CITY OF KIRKLAND
PLANNING AND BUILDING DEPARTMENT
123 FIFTH AVENUE, KIRKLAND, WA 98033 425.587.3225
www.ci.kirkland.wa.us

MEMORANDUM

Date: **October 14, 2015**

To: **Planning Commission**

From: **Teresa Swan, Senior Planner**
David Godfrey, P.E. Transportation Engineering Manager

Subject: **Draft Amendments to the Transportation Concurrency Ordinance, File CAM13-00465, #5**

I. RECOMMENDATION

Staff recommends that the Planning Commission receives a courtesy briefing on draft amendments to the Transportation Concurrency Ordinance as one of the implementing tools of the new transportation planning approach in the new Transportation Element.

II. BACKGROUND DISCUSSION

As you may recall, the new Transportation Element changes the focus of transportation planning in Kirkland from mainly motor vehicles to pedestrian, bicycles, transit and motor vehicles. Title 25 of the Kirkland Municipal Code - Road Concurrency - currently only tracks vehicle trips. The proposed amendments address transportation facilities for all four modes.

Attachment 1 is the staff memo from the Public Works Department to the City Manager for the October 20, 2015 City Council meeting. The memo provides background information about concurrency, overview of the existing and proposed systems, when the concurrency test is done, appeals of the test decision and noticing.

Attachment 2 contains the proposed amendments to the Transportation Concurrency Ordinance.

The Planning Commission does not review and hold hearings on code amendments to the Transportation Concurrency Ordinance. The Public Works Department will attend the October 22, 2015 Planning Commission meeting to get any feedback on the new approach.

Attachments:
1. Staff memo from the Public Works Department to Kurt Triplett, City Manager, dated October 8, 2015
2. Amendments to Title 25, KMC - Transportation Concurrency Ordinance

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: David Godfrey, P.E., Transportation Engineering Manager
Thang Nguyen, Transportation Engineer
Kathy Brown, Public Works Director

Date: October 8, 2015

Subject: Transportation Concurrency Revision

RECOMMENDATION:

It is recommended that the City Council receive a briefing and give direction on the transportation concurrency approach outlined in this memo and review the draft ordinance that would modify Title 25 -Concurrency, of the Kirkland Municipal Code.

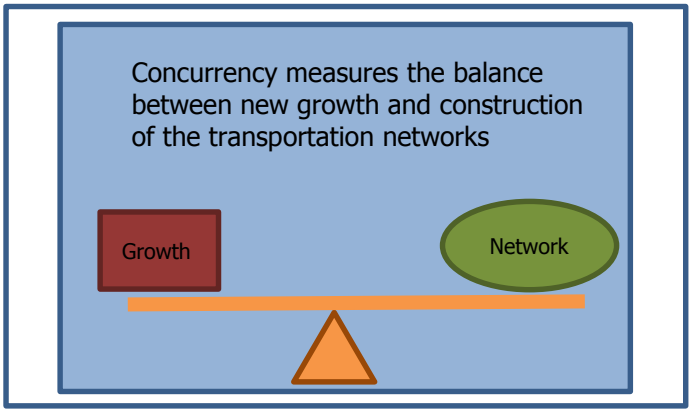
BACKGROUND DISCUSSION:

Introduction

With the adoption of the new Comprehensive Plan and its revised Transportation Element, a revised transportation concurrency policy, that reflects the goals and policies in the new element, is needed. This memo discusses the new concurrency approach in general and gives recommendations for Council consideration around several program details. A proposed ordinance (Attachment 1) codifying the change is included.

Council has received several briefings on a revised Concurrency program in connection with the Transportation Master Plan, the latest of which was on February 17 of this year.

Concurrency is required by the Growth Management Act. The purpose of concurrency is to ensure that land use development and construction of the transportation network are concurrent so that facilities are provided in step with new growth. Improving the City's concurrency system has been a goal since the opportunity for improvement was raised by the Transportation Commission in 2010.



Concurrency is not intended to decide whether or not development projects are "good" or "bad," but rather, whether or not the number of new trips is being added at approximately the same rate at which transportation capacity is being added. Furthermore, concurrency will not

decide whether or not the capacity being provided is the "right type" of capacity. This is decided when the 20 year transportation capital project list is created and compared to the land use plan, and the level of service provided by that combination is accepted.

Overview of the current system
Vehicular level of service at signalized intersections is the basis of the City's current concurrency system. New trips from proposed land use developments are forecasted and modeled onto the transportation network. The number of cars turning right, left or going straight at all signalized intersections is estimated. With that volume forecast and characteristics of the intersection, an intersection's performance can be calculated. Performance of intersections is averaged for each of four subareas and compared to a standard[1]. If the standard is met, then the development project passes concurrency.

Developers of projects that fail concurrency have three general choices: scale back the project impact, construct mitigation, and/or wait for the City to construct projects that add capacity.

A drawback to the current system is the need for fairly complicated forecasting before a determination of concurrency can be made. This means that it is difficult to understand how much capacity is left for new development at any given time. Also, the measure used for intersection performance, called volume to capacity ratio, is not easily understood. Finally, with its sole focus on auto capacity at traffic signals, the current concurrency system does not support the multi-modal nature of the revised Transportation Master Plan.

