

Memorandum

TO: HONORABLE MAYOR,
CITY COUNCIL

FROM: Jim Ortbal
Rosalynn Hughey
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**SUBJECT: TRANSPORTATION POLICY
UPDATE REQUIRED BY
STATE LAW – LOS TO VMT**

DATE: June 16, 2017

Approved

D. D. Syll

Date

6/20/17

INFORMATION

The purpose of this memorandum is to provide information about changes in State law that affect the City of San José's transportation and environmental review policies. This memorandum outlines the background and staff's initial analysis of this change, and the process proposed for outreach, study, and future adoption of new City policy and practices to comply with State law.

SB 743 removes automobile Level of Service (LOS) from transportation analysis under the California Environmental Quality Act (CEQA) and replaces it with a metric like Vehicle Miles Traveled (VMT). The State Office of Planning and Research (OPR) expects to submit new CEQA Transportation Guidelines to the Natural Resources Agency in the summer of 2017 to begin the formal rulemaking process. Concurrently, City staff will continue its research on the topic, initiate community outreach, and prepare for a September City Council Study Session.

BACKGROUND

California Environmental Quality Act

CEQA was enacted in 1970 in response to growing awareness that environmental impacts associated with proposed actions (projects) should be disclosed to the general public. Unless a project is determined to be exempt from environmental review under CEQA, and before a governmental decision-making body may take a discretionary action to approve a project, the State-required environmental review process mandates that the public be provided with an objective analysis of the immediate and long-range impacts of a proposed project on its surrounding physical environment, and that decision-makers consider these impacts. CEQA plays an important role in the implementation of many of the City's General Plan goals and

policies. The City implements CEQA in accordance with Title 21 (Environmental Clearance Ordinance) of the San José Municipal Code.

A fundamental component of CEQA analysis is the determination of whether a project has the potential to significantly affect the physical environment. This determination requires careful judgment on the part of the City and should be based on scientific and factual data to the extent possible. CEQA Guidelines encourage the use of thresholds of significance of environmental effects. *“A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency...”* For many years, the significant impact threshold for transportation used generally under CEQA, and by the City specifically, has been Transportation Level of Service (LOS).

Transportation Level of Service

LOS measures vehicle delay (e.g. congestion levels) at intersections and on roadways. It is represented as a letter grade A through F, where LOS A represents completely free-flowing traffic, while LOS F represents highly congested conditions. In order to calculate the level of service for a project, a multi-step process is required that must identify, estimate or obtain the following information: intersections that may be affected (e.g. study intersections), traffic count and delay data, and trips projected from a project, along with travel mode (e.g. vehicle, transit, walking or bicycling) and direction of vehicle trip travel.

History of Transportation Policies and Relationship to CEQA in San José

In 1978, the City Council first established a Transportation LOS Policy (Council Policy 5-3) to meet CEQA requirements and enable the City to require that projects include mitigation measures to reduce its transportation impacts and to conform to the Horizon 2000 General Plan. This Policy addressed impacts to LOS at signalized intersections and required mitigation, typically in the form of expanded intersections and roadways, to accommodate estimated increases in vehicular traffic associated with projects.

In 1987, the City Council adopted City Council Policy 5-4 to establish “alternate” traffic mitigation measures allowed under the General Plan. In 2002, the City Council adopted amendments to the San José 2020 General Plan to allow flexibility in the General Plan’s vehicular traffic and transportation policies to support multi-modal transportation goals and smart growth land use principles.

In June 2005, in alignment with the 2002 changes to the General Plan, the City Council adopted a new Multi-Modal Transportation Policy 5-3, consolidating the two previous Council Policies (Council Policy 5-3, “Transportation LOS,” and Council Policy 5-4, “Alternate Traffic

Mitigation Measures”) into a single Council Policy 5-3 entitled “Transportation Impact Policy” (the “Policy”). The Policy is still in effect today and provides a process for the analysis and consideration of the overall conformance of a proposed development with the City’s General Plan smart growth and multi-modal transportation policies. It is used as the environmental analysis threshold of significance for transportation, as well as a tool for transportation planning and operational analysis.

Under Policy 5-3, a project causing the LOS at signalized intersections to degrade below the LOS D standard represents a significant impact under CEQA. The Policy also includes exemptions for 1) intersections within the Downtown area, in recognition of the unique position of the Downtown as the transit hub of Santa Clara County and as the City’s center of financial, business, institutional and cultural activities, and 2) small, infill projects.

If a project does trigger a significant impact under CEQA, a more significant level of environmental review is necessary and mitigation measures may be required. For intersection impacts that cannot be mitigated, the Policy only allows the City Council to override that significant impact in one of following three circumstances:

1. The impact occurs outside of the City’s jurisdiction and therefore the City does not have control (for example, on a Caltrans facility or in a neighboring city)
2. The City Council establishes an Area or Transportation Development Policy to more comprehensively address land use and transportation needs
3. The City Council designates the intersection a “Protected Intersection,” where the intersection is already built to its maximum planned capacity. Protected Intersection designations are only allowed in Special Strategy Areas. Impacts on Protected Intersections require that alternative offsetting improvements (such as pedestrian, bicycle, and transit facilities) be made to enhance the transportation system in the vicinity of the development, the Protected Intersection, or other segments of the transportation system within a designated Community Improvement Zone.

