admitted it operated "outside of the code's prescriptive measures." Both treated the code's own measurement as showing a ratio over 0.9. Ex. 68 called that result an exceedance that "may appear" when intersections are working. The dispute was whether staff could look past it.

Exhibit 113 drops the premise. It is the first County filing in this record to say that these segments do not exceed 0.9 at all, and the first to show a calculation that gets there by computing its own capacity. In the same filing, staff retreat from the summer's admissions, describe the code as the "conservative" option among several, state that (F)(9) "does not dictate how staff evaluates" the factors, and describe as practice "since the 2014 time frame" a capacity calculation dated September 18, 2026 and first entered in this record on October 1.

Nothing remains of the code. Over the summer, staff called the standard "not binding" and applied factors "in lieu of the code-prescribed threshold values." Exhibit 113 brings the 0.9 back only after everything it is applied to has been made to vary. Staff choose the volume, compute the capacity and select the method, case by case.

The people the code puts in charge have been written out. The Council adopted a fixed, objective standard, and staff told the Council in 2016 that standards are set "by approval through the board." This practice was never brought to it. The code makes the Public Works Director responsible for the method and the approval, yet nothing from any Director has been produced, in this record, in the 174th Street record, or in response to a public records request for the Director's authorization (Ex. 106). Staff decide.

And it is spreading where it can least be undone. Staff are already offering the method to new applicants before their studies are written. It is being applied where the County lifted the overlay that held development back until the roads were built, and where the County's own budget shows its road program is short.

This supplement is filed with my Concurrency Submission and cites its exhibits (A–X).

I. Where the Window Stood Before Exhibit 113

Through September 10, the record conceded that the ratio, measured as the code directs, was above 0.9. The County's own filings differed only in how they described the authority to look past it.

Date	Speaker	What was said
May 21, 2026	County concurrency staff report (Ex. 54, p. 5)	The corridors "will have a volume to capacity (v/c) ratio of greater than 0.9," yet the evaluation allows staff "to create an affirmative finding of compliance with CCC 40.350.020(G)(1)(a) and Table 40.350.020-1."

Date	Speaker	What was said
May 21, 2026	Mr. Jardin (Ex. 68, pp. 1–2)	The code "allows the county the authority to use best engineering practices"; staff use the ratio "as an initial screening tool/indicator … not as an absolute"; the 174th Street corridors "provide operational capacity." Claims code authority while dismissing the exceedance as one that "may appear to be exceeded even when intersection operations remain within acceptable limits" (p. 2).
June 4, 2026	Mr. Jardin (Exhibit J, pp. 2–3)	"Staff's analysis outside of the code's prescriptive measures on corridor capacity was performed in compliance with CCC 40.350.020(F)(9)"; "staff did not use the prescriptive volume threshold"; the ratio "is not binding or a 'flat prohibition.'"
July 8 – Aug. 7, 2026	County findings, Livingstone Meadows and NW 9th Avenue (Exhibit K, pp. 15–16; Exhibit W, pp. 3–4)	"An evaluation outside of the code's prescriptive measures on corridor capacity in compliance with CCC 40.350.020(F)(9)."
Aug. 31, 2026	County findings, Andersen Dental (Exhibit L, p. 20)	Factors "may be considered and applied in lieu of the code-prescribed threshold values when determining compliance with, or acceptable levels of service under, CCC 40.350.020(G)."
Sept. 10, 2026	County staff and the Examiner (Ex. 114, pp. 5–6)	Staff: "So these corridors don't necessarily meet the prescriptive method, but there are other factors that …" Examiner: "Clearly they clearly don't. I think that's fair to say." Staff: acceptable intersections "would allow more capacity through, even if the concurrency code says 1800 is the limit, or in this case, 900. 900 would be the limit."

That was the edge of the window on September 10. The County claimed authority to look past a failing ratio, and over the summer described its work as an analysis outside the code's prescriptive measures, performed under (F)(9). None of these County statements said the segments were below 0.9.

In just over five months, the County's position has moved from no code authority, to claimed code authority, to admitted departure from the code's measures, to a claim that the code's own result is merely the cautious version of staff's.

