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**DEPARTMENT OF  
COMMUNITY PLANNING**

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TO: Clark County Planning Commission

FROM: Oliver Orjiako, Community Planning Director  
Matt Hermen, Transportation Planner

DATE: March 16, 2017

SUBJECT: Concurrency: Proposed changes to the Title 40 development code (Amended)

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**BACKGROUND**

Concurrency is one of the goals of the Growth Management Act and refers to the timely provision of public facilities and services relative to the demand for them. To maintain concurrency means that adequate public facilities are in place to serve new development as it occurs or within a specified time period. The Growth Management Act (GMA) gives special attention to concurrency for transportation.

The GMA requires that transportation improvements or strategies to accommodate development impacts need to be made concurrently with land development. "Concurrent with the development" is defined by the GMA to mean that any needed "improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years." RCW 36.70A.070(6)(b). Local governments have flexibility regarding how to apply concurrency within their plans, regulations, and permit systems.

As part of the requirement to develop a comprehensive plan, jurisdictions are required to establish level-of-service standards (LOS) for arterials, transit service, and other facilities. RCW 36.70A.070(6)(a). Once a jurisdiction sets an LOS, it is used to determine whether the impacts of a proposed development can be met through existing capacity and/or to decide what level of additional facilities will be required. Transportation is the only area of concurrency that specifies denial of development if LOS standards cannot be met. However, local jurisdictions must have a program to correct existing deficiencies and bring existing transportation facilities and services up to locally adopted standards. A developer may not be required to pay for improvements to correct existing deficiencies.

Clark County Code (CCC) 40.350.020 Transportation Concurrency Management System, implements the requirements found in RCW 36.70A.070 that establish level of service standards for arterial and transit routes. The initial concurrency code was written so that all development "triggered" mitigation improvements on failing

intersections. This resulted in the inability for small developments to receive permit approvals, because of the sizeable mitigation requirements. Concurrency code amendments adopted by the BOCC in 2010 allowed development exemptions, from the intersections mitigation requirements, to be applied for smaller developments. The approved code was approved with a threshold that was believed to resolve intersection delay. Unfortunately, the threshold does not apply to all types of intersections universally; therefore allowing exemptions for large developments. Staff is proposing to amend CCC40.350.020(G)(1)(c); permanently removing a de Minimis exemption threshold.

On August 30, 2016, Public Works Staff presented an interim zoning ordinance relating to land use, suspending an exemption to the Transportation Concurrency Standards under CCC 40.350.020 to the Board of County Councilors (BOCC). The BOCC approved an emergency Ordinance 2016-08-12 on August 30, 2016. The immediate suspension of the exemptions was necessary, due to Washington's vesting laws, to provide time to reevaluate the road standards and protect public health and safety. Without the ordinance, it is possible that developments could use the provision to get approval for additional residences, sending trips to failed intersections without mitigating for those impacts.

On October 25, 2016, the BOCC approved extending Ordinance 2016-08-12 for six months to evaluate the effectiveness of the interim ordinance, receive public comment, and schedule proceedings with the Development and Engineering Advisory Board and Planning Commission.

#### **PROPOSED ACTION:**

Staff is proposing amending CCC 40.350.020(G)(1)(c), to meet the intent of allowing concurrency requirement exemptions for small developments.

- c. All unsignalized intersections of regional significance in the unincorporated county shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better. ~~The signalization~~ Intersection control or mitigation of unsignalized intersections shall be at the discretion of the Public Works Director and shall not obligate the county to meet this LOS standard. However, proposed developments shall not be required to mitigate their impacts in order to obtain a concurrency approval unless:
  1. The proposed development adds at least five (5) peak period trips to a failing intersection approach; and,
  2. ~~The projected volume to capacity ratio for the worst lane movement on the approach with the highest delay exceeds nine-tenths (0.9) during the peak traffic period; and~~
  - 2.3. That same The worst movement, on the failing approach is worsened by the proposed development. In determining whether the movement is worsened, the Public Works Director shall consider trip volume, delay, and any other relevant factors.

## **PUBLIC OUTREACH**

On January 27, 2017 the Washington State Department of Commerce received the necessary materials required under RCW 36.70A.106, at least 60 days prior to the final adoption of the draft amendment. The Department of Commerce then forwarded a copy of the notice to other state agencies.

Clark County received a letter on February 2, 2017 from the Washington Department of Transportation (WSDOT) requesting that the code address other treatments for failing intersections, other than signalization. The proposed amended code language includes WSDOT's recommendation.

Staff met with the Development Engineering Advisory Board (DEAB) on March 2<sup>nd</sup>, 2017 regarding the proposed changes to the County's concurrency standards. DEAB recommended approval of the proposed changes to CCC 40.350.020.

The *Notice of Public Hearing* was published in *The Columbian* newspaper on March 1, 2017.

The State Environmental Protection Act (SEPA) *Notice of Determination of Non-Significance (DNS)* was published in *The Columbian* newspaper on March 2, 2017. The SEPA DNS, Checklist and proposed amendment were distributed to all affected agencies and jurisdictions on March 2, 2017, with the comment period scheduled to expire on March 16, 2017 at 5:00 p.m. All comments received will be shared with the Planning Commission prior to the scheduled public hearing.

Information regarding the proposed concurrency update was also provided on the county's Community Planning website.

## **RECOMMENDATION AND CONCLUSIONS**

Based upon the information and the findings presented in this report and in the supporting documents, staff recommends that the Planning Commission forward to the Board of Clark County Commissioners a recommendation of **APPROVAL** of amending CCC 40.350.020, Transportation Concurrency Management System.