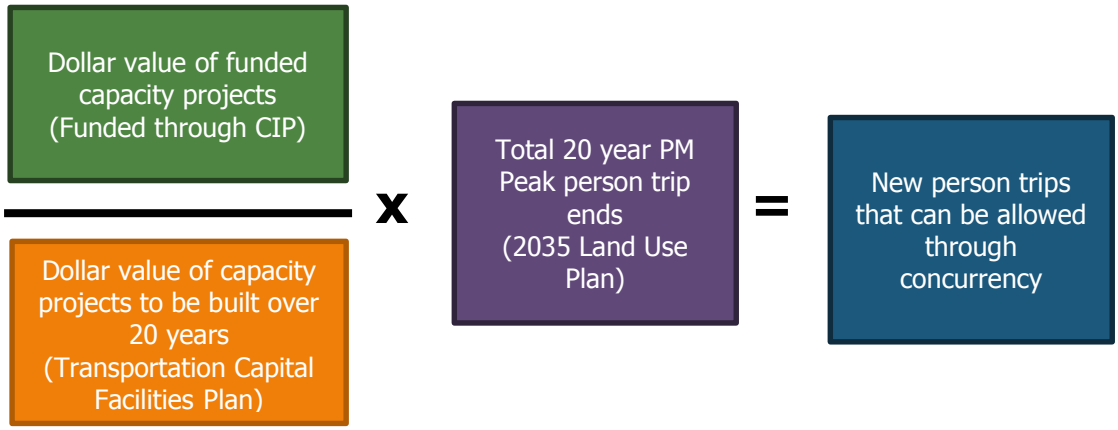
Overview of the proposed system
The future system equates the number of new trips expected over the next 20 years with the cost of providing added capacity to the transportation network across all modes of transportation. Added multimodal transportation network capacity is contained in the 20 year transportation capital project list, which is formally adopted by the City Council as a component of the City's Capital Facilities Plan (CFP). Equating the number of new trips to the added capacity in the CFP provides an expression of capacity spending needed per new trip allowed, and establishes dollars spent as a measure of project completion. Trips are subtracted from the available balance when new development projects are approved and trips are added to the balance when capacity projects are funded. A ledger system can be set up where the number of available trips is readily apparent. A webpage will be created where the current trip balance is readily available, along with the results of individual project tests, the appeal process and other information about concurrency.

One of the advantages of the new system is its simplicity. It's clear to developers, staff and the public how many trips are available for development at any given time. This allows anyone to understand the implications of a development to concurrency, and it streamlines the development review process.

Details of the proposed system
Trips available for new growth
As described above, as construction of the transportation CFP list is accomplished, new growth can be allowed by the concurrency system. The greater the fraction of the CFP that is

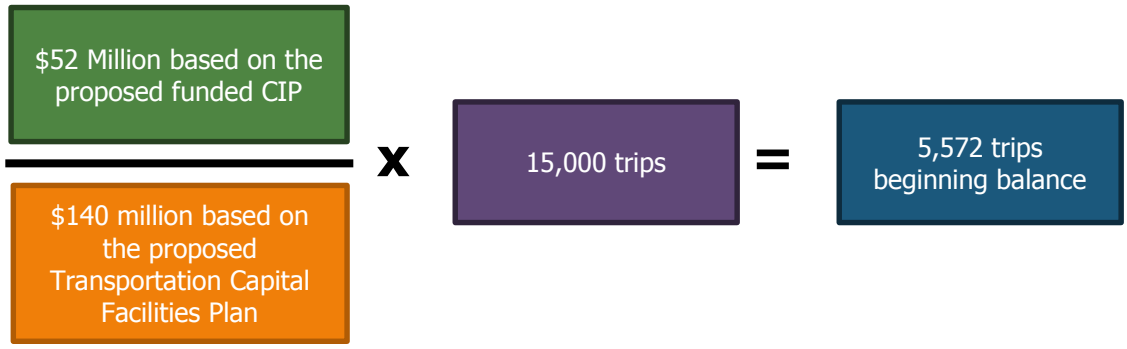
[1] There are two standards for passing concurrency: 1) a subarea standard that compares conditions with the project to an average of intersections; and, 2) a maximum standard that prohibits any intersection from performing too poorly, regardless of the subarea average.

completed, the greater the number of the 15,000 new trips expected over 20 years can be accommodated from new growth at a given point in time. The illustration below shows this relationship.



When the new system begins, the amount in the green box (dollar value of funded projects) will be based on the six year funded Capital Improvement Program (CIP). As more projects are funded in the future, a higher amount of funding will accumulate in the green box and more trips will be allowed.

Considering the transportation capacity project budgets in the proposed 2015-2020 CIP and the proposed CFP, starting January 2016[2], the number of trips that are available will be 5,572 as shown in the blue box (beginning balance):



As more projects are funded through future CIP's the amount in the green box will increase and the number of trips allowed will grow beyond the beginning balance.

How trips are "used up"

When a developer proposes a new project, the number of person trips that a project will generate can be estimated based on the size and type of land uses proposed, using the same techniques that are used for impact fees. Table 1 below from the latest transportation impact

[2] These numbers will be finalized when the CIP and CFP are adopted later this year.

fee rate study, shows examples of person trip rates for selected land uses. A more complete list of land uses and person trip rates is shown in Table 4.

The concurrency test for a project is passed if there are more trips available in the current balance of trips than are estimated to be used by the proposed project. As more projects pass concurrency, the balance of trips will be drawn down.

Table 1 Person trip rates for selected land uses.