II. The Moves in Exhibit 113

1. The exceedance is erased, not excused.

Exhibit 113 reports NE 119th Street eastbound at 0.46 and NE 99th Street at 0.46 and 0.73, and concludes: "The result of the HCM analysis showed that NE 99th Street and NE 119th Street did not exceed the code required 0.9 v/c" (Ex. 113, p. 3).

Its closing conclusion, that the corridors "provide operational capacity to support the proposed development under existing and buildout conditions" (Ex. 113, p. 1), is the same sentence that ended Ex. 68 in the 174th Street case. There the sentence followed an acknowledged ratio over 0.9. In Exhibit 113 the same sentence rests on a claim that there is no exceedance. Exhibit 113 does not acknowledge that the staff report and staff's testimony on September 10 said the ratio was over 0.9.

Item 1 of Exhibit 113 repeats Ex. 68's claim that 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" (Ex. 113, p. 1). Under (G)(1)(a), a higher volume produces a higher ratio. The code treats it as a step toward failure, not as evidence of efficiency.

2. A retreat from the summer's admissions.

On May 21, the County claimed code authority for the practice (Ex. 54; Ex. 68). From June through August, its filings described the same practice as an analysis "outside of the code's prescriptive measures" that "was performed in compliance with CCC 40.350.020(F)(9)"; as "not binding or a 'flat prohibition'"; and as factors "applied in lieu of the code-prescribed threshold values." Exhibit 113 keeps the code-authority framing that Ex. 68 and the June 4 letter both used, drops the June–August admissions, and goes further:

- "Staff has not used invented methodology. Staff has used application of code and authorities granted by code to ensure that the 0.9 v/c roadway capacity is not exceeded" (p. 3).
- "Staff's application of this code section is not to reword, or to reinterpret the code" (p. 2).
- "Staff's application of the code does not override the 0.9 v/c ratio concurrency level-of-service threshold" (p. 4).

The description retreated while the method expanded. The summer filings admitted working outside the code's prescriptive measures while citing (F)(9). Exhibit 113 replaces the code's capacity, a larger change, and calls it application of the code.

3. The code becomes the "conservative" option.

Exhibit 113 lays out three paths: "whether development seeks to pursue a conservative approach to the concurrency code and follow it prescriptively, or a more robust analysis using existing real-world roadway influences in an HCM analysis is performed, or volunteering mitigation" (p. 3). It adds that "if the traffic study can show that it meet the prescriptive, more conservative threshold the more robust analysis is not necessary" (p. 4).

The 2014 standard was not conservative. It set the line at 90 percent of "full capacity, theoretical capacity" (Exhibit E, 0:05:08), and the County built its road plans around it. The ordinance tied the new standard's effective date to the revised capital facilities plan because the change "will impact traffic impact fee (TIF) rates" (Exhibit H, p. 1), and staff told the Board they "set out to cut about 150 million from the bottom line" (Exhibit D, 0:48:15). The program was built so road capacity would not be exceeded, and so that if it were, "county funds [would be] available to mitigate failures" (Ex. 75, minutes p. 2).

Calling that standard "conservative" implies a large margin above it. Exhibit 111 then claims one: it treats a lane the code rates at 900 vehicles an hour as carrying 1,900, more than twice the code. Staff are not applying a cautious version of the rule. They are writing a new rule as they go, under which the road holds more than twice what the code allows.

4. A failing result becomes a trigger, and (F) absorbs (G).

The idea that a failing result opens a second analysis began with the corridor language staff introduced on May 21. That language recast the code's capacities as "baseline service levels under ideal conditions" and asserted "real-world influences that also affect roadway capacity" (Ex. 54, p. 5; Ex. 67, pp. 4–5). On June 4, Mr. Jardin made the connection explicit: if a traffic study showed the prescriptive thresholds exceeded, "additional corridor analysis could be performed to determine acceptable operation outside of the prescriptive thresholds identified in the code" (Exhibit J, p. 2). Exhibit 113 completes it. It states that the other factors "require further evaluation" when a prescriptive evaluation exceeds 0.9 (p. 2), and that the HCM analysis "will always be in response to a potential 0.9 v/c exceedance" (p. 4). A result over 0.9 is no longer a failure to be excused. It is the event that unlocks an alternative calculation, and the code's own measurement is relabeled a "potential" exceedance.