Council Policy 5-3 has not been significantly updated since 2005, although in December 2016 the text and maps associated with Council Policy 5-3 were modified to reflect the current definition of Special Strategy Areas, including “Urban Villages, Transit Station Areas, and Specific Plan Areas” in the General Plan.

Envision San José 2040 General Plan

In November 2011, the City Council adopted the Envision San José 2040 General Plan to guide future growth and development in San José. The General Plan continues the evolution of longstanding growth management and environmental sustainability policies, and establishes an

updated framework to enhance job growth while providing capacity for new housing and facilitating high-quality memorable urban places.

The General Plan aims to transform San José from a city built around the automobile to one that prioritizes people. It recognizes that access (being able to get to the things you need) is a function of both proximity and mobility and includes complementary strategies to improve them:

- **Proximity** – The General Plan provides a framework to transition from a segregated land use pattern, where the things that people need in their daily lives (jobs, housing, shops, services, daycare, schools, entertainment, recreation, etc.) are spread apart, to more mixed land uses that are integrated and clustered more closely together in “Planned Growth Areas.” These Planned Growth Areas are expected to accommodate more than 470,000 new residents and 380,000 additional jobs, as projected in the General Plan. Planned Growth Areas include Downtown, Specific Plan Areas, Urban Villages and Employment Priority Areas, and are largely clustered around existing and planned transit.

Regionally, these goals aim to bring residents and jobs closer together, because bringing more employment opportunities to San José allows more people to work closer to home and avoid long, traffic-filled commutes to and from job centers in northern parts of Santa Clara County and along the Peninsula.

- **Mobility** – The General Plan aims to build a more balanced and environmentally sustainable transportation system where 60% of trips made in San José are by walking, bicycling, transit or carpool. To realize this ambitious goal, the General Plan prioritizes better places to walk, connected bicycle facilities that are comfortable for people of all ages and abilities, and improved transit options, particularly in Planned Growth Areas.

This focused and balanced growth strategy aims to bring people closer to the places they need to go. It aims to reduce people’s need to travel (or travel as far) and increases their ability to travel on foot, bicycle or transit. This growth strategy also takes advantage of transit investments, with transit-oriented projects, that support transit ridership while decreasing auto-dependence.

While this strategy directs and promotes development within Planned Growth Areas, it also strictly limits new residential development outside of these Planned Growth Areas to preserve and enhance the quality of established neighborhoods, reduce environmental and fiscal impacts, and encourage growth within the City’s Urban Growth Boundary.

Vehicle Miles Traveled

Vehicle miles traveled (VMT) measures the amount and distance people drive, taking the number of passengers within a vehicle into account. Typically, development at a greater distance from other land uses, located in areas with less access to non-automobile modes of travel, generates more driving than development that is located proximate to other complementary uses and/or where there are more transportation options other than the automobile. The information needed to calculate VMT is currently collected and used to determine CEQA impacts, including LOS, air quality, and greenhouse gases (GHG) emissions.

The City seeks to reduce VMT in three tiers – initially by 10%, then 20%, and eventually 40% per capita over the life of the Envision San José 2040 General Plan.

Senate Bill 743

In September 2013, the California Legislature passed and Governor Brown signed Senate Bill 743 (Steinberg). SB 743 directs the State Office of Planning and Research (OPR) to produce new CEQA guidance for jurisdictions that removes automobile LOS from transportation analysis under CEQA and replaces it with VMT, or another measure that “promote[s] the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.” The intent of this change is to shift the focus of transportation analysis from vehicle delay to the reduction of GHG emissions, creation of multimodal networks and promotion of integrated land uses.

State OPR published a preliminary evaluation of possible metrics to replace LOS in CEQA transportation analyses in December 2013, invited public comment on that evaluation, and used those comments to develop the Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing SB 743, released in August 2014. In January 2016, State OPR released a revised proposal for changes to the CEQA Guidelines to implement SB 743. The City of San José submitted comments on both the Preliminary Discussion Draft (2014) and Revised Proposal (2016). State OPR expects to submit the proposed Guidelines to the Natural Resources Agency in the summer of 2017 to begin the formal rulemaking process that will amend the State’s CEQA Guidelines. After this step, jurisdictions will likely have up to two years to complete changes to their policies and practices to comply with State law (anticipated mid 2019).

ANALYSIS

SB 743 intends to appropriately balance local congestion management with statewide goals related to infill development, the promotion of public health through active transportation, and the reduction of regional congestion and pollution. The change also supports the State's climate

action goals to reduce GHG emissions through coordinated transportation and land use planning and more sustainable communities, in line with other State laws such as Assembly Bill 32 and Senate Bill 375.