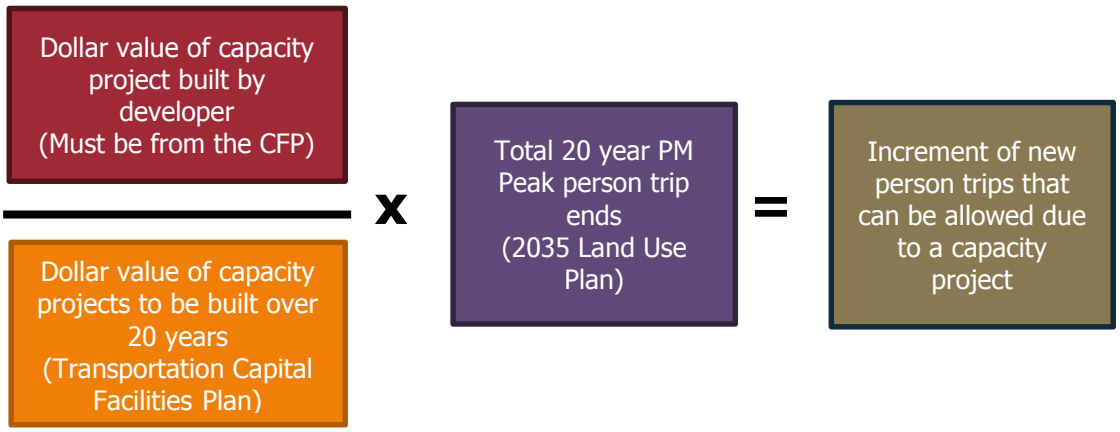
Land Uses	Unit of Measure	ITE Land USE Code	Vehicle Trip Rate	Person Trip Rate
Residential				
Detached Housing	dwelling	210	1.00	1.45
Attached and Stacked Housing	dwelling	220,221,230,233	0.57	0.83
Commercial - Restaurant				
Quality Restaurant	sq ft/GFA	931	7.49	9.14
High-Turnover Restaurant	sq ft/GFA	932	9.85	12.02
Fast Food Restaurant w/o drive thru	sq ft/GFA	933	26.15	31.90
Fast Food Restaurant w drive thru	sq ft/GFA	934	32.65	39.83
Commercial - Restaurant				
Quality Restaurant	sq ft/GFA	931	7.49	9.14
High-Turnover Restaurant	sq ft/GFA	932	9.85	12.02
Fast Food Restaurant w/o drive thru	sq ft/GFA	933	26.15	31.90
Fast Food Restaurant w drive thru	sq ft/GFA	934	32.65	39.83
Industrial				
Light Industry/High Technology	sq ft/GFA	110	0.97	1.06
Industrial Park	sq ft/GFA	130	0.85	0.93
Warehousing/Storage	sq ft/GFA	150	0.32	0.35
Commercial - Office				
General Office Building	sq ft/GFA	710	1.49	1.76
Medical Office/Clinic	sq ft/GFA	720	3.57	4.21
Commercial - Retail				
Shopping Center	sq ft/GLA	820	3.71	4.53

What if all the trips are used up?

One of the objectives in the management of concurrency is to make sure that trips are available for new development. In the unlikely event that not enough trips for a specific development are available at the time of the concurrency test, a developer has three options:

1. Scale back the project so that fewer trips are generated.
2. Wait for more projects from the CFP to be funded to allow more trip capacity.
3. Fund a project or projects from the CFP so that the balance of available trips is greater than the number of trips needed by the development.

If a developer chose Option 3, to fund a particular project from the Transportation Capital Facilities Program, the number of trips added to the available balance (tan box) is equal the value of the project built (red box) divided by the total value of the CFP (gold box) multiplied by the number of trips planned for over 20 years (purple box).



This means that the higher the cost of the project built, the more trips become available. For example, if a developer were to build a lower cost sidewalk project, it would supply fewer trips to the balance than a more expensive road project. Because projects in the CFP are unlikely to generate exactly the number of trips needed for a specific development proposal, it is likely that if a developer were to choose to build a project to supply trips to meet concurrency, such a project would provide more trips than are required for that development. Under the proposed new concurrency approach, the developer would not get a credit for those extra trips that the project provides. Providing credits for trip "surplus" associated with a developer choosing to build a project from the CFP would simply be too complex to track.

Thresholds for development projects that are subject to concurrency.
Currently, not all development projects are subject to concurrency review. With the introduction of a new system, the sizes of projects that must pass concurrency should be revisited; several options are explained below. Note that having a threshold under which some development is not subject to concurrency in effect ensures that development below the threshold can take place on a property even if no trips remain in the available balance for concurrency. Because concurrency works with person trips, it makes sense to move to a person trip-based threshold. Person trips can be estimated given proposed land use type and size. Four options for setting a threshold for concurrency testing are described below.

SEPA Threshold
Currently, projects that are categorically exempt from SEPA are not subject to concurrency. This is in part because the current concurrency system requires fairly complicated calculations like those that would be prepared in a traffic study required for a SEPA evaluation. The Washington Administrative Code allows cities to establish threshold levels within a range of values. Kirkland's thresholds are within these ranges and are shown in Table 2:

Table 2 SEPA Exemption levels

ID	Type of construction	Kirkland's threshold level for categorical exemptions from SEPA	Estimate of person trips for selected land uses at threshold level of development
A	The construction or location of any residential structures	20 or fewer dwelling units. (Subdivisions, more than 9 lots, are not exempt)	Detached, 29
			Attached and stacked, 17
			Senior, 8
B	The construction of an office, school, commercial, recreational, service or storage building and with associated parking facilities	20,000 sq. ft. or fewer & parking for 40 or fewer automobiles	General office, 21
			Shopping Center, 54
			Fast food restaurant w/drive through, 159
			Supermarket, 139
			Church, 8
			Drive in bank, 356
C	The construction of a parking lot designed for forty or fewer automobiles not associated with a structure	40 or fewer automobiles	Not available
D	Any fill or excavation throughout the total lifetime of the fill or excavation and any excavation, fill or grading necessary for an exempt project in (A), (B), or (C).	500 cubic yards or fewer or any excavation, fill, or grading necessary for an exempt project listed in A-C above	Not available

Person trip rates for selected land uses at SEPA categorical exemption threshold levels are shown in the last column of Table 2 above. A more complete list of person trips generated at SEPA categorical exemption thresholds are shown in the blue shaded column of Table 4 titled Person Trips at SEPA categorical exemption size. The SEPA thresholds result in a wide range of person trip rates from 8 for senior housing to 356 trips for a drive-in bank. While it is not likely that a new 12,000 sq. ft. drive in bank would be proposed, it is included to show the range of possible person trip generation.