Exhibit 113 supplies the structure that makes this possible: “the corridor and intersection operations must be determined under CCC 40.350.020(F) Determination of Operation Levels before compliance is tested under CCC 40.350.020(G)” (p. 2). Subsection (G)(1)(a) assigns only the volume to (F) and fixes capacity itself through Table 40.350.020-1 (Exhibit H, pp. 6–7). By placing the whole operating level under (F), Exhibit 113 brings capacity within the factors staff evaluate. That is the move that lets 900 become 1,900.

5. The standard is described by its required outcome.

Three times Exhibit 113 describes staff’s work by the result it must produce. The analysis “ensures that the required v/c ratio of 0.9 is not exceeded” (p. 2); staff act “to ensure that the 0.9 v/c roadway capacity is not exceeded” (p. 3); staff work “as we seek to ensure the 0.9 v/c ratio is not exceeded” (p. 4). A standard is ordinarily a test applied to a measurement. Exhibit 113 describes the analysis by the outcome it is meant to secure, not as a measurement of what the road carries.

6. The Public Works Director is written out of the code.

The code puts the Director at every decision point in this process. The Director issues the concurrency approval ((E)(3)) and decides whether to accept volunteered mitigation ((E)(5)). The Director determines any “other factors” that affect the operating level ((F)(9)). And the Director “shall establish and adopt the methodology and criteria to be used to … evaluate the operating level for each transportation corridor” and “shall publish and regularly update an administrative manual setting forth the methodology and criteria adopted” ((N)(1), (N)(3)). The standards “shall be applied and interpreted as stated in the administrative manual” ((G)(2)), and where the manual and the code conflict, the code controls ((N)(5)).

Staff’s reports speak in the Director’s voice. The corridor finding in this case opens: “In accordance with CCC 40.350.020(F)(9), the Public Works Director acknowledges that a variety of factors can influence the operating performance of transportation corridors,” and says those factors “allow the Public Works Director and supporting staff to create an affirmative finding of compliance” (Ex. 54, p. 5). The same language opens the corridor findings in other reports (Exhibits K, W, X). Ex. 68 says the Director and the Transportation Division Manager “directed concurrency staff to use intersection performance … in the evaluation of v/c ratio compliance” (Ex. 68, p. 1). Exhibit 113 says the factors were “determined by the Public Works Director and the Transportation Division Manager” (p. 2), then adds: “Although (F)(9) provides this authority for the Public Works Director, it does not dictate how staff evaluates the other factors” (p. 4).

Nowhere in the materials does the Director appear. No determination, adopted method, manual update, signature or testimony from any Public Works Director has been produced, in this record, in the 174th Street record, or in response to a public records request for the Director’s authorization (Ex. 106). The reports that speak for the Director were prepared and approved by staff (Ex. 54). Every description of the Director’s role comes from Mr. Jardin (Ex. 68; Exhibit J; Ex. 113). The most recent manual is from 2011 and contains no HCM capacity method (Exhibits A, B), and Exhibit 113 does not mention Section (N) or the County’s manual. A records request for the Director’s authorization returned only an unrelated delegation (Ex. 106, pp. 1–4, 11). The code makes the Director responsible for the method and the approval. The practice leaves the Director as a name staff write into their own findings.

7. Compliance factors added that the code does not contain.

On May 21, Ex. 68 listed what staff consider “in whole or in part when determining compliance with or determining acceptable levels-of-service under CCC 40.350.020(G)(1)(a)”: “the intersection level-of-service and queuing, along with existing roadway influences” (Ex. 68, p. 2). On June 4, the same

sentence added “and, where applicable, potential mitigation options such as Transportation System Management (TSM) or Transportation Demand Management (TDM) strategies” (Exhibit J, p. 1). Exhibit 113 repeats the June 4 version (p. 1).

TSM and TDM appear nowhere in CCC 40.350.020. In fourteen days, by staff letter, the list of things that may establish compliance grew to include strategies the code does not mention. They are framed as considerations in determining compliance, not as mitigation an applicant volunteers and is conditioned on under (E)(5).

