



SUBJECT

Proposed Amendment of the *Hayward 2040 General Plan* to comply with changes to State law including the Establishment of new Vehicle Miles Traveled (VMT) CEQA thresholds for the City of Hayward.

RECOMMENDATION

That the Commission review the report and recommend the City Council approve Amendments to the *Hayward 2040 General Plan* (Attachment III) and establish new Vehicle Miles Traveled (VMT) thresholds for California Environmental Quality Act (CEQA) analysis, consistent with SB 743 and per the findings for approval (Attachment II). The Commission previously reviewed and recommended that City Council approve Amendments to the *Hayward 2040 General Plan* related to the adoption of new Greenhouse Gas Emission reduction goals for the City.

SUMMARY

SB 743 changes the focus of transportation impact analysis in CEQA from measuring impacts to drivers, to measuring the impact of driving. The proposed Amendment will replace Level of Service (LOS) with vehicle miles traveled (VMT) per capita and provide streamlined review of land use and transportation projects that will help reduce future VMT per capita growth. VMT per capita is a quantifiable measure, in miles per capita, of the average total amount of vehicular travel. One single occupancy vehicle traveling ten miles would equal 10 VMT/capita. Four single occupancy vehicles traveling ten miles would equal 40 VMT and 10 VMT/capita. Typically, development located at greater distance from shopping and employment centers or in areas with few transportation options generates more vehicle trips and of longer distances versus a similar development located in proximity to BART Stations and other areas with more transportation alternatives. VMT is an important input in the analysis of air quality and greenhouse gas emissions and has been used for that purpose within CEQA for several years.

Since 2018, City staff and Nelson Nygaard have been working collaboratively to develop new transportation thresholds that comply with the provisions of SB 743. Currently, the City uses LOS as the threshold used in CEQA evaluations and the proposed changes would replace the current LOS thresholds with new VMT thresholds. The adoption of new thresholds to identify traffic impacts under CEQA will require an amendment to *the Hayward 2040 General Plan*.

BACKGROUND

In September 2013, Governor Brown signed Senate Bill (SB) 743, which creates a process to change the way that transportation impacts are analyzed under CEQA. Specifically, SB 743

requires the Governor’s Office of Planning and Research (OPR) to amend the CEQA Guidelines to provide an alternative measurement more reflective of impacts to the environment than Level of Service (LOS). Particularly within areas served by transit, those alternative criteria must “promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.” (PR Code Section 21099(b)(1).) SB 743 requires that the use of LOS be replaced with VMT per capita by July 1, 2020.

The purpose of SB 743 was to better align transportation impacts analysis under CEQA with the State’s goals of reducing greenhouse gas emissions and traffic-related air pollution as well as promoting multimodal transportation networks and a diversity of land uses. Under the existing LOS framework of operational-based analysis, the common solution to improving LOS at intersections is to increase overall roadway capacity (such as constructing new roadways or adding travel/turn lanes to existing roadways) which studies have shown contribute to an increase in transportation impacts to the environment. Because of this, infill and transit-oriented development was often discouraged because such projects are located in or near city centers in areas with limited roadway capacity.

VMT is not a new tool for assessing environmental impacts under CEQA. It is used to assess a project’s impact on greenhouse gas emissions, air quality, and energy. Using VMT per capita for analyzing transportation impacts emphasizes reducing the number of trips and distances vehicles are used to travel to, from, or within a development project. Projects located near transit and/or within infill areas have lower VMT per capita than projects in rural or undeveloped areas because there are more opportunities to walk, bike and take transit or to take short trips. The shift to VMT per capita analysis under CEQA is intended to encourage the development of jobs, housing, and commercial uses in closer proximity to each other and to transit and discourage development of projects in more rural parts of the City. As a result of SB 743, traditional measures for mitigating capacity concerns (e.g., widening roads, adding turn lanes, and similar investments that expand vehicle capacity) will now be replaced with measures that mitigate additional driving, such as increasing transit options, facilitating biking and walking, changing development patterns, and managing parking.

To effectively implement transportation analysis required under SB 743, Nelson Nygaard evaluated the existing legal framework, reviewed applicable policies and programs that support a new approach to traffic impact analysis, and analyzed the City’s existing development and environmental review process.