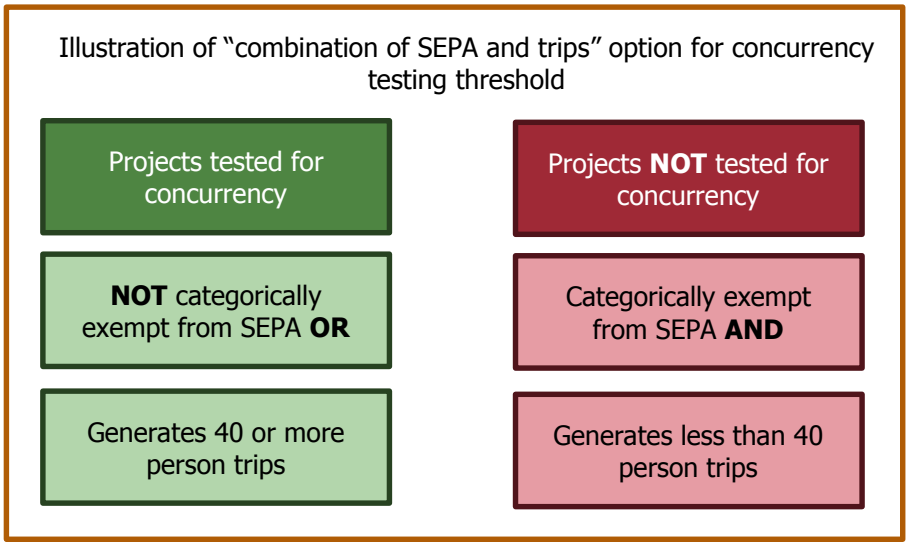
Person trips

In addition to the SEPA threshold for determining developments that are subject to concurrency, a person trip based criteria could also be used. It's reasonable to say that any project proposed to generate more than a certain fraction of the anticipated annual trips should be required to pass a concurrency test. 15,000 new PM peak person trip ends are anticipated over the next 20 years, or an average of 750 person trips per year. A threshold for concurrency testing of 40 person trips, or 5.3% of the anticipated annual trip ends is a reasonable starting point given that any impact of more than 5% is important to track. Table 4 shows the size of various development types that would be generate 40 PM peak person trips in the orange shaded column titled Size of Development producing 40 person trips.

Combination of SEPA and trips

It is logical to conduct concurrency on any project for which a SEPA categorical exemption is not given because projects subject to the higher level of review required for SEPA should also have a corresponding level of scrutiny for concurrency. However, using only the 40 person trip

threshold, it is possible that a project would not go through both processes. For example a 48,000 sq. ft. church would generate only 32 PM peak hour person trips placing it outside categorical exemption but generating fewer than 40 person trips. Blending the SEPA threshold and person trip threshold requires any project that is not categorically exempt from SEPA to be tested for concurrency as well. (See illustration at right.) It would also require testing of any project that generates more than 40 person trips. This combination would test all projects not categorically exempt from SEPA and all the higher trip generating uses that are categorically exempt from SEPA, whichever threshold is less would dictate the testing for concurrency. Staff recommends this option for the concurrency threshold and the draft ordinance in Attachment 1 reflects this option.



Test all projects

The last threshold option described here would be to not have a threshold, i.e., test all developments regardless of size. Staff does not recommend this option because it would be a burden to small developments, would not allow any development on properties when there are no trips left in the concurrency balance and because attempting to track each trip is beyond the level of precision needed for concurrency. Table 3 summarizes options for setting the Concurrency threshold.

Table 3 Summary of Concurrency threshold options

Threshold Option	Explanation	Comments
Kirkland's SEPA thresholds	Projects that are categorically exempt from SEPA requirements are exempt from concurrency testing.	For some land uses, relatively many person trips could be generated without going through SEPA and therefore not through Concurrency.
40 person trips	Any project that generates 40 or more PM peak person trips is subject to concurrency testing.	This could result in some projects that are subject to SEPA but not subject to Concurrency.
40 Trip/SEPA combination option[1] –Staff recommendation	All projects that are not categorically exempt under SEPA must be tested for concurrency. Additionally, any project that generates 40 or more PM peak person trips is subject to concurrency testing, even if it is categorically exempt from SEPA.	Slightly more complicated, but tests both 1) any projects that go through the SEPA process and therefore warrant a concurrency test and 2) relatively trip intense projects that are categorically exempt under SEPA.
All projects	All projects are tested for concurrency	Not all projects are significant enough to test for concurrency.

1. Whichever threshold is less would dictate the testing for concurrency

Table 4 Comparison of land use size for developments producing 40 person trips and number of Person trips at SEPA exemption level.

Land Uses	Unit of Measure	Vehicle Trip Rate [1]	Person Trip Rate [1]	Person Trips at SEPA categorical exemption size	Size of Development producing 40 person trips
Residential					
Detached Housing	dwelling	1.00	1.45	29	28
Attached and Stacked Housing	dwelling	0.57	0.83	17	48
Senior Housing	dwelling	0.29	0.41	8	97
Nursing Home	bed	0.22	0.27	11	149
Congregate Care/ Assisted Living	dwelling	0.17	0.21	8	193
Commercial - Services					
Drive-in Bank	sq ft/GFA	24.30	29.65	356	1,349
Walk-in Bank	sq ft/GFA	12.13	14.80	178	2,703
Day Care Center	sq ft/GFA	12.34	15.05	181	2,657
Hotel	room	0.60	0.87	7	46
All Suites Hotel	room	0.40	0.58	5	69
Service Station/Minimart	VFP	13.51	16.48	198	2
Movie Theater	screens	13.64	16.64	17	2
Health Club	sq ft/GFA	3.53	4.31	33	9,288
Racquet Club	sq ft/GFA	1.06	1.29	16	30,931
Marina	Berth	0.19	0.23		173
Commercial - Institutional					
Elementary School/Jr. High School	student	0.15	0.18	5	219
High School	student	0.13	0.16		252
University/College	student	0.17	0.21		193
Church	sq ft/GFA	0.55	0.67	8	59,613
Hospital	sq ft/GFA	0.93	1.13	14	35,255
Commercial - Restaurant					
Quality Restaurant	sq ft/GFA	7.49	9.14	37	4,377
High-Turnover Restaurant	sq ft/GFA	9.85	12.02	48	3,329
Fast Food Restaurant w/o drive thru	sq ft/GFA	26.15	31.90	128	1,254
Fast Food Restaurant w drive thru	sq ft/GFA	32.65	39.83	159	1,004
Industrial					
Light Industry/High Technology	sq ft/GFA	0.97	1.06	13	37,832
Industrial Park	sq ft/GFA	0.85	0.93	11	43,173
Warehousing/Storage	sq ft/GFA	0.32	0.35	4	114,679
Commercial - Retail					
Shopping Center	sq ft/GLA	3.71	4.53	54	8,837
Auto Parts Sales	sq ft/GFA	5.98	7.30	88	5,483
Auto Care Center	sq ft/GLA	3.11	3.79	46	10,542
Car Sales - New/Used	sq ft/GFA	2.62	3.20	38	12,514
Convenience Market	sq ft/GFA	52.41	63.94	767	626
Discount Club	sq ft/GFA	4.18	5.10	61	7,844
Free Standing Discount Store	sq ft/GFA	4.98	6.08	73	6,584
Hardware/Paint Store	sq ft/GFA	4.84	5.90	71	6,774
Home Improvement Superstore	sq ft/GFA	2.33	2.84	34	14,072
Nursery/Garden Center	sq ft/GFA	6.94	8.47	102	4,724
Pharmacy(with Drive Through)	sq ft/GFA	9.91	12.09	145	3,308
Quick Lubrication Vehicle Shop	Service Bay	5.19	6.33		6
Supermarket	sq ft/GFA	9.48	11.57	139	3,459
Tire Store	Service Bay	3.54	4.32	52	9
Miscellaneous Retail	sq ft/GLA	3.71	4.53	54	8,837
Commercial - Office					
General Office Building	sq ft/GFA	1.49	1.76	21	22,751
Medical Office/Clinic	sq ft/GFA	3.57	4.21	34	9,495