Changes to CEQA under SB 743 can remove some barriers to infill development, public transportation projects, and projects that increase walking and biking. Under current environmental rules, increases in automobile traffic are considered an environmental impact that must be mitigated—often by expanding intersections and roadway capacity for automobiles—even if that mitigation actually increases GHGs. The preliminary CEQA Guidelines aim to streamline CEQA review for projects that increase infrastructure and improve safety for pedestrians, bicyclists, and transit-riders, while reducing the need to travel long distances by automobile. The preliminary CEQA Guidelines have the potential to make it easier for developers to complete residential, commercial, and mixed-use infill projects that improve air quality by reducing the number of miles driven by automobiles, based upon the land use and transportation characteristics of the project. Ultimately, this change aligns with the major strategies, land use plans, and transportation goals in the Envision San José 2040 General Plan and will greatly help with its implementation.

Transportation Policy Modification

To comply with SB 743, San José needs to modify the City's current transportation impact policy, currently part of Council Policy 5-3, and the General Plan itself. Staff recommends approaching this policy update as an opportunity to more broadly update and ultimately align the City's transportation analysis for land use and transportation projects with the General Plan's major strategies and goals. These modifications are planned to occur in two primary phases:

- **Phase I (Late 2017) – CEQA Transportation Metric Transition** – This first phase would amend the General Plan and change the City's CEQA metric from LOS to VMT, establishing thresholds in line with State guidance and General Plan policies. A major aspect of the transition to VMT will be understanding likely consequences to pipeline and previously approved projects and policies and treating them in an appropriate manner. Outside of CEQA and for the foreseeable future, the City would continue analyzing new development site conditions, local area traffic and safety operations, including traffic congestion/LOS (although likely for a smaller geographic area and fewer intersections than under the current CEQA process), requiring improvements when feasible.
- **Phase II (2019) – Comprehensive Transportation Policy/System Transition** – In the second phase, modifications to the City's transportation policies would be developed to fully implement General Plan goals, realize planned growth, and complete the multi-modal transportation network; and streamline the transportation analysis and investment/traffic impact fee process for projects. This phased approach would allow a more comprehensive analysis of all measures utilized (including, but not limited to those required under CEQA), related policies, and further coordination with other jurisdictions. It also provides the opportunity for the City to assess and, if needed, determine

appropriate adjustments to policies implemented during Phase I, once the new process has been in place for a period of time.

Significant research and work is underway to complete preliminary drafts of the policy changes and implementation tools needed to implement Phase I. This includes finalizing the framework for exemptions, project analysis, and mitigation under CEQA with the VMT standard; re-scoping LOS-based analysis as part of operational analysis; developing and refining tools to undertake VMT-based analysis, including the existing Citywide travel demand model and sketch tools to analyze project characteristics and VMT mitigations; drafting new policy language, select General Plan amendments, and revised Transportation Analysis Guidelines; and, as detailed below, conducting significant outreach to and engagement with the community and stakeholders.

Staff anticipates that the Downtown Strategy 2040 EIR would be among the first major projects and/or plans subject to the VMT standard under CEQA.

The second phase of the proposed update to San José's transportation analysis is expected to continue into 2019, with the final timing and scope to be confirmed based on technical research and analytical needs, interjurisdictional coordination, and various stakeholder input.

Community Engagement and Milestones Towards a New CEQA Transportation Metric

Staff began analyzing these potential changes necessitated by SB743 in 2016, undertaking a review of early practices and experiences, soliciting initial input from stakeholders, and conceptualizing policies based on State guidance, the City's 2040 General Plan, and initial input received. To date, City staff and consultants have hosted multiple sessions with VTA, development consultants, and other cities who have made or are in the process of making this transition. Staff have also had high-level discussions at City Council, the Planning Commission, and in other public forums. The City recognizes the importance of handling the transition from LOS to VMT thoughtfully and clearly to continue to facilitate development during the transition and avoid confusion, increased costs, community concern, or unintended consequences.

Staff will be initiating the following community engagement effort with the associated preliminary timelines and milestones:

- **Summer 2017:**

- Launch website with public information and how to get more involved:
<http://www.sanjoseca.gov/vmt>
- Developer Roundtable & Industry Meeting: June 16, 8-9:30am
- Initial Community Meetings (June 24, 10-11:30am, and June 29, 6-7:30pm)
- Continue outreach with community groups, developers, and other jurisdictions
- Planning Commission Study Session (late August)

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• **Fall 2017:**

- City Council Study Session (September 2017)
- Planning Commission Consideration (Fall 2017)
- City Council Consideration (Late 2017)

Phase II work is anticipated to build upon on the community engagement process and technical analysis completed as part of Phase I, including City Council guidance and direction, and experience with Phase I implementation. Phase II development would be expected to continue through 2018 and into 2019.

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For questions, please contact Jessica Zenk in the Department of Transportation (jessica.zenk@sanjoseca.gov or 408-535-3543). To schedule a community information and input session on this topic, please contact Bena Chang at benachang@sanjoseca.gov or 408-975-3240.

cc: City of San José Planning Commission