Stakeholder Interviews. In an effort to understand current and future transportation analysis needs in the City of Hayward, Nelson Nygaard completed a comprehensive review and analysis of the existing policies and practices contained within various policy documents (*Hayward 2040 General Plan*, *Climate Action Plan*, *Bicycle Master Plan*, etc.) and additionally conducted extensive interviews with City staff and a representative from the Hayward Chamber of Commerce. In the process of interviewing these stakeholders, several key themes emerged including:

- **Hayward’s development review process can be improved:** Stakeholders identified the need to make the process more streamlined and predictable. Several

stakeholders noted the increased costs of development due to a process that is vulnerable to delay and exposed to litigation risks late in the process.

- **Hayward's transportation system needs to become less car centric and more multimodal:** In the past, the development review process has focused on mitigation of impacts to drivers rather than impacts to people who walk, bike, or use transit.
- **Engineering and transportation staff use vehicle analysis to inform traffic operational needs and want to maintain this outside of CEQA:** Stakeholders identified the need to better communicate potential transportation impacts of a project to the public.
- **Transportation topics in which people are most interested:** At public meetings today, the most vocal and visible stakeholders are most concerned about pedestrian safety, overall vehicle volumes, travel times, and neighborhood traffic intrusion.
- **Transportation mitigations need updating:** The current process focuses on the mitigation to traffic and doesn't require mitigations to support lower VMT.
- **Additional mechanisms, such as adoption of a transportation impact fee (TIF), could further support a transition from LOS to VMT per capita:** The City has initiated a Citywide Multi-Modal Study to study how a transportation impact fee could be implemented. The study will be helpful in creating the tools needed to simplify the development review process and ensure the City receives contributions from developers even when LOS mitigations are no longer required under CEQA.

When drafting the local VMT thresholds, Nelson Nygaard considered stakeholder feedback as well as recommendations from the State's Office of Planning and Research (OPR).

Planning Commission Work Session on VMT. On March 12, 2020, the Planning Commission held a work session to review the proposed transition from LOS to VMT and although the Commission supported the proposed thresholds, they recommended the City proceed to maintain a local transportation analysis for operational assessment. The Commission supported new policies that provide opportunities to expand the multi-modal network.

Planning Commission Review of Proposed GHG Reduction Goals. On December 12, 2019, the Planning Commission reviewed the proposed GHG reduction goals proposed by staff and recommended by the City Council Sustainability Committee. The Commission recommended approval of the proposed GHG reduction goals, with modifications, to the City Council as part of a proposed General Plan Amendment. Prior to the Planning Commission meeting, staff consulted with an environmental consulting firm regarding the proposed GHG emission reduction goals and how they may affect the City's review of planning applications in regard to compliance with the California Environmental Quality Act (CEQA). Considering the City's use of 2005 as the baseline year, it was determined that Hayward's 2030 goal should be 55% to be consistent with SB 32.¹ Having a local goal that is

¹ While the state's goal is 40% below 1990 levels by 2030, guidance from the California Air Resources Board indicates that for cities using 2005 as a baseline, a reduction of 55% by 2040 is roughly equivalent.

not as stringent as state law can complicate the analysis of development applications. Staff also found that a carbon neutrality goal, if adopted as policy in the City's General Plan, could be very difficult for developers to provide emissions analyses showing that projects will be consistent with the General Plan. Staff presented this information to the Planning Commission on December 12, 2019,² and the Planning Commission voted unanimously to recommend that Council amend the General Plan to include the following GHG emission reduction goals:

- 30% below 2005 levels by 2025
- 55% below 2005 levels by 2030
- Work with the community to develop a plan that may result in the reduction of community-based GHG emissions to achieve carbon neutrality by 2045

In addition, the Commission briefly discussed some of the actions that will be necessary to achieve the new targets – specifically electrification of buildings and vehicles. The Commission also recommended staff research the consequences of hazardous waste disposal of batteries for both homes and electric vehicles, including what other communities are doing to mitigate this risk and maintain the commitment that the City's energy provider be as carbon neutral as possible.

While the Planning Commission is not required to take additional action on the proposed General Plan Amendment for the GHG reduction goals, staff recommends combining the two Amendments for VMT and GHG into one action for City Council consideration, tentatively scheduled for June 16, 2020.

DISCUSSION

As mentioned above, SB 743 requires OPR revise the CEQA Guidelines to provide alternative criteria for evaluating transportation impacts to promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. Once the City adopts the new CEQA thresholds, LOS or similar measures of vehicular capacity will no longer be considered a measure for impacts under CEQA.

While the City has the discretion to set other thresholds of significance for what constitutes a significant impact in CEQA, the criteria for determining the significance of transportation impacts must promote the reduction of greenhouse gas (GHG) emissions, develop multimodal transportation networks, and create a greater diversity of land uses. As such, OPR recommends cities adopt quantifiable thresholds for residential, employment, and retail land use as these three categories cover a majority of land uses.