VFP= Vehicle Fueling Positions (Maximum number of vehicles that can be fueled simultaneously)

GFA= Gross Floor Area

For uses with Unit of Measure in sq ft, trip rate is given as trips per 1000 sq ft

Note 1. Senior Housing rate is 1/2 of Attached and Stacked Housing rate

Other items

Noticing and Appeals. There is currently a provision in the Kirkland Municipal Code for reconsideration and appeals of concurrency test results. Concurrency test applicants may request a reconsideration of concurrency test results by the Public Works Director. Staff recommends retaining this provision.

Also, either test applicants or "Any individual or other entity who is specifically and directly affected by the proposed development" may appeal concurrency test results to the hearing examiner. Since concurrency is fairly straightforward and since the code leaves only a small number of questions that can be appealed, there have been only two appeals to concurrency findings over the past 18 years. Both the concurrency appeals accompanied SEPA appeals and both were rejected by the hearing examiner. Because concurrency testing now only takes place for projects that are not categorically exempt from SEPA review, noticing is handled with the SEPA noticing process, although not all SEPA Determinations require wide notice. With the threshold option proposed by staff (see above discussion) some projects that are categorically exempt from SEPA may be subject to a concurrency test. Therefore a noticing process for such projects must be established.

Although no changes in the appeal process are being proposed, in order to bring more consistency to the concurrency test noticing process, staff is recommending that the noticing process for concurrency be separated from SEPA noticing. The noticing for concurrency would be fairly simple; through posting on a webpage dedicated to concurrency. Appellants would have 14 days after the test results are posted to appeal concurrency decisions to the hearing examiner. A listserve would be created so that parties interested in tracking concurrency results would know when information on the website is updated. The proposed changes to the code are described in Attachment 1.

Only capacity projects that are on the Transportation Capital Facilities (CFP) Plan can supply new trips for concurrency. As described above, the point of concurrency is to establish balance between construction of the City's 20 yr. transportation network -- projects on the CFP -- and development which produces new trips. Therefore only projects that are on the CFP "count" toward supplying new trips. For example, if a developer needed to build a project in order to supply extra capacity to pass concurrency, only a project from the CFP would supply that capacity. Similarly, projects built by the City from the CIP have to be on the CFP in order for the capacity supplied by those projects to count toward concurrency.

Changes in project costs don't change the number of trips provided by that project. The number of trips provided to the balance of trips available for concurrency by a certain project is proportional to the cost of that project. When coupled with the fact that actual construction cost of a particular capacity project often differ from their planned cost, it's important to have a consistent cost basis for projects over time. This is done by basing the trips provided by a capacity project on its planned cost in the adopted CFP, not the actual construction cost.

Updating the concurrency system. Because of its dependency on the 20 year transportation network and the future land use plan, concurrency should be recalibrated any time these plans are altered. By extension, anytime the CFP needs to be amended, for example to add new projects, or to remove projects, perhaps to reduce the cost of the CFP, concurrency will need to be adjusted to account for these changes. Concurrency doesn't need to be updated when unfunded projects on the CFP are changed to funded CIP status.

Can concurrency "be all used up" by a big development? As introduced above in the discussion about thresholds, by having a non-zero threshold, development projects that are not subject to concurrency are allowed to proceed even if there are no trips available in the trip balance. This in effect gives each property room for some development (below 40 PM peak trip ends and below thresholds for categorical exemption from SEPA) regardless of the status of concurrency.

Special development. If an applicant believes their development will generate fewer trips than the standard rates, they can submit, for consideration by the Public Works Department, documentation that describes how trip generation rates for their development differs from the normal development of that type. This can be done for either Impact Fees or Concurrency, calculations but if it is done for either, the same rate will apply to both Impact Fees and Concurrency.

Definition of Roads. The proposed amended ordinance (Attachment 1) defines Roads for the purpose of KMC Title 25 as "…transportation facilities for pedestrians, bicycles, transit and motor vehicles." The reason for this definition is to allow for a multimodal set of projects to be considered throughout the concurrency process and because the RCW language that supports concurrency uses the term Roads.

Phased development. The existing concurrency ordinance provides a means for phased development to receive approval of concurrency for a master plan development and that provision would remain with the new system.