8. A new calculation is presented as long-standing practice.

Exhibit 113 says the corridors pass “[b]ased on the evaluation method that has been applied and practiced since the 2014 time frame” (p. 1). The method it actually relies on, a recalculated segment capacity with the calculation shown, first appears in Exhibits 111 and 112, dated September 18, 2026 and entered in the record on October 1 with Exhibit 113:

- The practice described in earlier filings was clearing segments on intersection level of service. The staff report here did that and said “no further analysis is required” (Ex. 54, p. 6).
- My June 11 submission noted that the HCM factors were “cited, not applied” (Ex. 64). None of the fourteen findings from June 2023 through August 2026 that I reviewed shows an HCM capacity calculation or a recalculated ratio (Exhibit M).
- On September 10, staff told the Examiner, “So I’m not extremely familiar with all of the factors” (Ex. 114, p. 6). Exhibits 111 and 112 are dated eight days later and were not filed until October 1.

9. The intersection rationale is disavowed and replaced.

The staff report cleared these corridors because of “good intersection LOS” (Ex. 54, p. 6). The intersections are not performing well: the applicant’s own study shows LOS F at NE 117th Avenue and NE 119th Street, with approach delays of two to three minutes (Concurrency Submission, Point 5). Exhibit 113 now disavows the rationale the staff report relied on: “Staff’s evaluation of corridor roadway segments does not substitute intersection findings for corridor level of service” (p. 2). In its place comes a new corridor measure, a capacity staff computed.

That capacity is built from intersection inputs. Exhibits 111 and 112 take the demand on one approach at the downstream intersection, and that approach’s signal timing or stop control, and treat them as the segment (Ex. 111, pp. 1–2; Ex. 112, pp. 1–2). The 1,900 vehicles an hour assigned to NE 119th is the HCM’s base saturation flow rate, which the applicant’s licensed engineers describe as “a factor used to assess operations at signalized intersections in the Highway Capacity Manual methodology” (Ex. 107, p. 4). The substitution has not stopped. It has moved inside the capacity number.

10. The language of necessity: concurrency recast as a path to approval.

Exhibit 113 presents its analysis as accuracy and best practice. Staff’s purpose is to make sure the factors “are more accurately represented when evaluating development related impacts” (p. 2). The HCM is “a nationally accepted comprehensive engineering reference document for capacity analysis” (p. 3). Staff “strive to ensure use of best engineering practices to ensure that development is in compliance with CCC 40.350.020” (p. 3), and “using the HCM and other best engineering practices provides the operational characteristic staff can test against the 0.9 v/c threshold” (p. 4). Staff produce the number they then test.

It presents an exceedance as a reason to consider mitigation, not denial: “the applicant could volunteer mitigation … While the applicant has not volunteered mitigation, it is something the county could

consider when the 0.9 v/c has been determined to be exceeded" (p. 2). Denial appears once, as the alternative to a mitigation demand that requires "nexus": it "would be very difficult for the county to find nexus of development impacts to say the development needs to volunteer mitigation or deny the project" (p. 3). Nexus is the test for charging a developer for impacts. It is not the concurrency test. The conclusion is that "we believe staff has shown that this development can comply" (p. 4), not that it does.

The code asks whether the roads meet the standard before development is approved (CCC 40.350.020(A); (E)(3)). Exhibit 113 asks how to reach approval.

11. An exception becomes a standing rule.

Exhibit 113 states that the HCM analysis "would not be a part of a routine analysis" (p. 4). In the weeks before Exhibit 113 was submitted to the record, staff had already written it into pre-application comments for two new projects near 179th Street (Cedar Vista, PAC-2026-00246, Exhibit Y, Sept. 23, 2026; The Commons at Whipple Creek, PAC-2026-00247, Exhibit Z, Sept. 30, 2026). Before any study existed, both memos predicted that some corridor segments "may exceed the 0.9 threshold in the buildout year using the prescriptive method" and told applicants that if so, they "may choose to mitigate per CCC 40.350.030(B)(6) or the traffic study may include discussion and/or calculations for the volume-to-capacity ratio using the methodology as outlined in the Highway Capacity Manual (HCM)." Denial is not listed. Both memos come from Mr. Kathol and direct applicants to the Concurrency Administrative Manual, which contains no HCM capacity method (Exhibits A, B).

