

## Background

The County Council has initiated four bills with the general topic of “concurrency” or “adequate public facilities.” Because these amend the zoning or subdivision codes, they must be reviewed by the Planning Director and Planning Commission, then returned to the Council for action. The bills are numbered 318, 319, 328, and 329.

The general concept behind “concurrency” or “adequate public facilities” is that public facilities and infrastructure, such as roads, parks, schools, fire and police stations, water and sewer systems, should be built at the same time (“concurrent”) with development that generates a demand for those facilities and services. While typical zoning regulations apply to the location, density, and form of development, concurrency relates to the timing of development.

It is clear that public infrastructure, particularly regional roads and parks, have not kept up with population growth on the island of Hawai‘i. To take one of the most serious examples, the north-south arterial road capacity in Kona, which depends upon the Queen Kaahumanu and Mamalahoa Highways, has not increased since the construction of the Queen Kaahumanu extension (Palani to Kuakini Highway) in the early 1980’s, although the population of North Kona has tripled since that time. There are many reasons for the lack of road construction, some of which have to do with specific problems encountered in the efforts to build the Kahului-Keauhou (Alii) Parkway, or the Mamalahoa Bypass. Part of the reason is the high cost of public infrastructure; part of the reason is that most growth has occurred in areas that had small populations and hence did not have existing schools and parks to the extent of other areas. Nevertheless, past history makes it clear that one cannot simply assume that necessary public improvements will follow private development.

Hawai‘i County has been applying some concurrency principles with respect to major rezonings, for several years, although the term “concurrency” has not always been explicitly used. The prime examples involve commercial rezonings that depend on the Queen Kaahumanu Highway, which is currently over-congested. On the LOS “A” to “F” scale, it is at “E”, which is considered “undesireable”, at least between Kuakini Highway and Hina Lani St., during both the morning and afternoon peak hours. The county has required major commercial rezonings in the past few years that would utilize Queen Kaahumanu to build usable portions of alternate roads that should help reduce traffic on the main highway. The Honokohau Business Park is required to build the section of Kamanu St. from Costco to Kealakehe Parkway, except for a short section which TSA, the beneficiary of another rezoning action, has to build; the Palamanui rezoning has to build a mauka-makai connection from the Queen Kaahumanu Highway to Mamalahoa Highway and a section of the “Mid-Level Road”; and the Pua‘a rezoning near Pualani Estates has to build a road that would allow mauka-makai travel from Puapua’anui St. to Kuakini Highway. In Hilo, the “University Terrace” rezoning required specific road improvements, including the extension of Ponahawai St. to Mohouli St. All of these are firm requirements of the conditions of zoning. The roads in question are all on the General Plan Facilities Map.

The Mayor's veto of the O'oma ("Clifto") rezoning in 2004 was based on concurrency. The Mayor's specific objection was that the commercial portions of the rezoning should be delayed until the widening of the Queen Kaahumanu Highway to four lanes, to the Kona Airport.

The four bills introduced by the council would all require concurrency or "adequate public facilities" before development could occur. They all have the basic effect of delaying or denying private development if traffic congestion is bad or other public facilities have fallen behind.

Bill 318 would apply at the rezoning stage. It would require denial of a change of zone application if the project, along with other approved development, would cause the LOS on a state or county highway to decline or remain below "D", unless "transportation improvements or strategies to accommodate the impacts of the development will be made concurrent with the development." Bill 318 would exempt housing development from this requirement if "100% of the housing units are affordable for qualified households earning no more than 120% of the median adjusted gross income."

Bill 319 would apply to subdivision of property that is already zoned. It would also require denial of a subdivision application if the project, along with other approved development, would cause the LOS on a state or county highway to decline or remain below "D", unless "transportation improvements or strategies to accommodate the impacts of the development will be made concurrent with the development." Bill 319 would exempt housing development from this requirement if "100% of the housing units are affordable for qualified households earning no more than 120% of the median adjusted gross income."

Bill 328 would apply to changes of zone and new subdivisions. It would require the planning director to set level-of-service standards for county roads, water systems, public parks, solid waste management, police protection, and fire protection. It provides that every development would submit an engineering study to demonstrate that the project will meet the adopted level-of-service standards for parks, roads, wastewater, and water. It provides that the planning director would issue subdivision approvals and change of zone approvals only if they would not cause the level of service to fall below the adopted standards, or the development would have to be delayed until public facilities were improved, either by the developer or by public funds. (The reference to the planning director approving changes of zone is presumably a technical error and not intended to take this power away from the council.) Bill 328 also mandates the finance director to prepare a public facilities improvements plan that would result in the desired level of service.

Bill 329, although introduced by the same councilmember, appears to be an alternative to Bill 328. It applies to "all new subdivision and site plan applications for new construction received by the planning director pursuant to chapters 23 and 25, Hawai'i County Code." ("Site plan application" is not a term that is used in Chap. 23 or 25 of the

Hawai'i County Code; it could be that the bill is referring to "plan approval".) It provides that the planning director would not issue subdivision or site plan approvals if the road, sewer, or water systems were inadequate, and gives a process for determining the adequacy or inadequacy of the road, water, and sewer systems.