Questions for Council

Staff will be available at the October 20 Council meeting to answer any questions that may arise. Council may wish to consider the following questions with regard to concurrency:

1. Is there agreement on the proposed concurrency method?
2. Does council agree with the staff recommendation for concurrency testing thresholds and noticing and appeal processes?
3. Are there any outstanding questions on any details of concurrency?

Timing/Outreach

Pending the outcome of the October 20 Council meeting, staff plans to bring a final concurrency ordinance for consideration at Council's December 8, 2015 meeting.

Staff will be briefing the Planning Commission on October 22 and the Transportation Commission on October 28. Also, staff has reached out the development community with a summary of the new concurrency system and an offer to meet either one on one or in group setting. More information on the results of this outreach will be available at the October 20 Council meeting.

ORDINANCE _____

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION CONCURRENCY AND AMENDING TITLE 25 OF THE KIRKLAND MUNICIPAL CODE, "CONCURRENCY MANAGEMENT."

WHEREAS, Kirkland's 2035 visioning process identified the desire to keep Kirkland a livable, walkable community where there are many choices for transportation; and

WHEREAS, this vision was embodied in the draft revised Comprehensive Plan, including in the new Transportation Element by using a multi-modal approach and focusing on moving people on a variety of facilities for all modes; and

WHEREAS, concurrency helps balance the impacts of new development as outlined in the Land Use Element of the draft revised Comprehensive Plan with construction of the transportation network as described in the Transportation and Capital Facilities Elements of the drat revised Comprehensive Plan; and

WHEREAS, Kirkland's Transportation Concurrency system should reflect the goals and policies of the Transportation Element of the draft revised Comprehensive Plan; and

WHEREAS, in order to reflect those goals and polices, changes to the Transportation Concurrency system are needed such as considering travel by people in all modes and by considering a wide range of transportation improvements that provide capacity; and

WHEREAS, other changes are needed to the Transportation Concurrency system to make it easier for people to understand and simpler to work with.

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code ("KMC") Section 25.06.020 is amended to read as follows:

25.06.020 Concurrency: Accounted transportation impact.
"Accounted transportation ~~traffic~~ impact" means transportation ~~traffic~~ impacts accounted for in the city's concurrency records in a manner that accounts for the impact from the project and allows the impact to be accounted for by any other applicant preparing a transportation ~~traffic~~ analysis for a concurrency application. The amount of accounted transportation ~~traffic~~ impact for a project is documented in the certificate of concurrency.

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Section 2. KMC Section 25.06.060 is amended to read as follows:

25.06.060 Building permit.
"Building permit" refers to any permit issued under the International ~~Uniform~~ Building Code. Exempt building permits are set forth in Chapter 25.08 of this title.

Section 3. KMC Section 25.06.070 is amended to read as follows:

25.06.070 Certificate of concurrency.
"Certificate of concurrency" means the statement accompanying the public works department's development standards that are issued with an approved development permit or the public works department's conditions of approval that are issued with an approved building permit. The statement shall state that a certificate of concurrency is issued and indicate:
(1) For sewer and water, the capacity of the concurrency facilities that are available and reserved for the specific uses, densities and intensities as described in the development permit or building permit;
(2) For road facilities, the accounted transportation ~~traffic~~ impact assigned to the development for the specific uses, densities and intensities as described in the development permit or building permit;
(3) Conditions of approval, if applicable;
(4) An effective date; and
(5) An expiration date.

Section 4. KMC Section 25.06.080 is amended to read as follows:

25.06.080 Concurrency:
"Concurrency" means facilities or strategies that achieve the city's level of service standards and that:
(1) For sewer, water and roads, exist at the time development is approved by the public works department; or
(2) For roads:
(a) Are ~~planned~~ funded in the ~~comprehensive plan~~ Transportation Capital Facilities Plan at the time development is approved by the public works department; or
(b) Will be available and complete no later than six years after completion of the development, and the applicant and/or the city provides a financial commitment which is in place at the time the development is approved by the public works department.

Section 5. KMC Section 25.06.100 is amended to read as follows:

25.06.100 Concurrency test:
"Concurrency test" means:

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(1) For sewer and water, the comparison of a development's demand to the available capacity of each concurrency facility;
(2) For roads, the comparison of the development's ~~impact on the level of service~~ amount of estimated person trip generation to the amount of person trips available to accommodate new growth. ~~standards of each affected subarea.~~
A concurrency test must be passed for sewer, water and roads, and a notice issued by the public works department in order to obtain a certificate of concurrency.
The concurrency test notice shall be valid for one year.

Section 6. KMC Section 25.06.110 is amended to read as follows:

25.06.110 Development permit.
"Development permit" means a land use permit. Development permits include short plat, preliminary or final rezone/reclassification, zoning permit, master plan, shoreline substantial development permit/conditional use permit, planned unit development, design review or any other permit or approval under the zoning code or subdivision ordinance or shoreline master program. Exempt development permits are set forth in Chapter 25.08 of this title.

Section 7. A new KMC Section 25.06.145 is added to read as follows:

25.06.145 Person trip.
"Person trip" means a measure of trip generation equal to one PM peak hour trip by a person in any mode of transportation.

Section 8. KMC Section 25.06.150 is amended to read as follows:

25.06.150 Planned capacity**.**
"Planned capacity" means ~~road~~ transportation facilities for pedestrians, bicycles, transit and motor vehicles that do not exist but for which the necessary facility construction, expansion, or modification project is contained in the current capital facilities element of the comprehensive plan. The improvements must be scheduled to be completed within six years and the financial commitment must be in place at the time of approval of the certificate of concurrency to complete the improvements within six years.