Together these moves replace the code with staff judgment.

III. What Is Left of the Code

Set against the code and the County's own earlier position, the change looks like this:

Question	The code	The County before Oct. 1	Exhibit 113
Does the ratio exceed 0.9?	The Section (F) volume divided by the Table capacity; over 0.9 is a failure	Yes ("greater than 0.9"; staff: the corridors "don't necessarily meet the prescriptive method")	No ("did not exceed the code required 0.9 v/c")
What is (G)(1)(a)?	The standard: v/c "shall not exceed" 0.9 of the Table capacity, adopted in 2014 together with a revised CFP (Exhibit H, p. 1)	The standard; in June, "not binding"	The "conservative" option among three
What does a result over 0.9 mean?	No concurrency approval ((E)(3))	A failure staff could look past; June 4: "additional corridor analysis could be performed"	A "potential" exceedance that triggers a second calculation
Who controls the method?	The Director, in an adopted and published manual ((N)(1), (N)(3); (G)(2))	Director and Manager "directed concurrency staff to use intersection performance"	Director and Manager identify factors; (F)(9) "does not dictate how staff evaluates" them. Nothing from a Director has been produced to say so.
What capacity applies?	Table 40.350.020-1: 900 vph for an M-2cb, and less if not built to standard ((G)(1)(a))	The Table (900 vph). Staff, Sept. 10: "900 would be the limit"; also the traffic study and the applicant's engineers	A capacity computed by staff

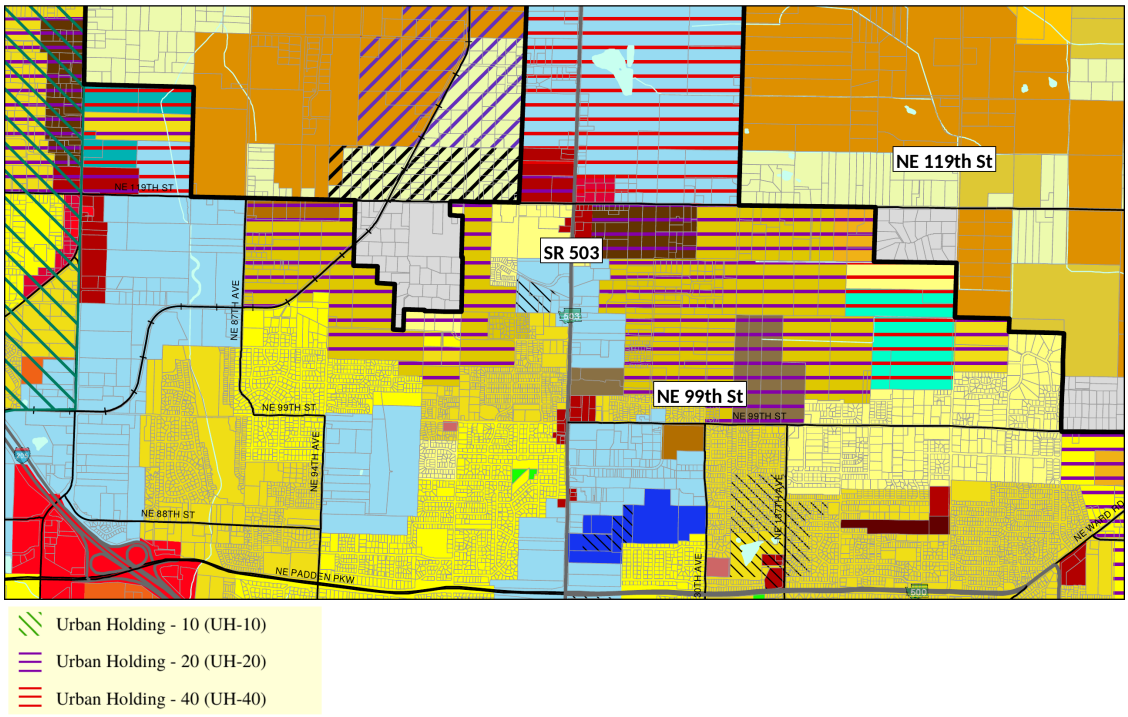
Question	The code	The County before Oct. 1	Exhibit 113
What follows a failure?	No approval unless the standard is met ((E)(3)); mitigation may be volunteered ((E)(5))	Mitigation that restores the standard, or denial (2011 Manual, Exhibit A, p. 5)	Mitigation "the county could consider"; denial mentioned only where "nexus" for mitigation is lacking