For residential and office uses, OPR suggests that reducing VMT per capita and per worker, respectively, to 15% below average which is achievable at the local, project level and is also consistent with achieving the State's climate goals. Retail land use does not generate VMT in the same way that residential and employment land use does. New local retail destinations redistribute rather than generate new trips. Accordingly, OPR recommends defining the

² Planning Commission Meeting 12/19/20:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=4274107&GUID=B4340074-1179-4CEB-B3EA-28B1BD1C6B5C&Options=&Search=>

threshold of significance as any net increase in VMT, and since local-serving retail redistributes existing trips, it does not generate additional new VMT and can be screened out. Projects that meet local-serving retail criteria, smaller than 50,000 square feet, would not require VMT analysis, while larger projects that do not meet the definition of local retail would require additional transportation analysis to determine the environmental impact. Retail that exceeds the local retail size criteria will be reviewed on a case-by-case basis using local knowledge by City staff to determine if the retail is local-serving. The VMT thresholds and screening criteria proposed for the City of Hayward are based on OPR recommendations and included as Attachment IV.

Additional Land Use Categories. The City can determine thresholds of significance for additional land use categories that are not listed in **Error! Reference source not found.**, by creating a significance threshold using more location-specific information. For example, San José created two separate “employment” land use thresholds, one for office (general employment) and one for industrial employment. Additionally, industrial land use is the least compatible with mixed-use, walkable neighborhoods that tend to have low VMT. Requiring industrial projects to have the same low VMT as an office project would discourage industrial development, which is important to the City and a part of the General Plan. To meet City’s land use and employment goals without increasing VMT, Hayward can adopt the regional average VMT per employee as the threshold, compared to the threshold of 15% below average for office employment, for industrial land use and other land uses which were not identified in Figure 1. This threshold ensures that new development would not increase VMT per employee in Hayward.

SCREENING THRESHOLDS FOR LAND USE PROJECTS

Under SB 743, it is assumed that some types of development can be exempt from a transportation analysis under CEQA due to their inherent less than significant impact on VMT per capita. A less than significant impact on VMT per capita may result from a project’s location, size, or the land use of the development. A project only needs to meet one of four screening criteria to be exempt from the requirement to complete a transportation impact analysis under CEQA. OPR’s Technical Advisory provides guidance on screening the following four types of projects:

- Small Project Screen
- Development in low VMT zones
- Transit Based Screens
- Affordable Housing Screen

In general, projects that generate less than 110 total vehicle trips per day, as determined through ITE’s Trip Generation Manual, are assumed to have a less than significant impact; however, for projects that generate more than 110 trips, traffic impact studies or environmental impact reports may be required.

Development in Low VMT Areas. In addition to small project screens, OPR recommends streamlining for residential and employment (office) projects located in areas with low VMT per capita/per employee. Projects located in areas with low VMT per capita/per

employee, and incorporate similar features (i.e., density, mix of uses, transit accessibility) will exhibit similarly low VMT. The City has developed a geographic, map-based screen (Attachment IV) that identifies where projects could be developed and meet minimum VMT requirements based on Traffic Analysis Zones (TAZ).

Transit Screen. In addition to small project-based criteria, residential, retail, and employment projects within ½ mile from an existing major transit stop or transit corridor are considered to have a less-than-significant impact on VMT per capita. A major transit stop is defined as a rail station or the intersection of two or more bus routes with service every 15 minutes or less during morning and evening commute periods. The maps included as Attachment IV identify where major transit stops are located in Hayward, including those areas within ½ mile of the transit stop.

Affordable Housing Screen. OPR also allows cities to adopt screens for affordable housing projects. To qualify, an affordable housing project needs to be located within Priority Development Areas (PDAs) and have access to high-quality transit, defined as a bus or train at least every 15 minutes during peak hours. The project must also be 100% deed-restricted and meet minimum density, parking, and active transportation requirements.

Local Transportation Analysis and Transportation Impact Fee. Outside of the CEQA process, vehicle LOS can still be retained by lead agencies to study and evaluate road and intersection operations. Some cities refer to this non-CEQA analysis as a Local Transportation Analysis (LTA) and may call for analysis of site access and multimodal circulation, intersection operations, corridor travel time, signal timing, signal warrant needs for study area intersections and road segments, and other transportation assessments. The City will continue to use its Traffic Study Guidelines for its use of LOS for LTA purposes.