Section 9. A new KMC Section 25.06.165 is added to read as follows:

25.06.165 Roads.
"Roads" means transportation facilities for pedestrians, bicycles, transit and motor vehicles.

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Section 10. KMC Section 25.08.010 is amended to read as follows:

25.08.010 Exemptions.
The following development permits or building permits are exempt from the requirements of this title:
(1) Accessory dwelling units as defined in the KZC 5.10.017;
(2) Annexations;
(3) Any addition or accessory structure to a residence with no change in use;
(4) Business licenses;
(5) Categorically exempt construction under Sections 24.02.060 and 24.02.065 of Chapter 24.02, SEPA Procedures and Policies, in this code unless such construction is estimated to result in 40 or more person trips in which case such construction is not exempt from road concurrency;
(6) Categorically exempt construction or activities under Sections 24.02.060 and 24.02.065 of Chapter 24.02, SEPA Procedures and Policies, in this code, even though they:
(a) Are undertaken wholly or partly on lands covered by water;
(b) Are undertaken wholly or partly on lands in a high landslide hazard area;
(c) Are undertaken wholly or partly on lands in a seismic hazard area;
(d) Contain structures or facilities with recognized historical significance;
(e) Exceed the limit of landfill or excavation; and/or
(f) Contain an off-premises commercial sign;
(7) Cellular antennas and satellite dishes;
(8) Demolitions;
(9) Driveway, resurfacing, or parking lot paving; provided, that additional vehicular trips are not generated;
(10) Electrical, plumbing, and mechanical permits;
(11) Expansions or phases of development or building permits that were disclosed by the applicant and subject to a concurrency test as part of the original application; provided, that the certificate of concurrency was issued for the expansion or subsequent phase;
(12) Final planned unit development (if a concurrency test was conducted and approved for the corresponding preliminary planned unit development);
(13) Final plats (if a concurrency test was conducted for the corresponding preliminary plat permit);
(14) Final rezone (if a concurrency test was conducted and approved for the corresponding intent to rezone);
(15) Interior renovations or replacement structure with no change in use or increase in floor area;
(16) Interior renovations of a structure for new use(s) with the same or less intensity as the existing use or a previously approved use and with no increase in floor area;
(17) Land surface modification permits;
(18) Lot line adjustments;

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(19) Outdoor cafe permits;
(20) Reroofing of structures;
(21) Side sewer permit for single-family residence;
(22) Sign permits and master sign plans;
(23) Street use permits and right-of-way permits;
(24) Street vacations;
(25) Subdivision vacations/alterations;
(26) Subsequent building permit for an approved development permit if a concurrency test was approved for the development permit and there is no change in use, densities, and intensities;
(27) Temporary construction trailers;
(28) Temporary use permits;
(29) Variances;
~~(30) Design review;~~
(~~31~~30) Water service permit for single-family residence; and
(~~32~~31) Any other development permit or building permit which the public works department determines has no impact on the concurrency facility.

Section 11. KMC Section 25.08.020 is deleted.

Section 12. KMC Section 25.10.020 is amended to read as follows:

25.10.020 Procedures**.**
(1) Applications for concurrency shall be submitted on forms provided by the public works department and shall be tested in the order that the public works department determines the application is complete.
(2) The applicant shall be responsible to provide to the public works department a certificate of availability for sewer and water with the concurrency application submittal if the property is serviced by a noncity managed utility.
(3) The applicant shall submit vehicular and person trip generation analysis for and a ~~detailed project~~ description of the development, including location, ~~vehicular circulation~~ and gross floor area by use, with the concurrency application.
(4) A concurrency test shall be performed only for specific property, uses, densities, and intensities based on the information in the completed concurrency application provided by the applicant. The applicant shall specify densities and intensities that are consistent with the uses allowed in Title 23, the zoning code for the property. If the concurrency test is being requested in conjunction with a rezoning, the applicant shall specify densities and intensities that are consistent with the proposed zoning for the property. Changes to the uses, densities, and intensities that create an additional impact~~s~~ of more than 10 person trips or that result in a total project impact of more than 40 person trips ~~on concurrency facilities~~ shall be subject to an additional concurrency test. Changes to the uses, densities, and intensities that create a reduced impact do not require an additional concurrency test.

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(5) The public works official will perform the concurrency test prior to approval of the development permit or building permit.
(6) The public works official will notify the applicant of the test results (approval or denial) in writing and will notify other city departments of the test results and post the results on an area of the public City of Kirkland website designated for such notice within the time period established in the department's administrative procedures for concurrency. The date of the written notification to the applicant shall be the date of issuance of the concurrency test notice.
~~(7) The concurrency test notice shall expire within ninety calendar days of its issuance unless the applicant submits a SEPA environmental checklist and all of its required documentation pursuant to Sections 24.02.055 and 24.02.140 of Chapter 24.02 of this code, together with the site plan, the traffic impact analysis prepared in accordance with the city's traffic impact analysis guidelines and containing the traffic information derived from the concurrency test outcome and the SEPA review fee described in Chapter 5.74 of this code. No extensions may be granted for submitting a complete SEPA environmental checklist and all required documentation.~~
~~(8) If the deadline for submitting a complete SEPA environmental checklist and all required documentation is met as described above in subsection (7) of this section, the concurrency test notice shall be valid for one year from the date of issuance of the concurrency test notice.~~
(~~9~~7) The concurrency test notice shall expire unless a certificate of concurrency is issued or an extension of the notice is granted within one year from the date of issuance of the notice.
(~~10~~8) An applicant must apply for a new concurrency test if the notice expires or an extension is not granted.
(~~11~~9) The public works official may approve an extension of up to one year if:
(a) The applicant submits a letter in writing requesting the extension before the expiration date, can show that he/she is not responsible for the delay in issuing the certificate of concurrency and has acted in good faith to obtain a certificate; and
(b) If the property is serviced by a noncity managed utility, then the applicant must submit a letter from the utility approving the extension before the expiration date.
(~~12~~10) Once the associated development permit or building permit is approved, the public works department will issue a final certificate of concurrency as set forth in Chapter 25.12 of this title.
(~~13~~11) The public works department shall be responsible for accumulating the impacts created by each application and removing any impacts from the city's concurrency records for an expired concurrency test notice, an expired development permit or building permit, a discontinued certificate of concurrency, or other action resulting in an applicant no longer causing impacts which have been accounted for in the city records.
(~~14~~12) The public works department shall be responsible to coordinate with applicable non-city managed utility districts for maintaining and

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monitoring of available and planned capacity for non-city managed utilities.