Exhibit 113 says the 0.9 still governs: staff's application "does not override the 0.9 v/c ratio" (p. 4). Over the summer, staff had already set it aside. The standard was "not binding or a 'flat prohibition'" (Exhibit J, p. 3), and the factors were applied "in lieu of the code-prescribed threshold values" (Exhibit L, p. 20). Exhibit 113 brings the number back only after everything it is applied to has been made to vary. The volume varies: staff used a different number than the applicant's engineers, and different studies of the same corridors have counted different amounts of approved, unbuilt traffic (Concurrency Submission, Points 5 and 9). The capacity varies: staff computed a different value for each segment, none of them the Table's. The method varies: intersection LOS in the staff report, an HCM recalculation in Exhibit 113, chosen case by case, and (F)(9) "does not dictate how staff evaluates" it. Exhibit 113 does not cite Table 40.350.020-1, which fixes capacity, or Section (N), which requires the Director to adopt and publish one method. A threshold applied to inputs staff choose each time is not a standard. Nothing remains of the code.

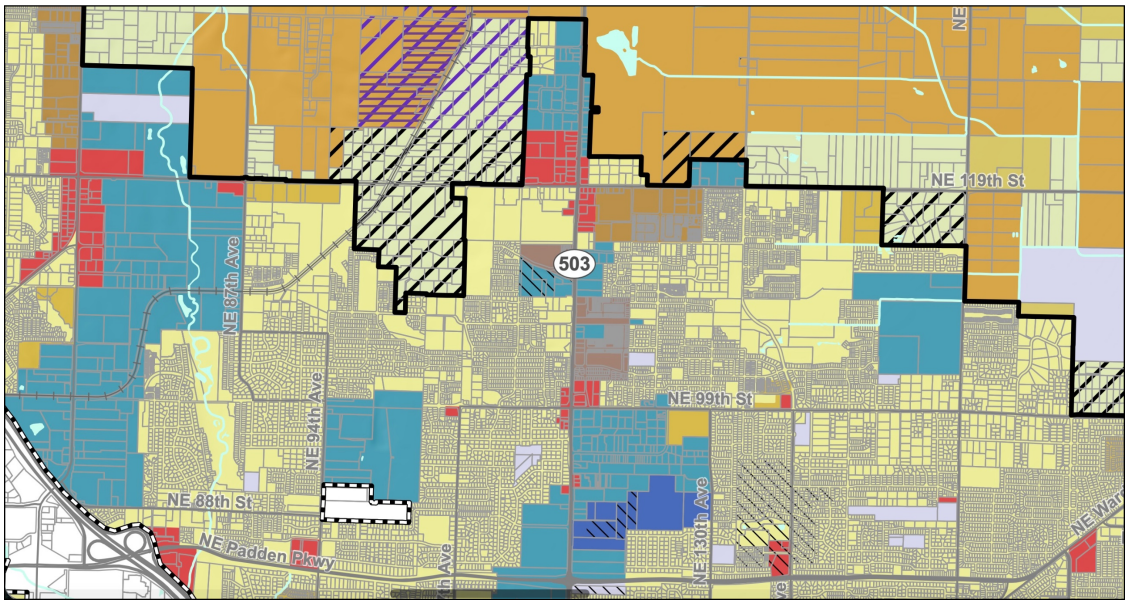
IV. Where This Is Happening

NE 119th Street, NE 99th Street and SR 503 lie in the SR 503/east county area. Mr. Stumpf's failing-corridor memo lists all three among the corridors over 0.90 (Ex. 65, p. 3). In 2007, this area carried an Urban Holding overlay that restricted development pending infrastructure investment (Exhibit AA). Between NE 119th and NE 99th, the current Comprehensive Plan shows that overlay gone (Exhibit BB). The figure below shows the same area, at the same scale, on each map.