The City of Hayward is in the process of developing the Transportation Impact Fee (TIF) Program and it will be submitted to the City Council for consideration later this year. Transportation impact fees are one-time fees typically paid prior to the issuance of a building permit and imposed on development projects by local agencies responsible for regulating land use (cities and counties). Generally, the fees are charged per square foot of development or per number of trips generated.

Local Agencies can create a TIF Program as allowed by the State Legislature Mitigation Fee Act (the Act) with Assembly Bill 1600 adopted in 1987 and subsequent amendments to guide the widespread imposition of public facilities fees. The Act, contained in California Government Code §§66000-66025, establishes requirements on local agencies for the imposition and administration of fee programs.

The objective of the TIF is to provide local funding to ensure that adequate transportation facilities, including pedestrian and bicycle improvements, will be available to meet the projected needs of the City as it grows, and that the facilities planned are consistent with the Regional Transportation Plan, the City of Hayward General Plan, Bicycle and Pedestrian Master Plan, and SB 743 mitigations.

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan. The City has several policies to support the transition from LOS to using VMT per capita, including policies in the *Hayward 2040 General Plan*, including:

- M-1.4 Multimodal System Extensions
- M-1.5 Flexible LOS Standards
- M-1.8 Transportation Choices
- M-2.2 Regional Plans
- M-2.5 Regional Traffic Impacts
- M-4.3 Level of Service
- H-3.2 Transit Oriented Development
- H-3.3 Sustainable Housing Development

Additionally, the City's Climate Action Plan contains several goals and policies related to the reduction of VMT and GHG, including:

- M-8.2 Citywide TDM Plan
- M-8.4 Automobile Commute Trip Reduction
- M-9.10 Unbundled Multifamily Parking
- NR-2.6 Greenhouse Gas Reduction in New Development

As previously noted, the adoption of any new thresholds for CEQA analysis requires an amendment to the *Hayward 2040 General Plan* to replace references of LOS with VMT.

Proposed General Plan Amendment. As previously mentioned, adoption of new VMT thresholds for CEQA analysis require an Amendment of several goals and policies in the Mobility Section of the *Hayward 2040 General Plan*. Additionally, the adoption of new GHG Reduction Goals for the City will require an Amendment of the Natural Resources section of the General Plan. While the Commission previously reviewed and recommended the adoption of new GHG reduction goals on December 12, 2019, staff has consolidated both Amendments into one request for Council consideration on June 16, 2020.

Pursuant to HMC Section 10-1.3425(a), the Planning Commission shall hold a public hearing on all map and text amendments to the General Plan and may recommend approval of or denial of a text amendment, reclassification, or pre-zoning to the City Council. Recommendations for approval shall be based upon all the following findings:

1. Substantial proof exists that the proposed change will promote the public health, safety, convenience, and general welfare of the residents of Hayward;
2. The proposed change is in conformance with all applicable, officially adopted policies and plans;
3. Streets and public facilities existing or proposed are adequate to serve all uses permitted when the property is reclassified; and
4. All uses permitted when property is reclassified will be compatible with present and potential future uses, and, further, a beneficial effect will be achieved which is not obtainable under existing regulations

Staff has included more detailed findings to support the Amendments in Attachment II and a comprehensive list of all the Amendments being proposed is included as Attachment III.

ENVIRONMENTAL REVIEW

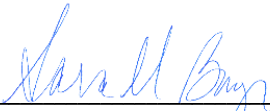
Pursuant to the California Environmental Quality Act of 1970, Public Resources Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, "CEQA"), the proposed Amendments do not constitute a "project" within the meaning of Public Resources Code Section 21065, and CEQA Guidelines Sections 15061(b)(3) and 15378 because there is no potential that it will result in a direct or reasonably foreseeable indirect physical change in the environment and because it has no potential for either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment.

NEXT STEPS

Following Planning Commission feedback and recommendation, Staff will forward the proposed Amendments of the *Hayward 2040 General Plan* to the City Council for a public hearing and first reading, tentatively scheduled for June 16, 2020. If approved, the proposed amendments would become effective in July 2020.

Prepared by: Jeremy Lochirco, Principal Planner
Charmine Solla, Senior Transportation Engineer
Erik Pearson, Environmental Services Manager
Meghan Weir, Principal, Nelson Nygaard
Marvin Ranaldson, Associate, Nelson Nygaard

Approved by:



Sara Buizer, AICP, Planning Manager



Laura Simpson, AICP, Development Services Director