Section 13. KMC Section 25.10.030 is amended to read as follows:

25.10.030 Test.

Development applications that would result in a reduction of level of service below the established level of service standard shall not be approved. For potable water and sanitary sewer, only available capacity will be used in conducting the concurrency test. For roads, available and planned capacity will be used in conducting the concurrency test.

(1) For sewer and water, if the capacity of the concurrency facilities with the development application is equal to or better than the capacity required to maintain the established level of service standard, then the concurrency test is passed.

(2) For roads, the concurrency test consists of ~~two steps~~comparing the existing person trip capacity to the estimated person trip generation of the development being tested. The test is passed if the existing capacity is greater than the estimated person trip generation.

~~(A) The comparison of average volume/capacity ratio for the impacted subarea(s) to the applicable level of service standard; and~~

~~(B) The comparison of the volume/capacity ratio at each appropriate intersection to the applicable level of service standard adopted in the comprehensive plan. The traffic test is passed if both comparisons meet the standard.~~

~~(C) Within the "JFK annexation area," as defined in city of Kirkland Ordinance No. 4229, the concurrency test shall be limited to the analysis set forth in subsection (2)(b) of this section until such time as the city adopts level of service standards for the JFK annexation area.~~

(3) If the concurrency test is not passed for water, sewer or roads, then the applicant may retest for concurrency after doing one or both of the following:

(A) Modify the application to reduce the need for the concurrency facilities that do not exist. Reduction of need can be through reduction of the size of the development, reduction of trips generated by original proposed development, or phasing of the development to match future concurrency facility construction; or

(B) Arrange with the public works department and fund ~~the~~ improvements for ~~the~~ additional capacity. ~~required for the concurrency facilities~~.

(4) If the concurrency test is not passed for water, sewer or roads, then the applicant may request reconsideration of the results of the concurrency test by the public works director in accordance with the provisions of Chapter 25.22.

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Section 14. KMC Section 25.10.050 is amended to read as follows:

25.10.050 Public notice of concurrency test.
(1) The public works official shall ~~cause~~ provide notice of issuance of the concurrency test notice ~~to be given in the same manner and at the same time as the SEPA public notice of Section 24.02.085 of this code.~~and the concurrency test decision on an area of the public City of Kirkland website designated for such notice.
(2) The notice shall include the name of the applicant, the city file number, the parcel number(s), the address if ~~and~~ available, a description of the development and the procedures for filing an appeal.

Section 15. KMC Section 25.12.010 is amended to read as follows:

25.12.010 Issuance.
A certificate of concurrency shall be issued at the same time a development permit or building permit is issued; provided, that the applicant holds a valid concurrency test notice, and pays any fee and/or ~~performs~~ meets any condition ~~required by the public works department~~ specified on the concurrency test notice. Each building within an approved phased development shall be issued a certificate of concurrency.

~~The public works department shall issue certificates of concurrency first for the earliest application reviewed and approved. Subsequent certificates will be issued in the order of review and approval. The purpose of this section is to enable applicants who are ready for approval to receive a certificate of concurrency, even if their application was submitted after an earlier applicant.~~ If an applicant's concurrency test notice expires before a certificate of concurrency is issued, then the assigned impacts for that applicant can be reassigned to another applicant. It is the city's intent to treat concurrency applications on a "first-come first-served" basis and ~~use this section to avoid the~~ delays in approval of development caused by applicants who are unable to complete the review process as a result of their own action.

Section 16. KMC Section 25.22.010 is amended to read as follows:

25.22.010 Decisions to be reconsidered.
(1) A decision of the public works official to not approve an application for concurrency may be reconsidered for the following reasons:
(a) A technical error was committed;
(b) Alternative data or a mitigation plan provided by the applicant was rejected; ~~and~~
(c) Unwarranted delay in review allowed capacity to be given to another applicant.

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(2) Such decision may not be reconsidered for the following reasons:
(a) The methodology of the concurrency test in the comprehensive plan and in this title is incorrect;
(b) The adopted level of service established in the comprehensive plan is incorrect; ~~and~~
(c) A provision of this title is incorrect or invalid.

Section 17. KMC Section 25.22.030 is amended to read as follows:

25.22.030 Procedures.
(1) The applicant or authorized agent must file a written request for reconsideration to the public works director within fourteen calendar days following the issuance date of the public works official's written decision. The applicant or agent shall specify in the request what aspect of the decision he/she wishes to have reconsidered and the reason for the request.
(2) The burden of proof shall be on the applicant or agent to show that the public works official was in error.
(3) Within twenty-one working days of receiving the request for reconsideration, the public works director shall review the reconsideration request and send written notice of the final concurrency test decision to the applicant or agent, and to the city planning, building and fire departments.

Section 18. KMC Section 25.23.030 is amended to read as follows:

25.23.030 Filing of appeal.
(1) ~~The appeal must be filed with the public works official within fourteen calendar days of the date of issuance of a determination of nonsignificance (DNS) for the development or within seven calendar days of the date of publication of a determination of significance (DS) for the development under Title 24 of this code.~~The appeal must be filed with the public works official within fourteen calendar days of the issuance of a concurrency test notice.
(2) The appeal must be in writing and designated as a "notice of appeal," and must contain a brief and concise statement of the matter being appealed, the specific components or aspects of the decision that are being appealed, the basic rationale or contentions on appeal, and a statement demonstrating standing to appeal. The appeal may also contain whatever supplemental information the appellant wishes to include.
(3) The burden of proof shall be on the applicant or agent to show that the decision of the public works official was in error.
(~~3~~4) The notice of appeal shall be accompanied by the appeal and fee established in Chapter 5.74 of the code.

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Section 19. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 20. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2015.

Signed in authentication thereof this _____ day of _____, 2015.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

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