2007 Comprehensive Plan (Ord. 2007-09-13): SR 503 / NE 119th Street area
Horizontal stripes = Urban Holding overlay (purple UH-20, red UH-40). Source: Exhibit AA.



Current Comprehensive Plan: same area, same scale
The Urban Holding overlay between NE 119th and NE 99th no longer appears. Source: Exhibit BB.



This is happening where the consequences cannot be reversed: in the area where the County lifted the overlay that held development back until the roads were built. The record shows no improvement to these segments funded or scheduled for completion within six years (Concurrency Submission, Point 1). Once a development is approved on a recalculated capacity, its traffic is permanent. Once approved and built, the development and its traffic stay. The County has not funded the capacity.

The County's own budget shows its road program is short. The Public Works Director's October 7, 2026 budget presentation to the Council states that the Road Fund available for capital "diminishes each year," that even with a levy increase the six-year Transportation Improvement Program "is projected to dip into Road Fund reserves by the end of the 6-year period," and that the result is "reduced ability to meet capital commitments" (Exhibit CC, p. 2). The six-year Transportation Improvement Program is the County's plan for what it will build, and it must be balanced to available revenue. The County will have to find more money or drop projects. The record identifies no project in it that adds capacity to these segments (Concurrency Submission, Point 1).

Concurrency exists to prevent exactly this: approval first, with no road to carry it.

V. What the Examiner Is Being Asked to Accept

The Examiner asked for a segment-specific professional opinion explaining why these roads function adequately "despite the volume to capacity problem" (Ex. 114, p. 9). That opinion has to be one the code allows, and the analysis the code calls for is already in the record (Concurrency Submission, Points 1 and 5). Exhibit 113 does not offer an opinion within the code. It offers an alternative the code does not provide for. Nor does it explain why a failing segment is acceptable. It says the failure does not exist.

Accepting that answer would mean finding:

1. that a segment the code's own measure puts over 0.9 does not exceed 0.9;
2. that staff, not the Council, set the capacity of a road, and may set it differently in each case;
3. that the code's measure applies only when it passes, and a second measure applies when it fails;
4. that a calculation dated September 2026 and first entered in this record on October 1 has been practiced since 2014;
5. that a standard the Council adopted as fixed and objective can be replaced by a practice never brought to the Council, though staff told the Council in 2016 that standards "are established, uh, uh, by approval through the board" and that staff bring proposed changes to it (Exhibit F, 0:01:57); and
6. that the Public Works Director made the determinations staff attribute to him, though nothing from any Director has been produced in this or any other record, or in response to a public records request for it.

The Council set the standard, and the code makes the Director responsible for how it is applied. Under the practice, neither one decides. Staff do (Concurrency Submission, Points 3, 6 and 7).

The County is already treating the result as settled. It is offering the same route to new applicants near NE 179th Street before their studies are written. If the Examiner adopts Exhibit 113's framing, the next filing will begin from there, and the question will no longer be whether a failing corridor may be excused, but whether any corridor can be found to fail at all.

Exhibits Attached

Exhibit	Document
Y	Concurrency pre-application comments, Cedar Vista (PAC-2026-00246), Sept. 23, 2026
Z	Concurrency pre-application comments, The Commons at Whipple Creek (PAC-2026-00247), Sept. 30, 2026
AA	Clark County 2007 Comprehensive Plan / County-UGA Zoning Map, adopted by Ord. 2007-09-13 (Sept. 25, 2007), https://clark.wa.gov/sites/default/files/dept/files/community-planning/comprehensive-plan/2007%20Comp%20Plan/BOCC-AdoptZoning.pdf
BB	Clark County current Comprehensive Plan Map, https://clark.wa.gov/sites/default/files/media/document/2024-06/comprehensiveplan_portrait_36x48.pdf
CC	Clark County Public Works, *2027 Annual Budget, Public Works*, Council work session presentation, Ken Lader, PE, Public Works Director, Oct. 7, 2026, https://clark.wa.gov/sites/default/files/media/document/2026-09/100726-public-works.pdf

All other lettered exhibits cited here (A, B, D, E, F, H, J, K, L, M, W, X) are attached to my Concurrency Submission filed with this supplement.