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ADDITIONAL INFORMATION

Agenda Related Item(s) – ID#20-00843 (10:10 A.M.)

Item(s)

Hearing to consider adoption of Vehicle Miles Traveled Thresholds pursuant to Senate Bill 743, which requires local jurisdictions in California to adopt such thresholds by July 1, 2020

Contents: Comments from Leadership Counsel for Justice & Accountability

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

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June 24, 2020
Fresno City Council
Council President Miguel Arias
2600 Fresno Street
Fresno, CA

Comments RE: SB 743, CEQA Vehicle Miles Traveled Guidelines

Dear Council President Arias and fellow Councilmembers,

Leadership Counsel for Justice and Accountability (Leadership Counsel) and Climate Plan share the following concerns, comments, and recommendations with respect to City Staff's Draft CEQA Vehicle Miles Traveled (VMT) Guidelines. For years, Leadership Counsel has been working alongside residents in the Addams Elementary area, Southeast, South Central, and West Fresno to ultimately ensure all people have access to the same resources, amenities, and opportunities to live a dignified and healthy life. Climate Plan is a coalition of over 50 organizations across California working together to advance policies and programs that address the relationship between land use policy and climate change to realize more sustainable and equitable development throughout California. We write this letter to provide direct input on the City's Draft VMT CEQA Guidelines and ensure they are reflective of the Legislature's intent as they passed SB 743 seven years ago.

I. The City of Fresno needs to adopt its own VMT baseline.

The Draft Guidelines propose that the City of Fresno use the County's VMT baseline rather than developing its own. What this means is that when assessing VMT impacts from projects such as residential, retail, and office and other land uses, the City of Fresno would use the regional average VMT from the County. This is problematic as there are vast differences in the make up City of Fresno and the rest of Fresno County. Fresno is California's fifth largest city and holds half the county's population in approximately 115 square mile area of the county's 6,000 square miles. The City of Fresno is the 5th largest City in the state and is an urban hub of approximately one half million residents. Trips generated or terminating within the City of Fresno generally require traveling much shorter distances than trips within the County at large. This is demonstrated clearly in Figure 5 of the City's CEQA Guidelines for VMT. p. 14.

Using the County to assess a VMT baseline would result in the City failing to identify significant VMT impacts where those impacts exist and result in the failure of the City to adopt adequate mitigation to reduce those impacts as required by CEQA. This would in turn facilitate sprawling land use patterns which SB 743 was specifically adopted to avoid and undermine achievement of California's greenhouse gas reduction and climate goals. Pub. Resources Code § 21099(b)(1) (articulating goals of the promotion of the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and diversity of land uses).

The City's reliance on Fresno County VMT as the basis for VMT significance thresholds is not supported by scientific or factual data and results in VMT thresholds which are not supported by substantial evidence in violation of CEQA. 14 C.C.R. § 15064(b)(1); *Mission Bay Alliance v. Office of Community Inv. & Infrastructure* (2016) 6 CA5th 160, 206.

II. Require higher thresholds for project exemption.

The proposed Guidelines contain a list of projects that are determined to have less than significant impact and would not be subject to a VMT analysis. We recommend these standards be raised in order to align with the intent of SB 743, which finds it necessary to *balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions*¹. CEQA Guidelines section 15064.3, are explicit in providing two examples of projects that may be presumed to cause a less than significant impact, and thus exempt: (1) projects "within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor," and (2) projects "that decrease vehicle miles traveled in the project area

¹ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB743

compared to existing conditions.” Many of the exemptions described below meet neither of these qualifications.

One exemption the City is making are for projects that generate 500 average daily trips or less. In stark comparison, the Office of Planning and Research (OPR) recommends projects generating 110 - 124 average daily trips can be exempted from the VMT analysis. This is a monumental discrepancy between what the State is recommending and what Staff is proposing in this draft. The City has also made several policy commitments in adopted plans like the General Plan and other resolutions that encourage and incentivize infill developments. These Draft Guidelines, however, do not align with the City’s own land-use, climate, infill, or air quality objectives and goals. Just from the General Plan alone the following policies include: RC-2-a, RC-2-b, ED-5-e, UF-1-f, UF-14-a, UF-14-b, LU-1-a, and LU-2, 3, 4, 5, 6 to name a few. Therefore, the City should follow OPR's guidance and reduce the number of average daily trips to their recommendation.

Another of those project criteria that permits projects to automatically be deemed to have a less than significant impact is by simply having some sort of affordability component in a residential project. The draft finds that “the affordable-housing requirement to meet the screening criteria is to be determined by City staff” (Page 9). This language is far too vague, does not commit to requiring steep affordability or a certain percentage of affordable units, and is also an opening for unaffordable sprawl development to bypass VMT analysis and mitigation by simply including a small and undefined amount of units at prices affordable to lower-income households, directly undermining SB 743’s greenhouse gas reduction and mobility goals. Indeed, OPR’s TA states that, “[e]vidence supports a presumption of less than significant impact for a 100 percent affordable residential development (or the residential component of a mixed-use development) in infill locations.” The City’s proposed exemption for projects which include some form of affordable-housing requirement lacks definition and a supporting basis in facts. It would further undermine CEQA’s purpose of ensuring public input in the decision-making process by allowing staff to grant ad hoc VMT exemptions to development projects based on a determination that the project meets some measure of affordability that is not disclosed to the public and which the public has no opportunity to comment on.

Similarly, projects involving a 50,000 square foot of retail or less also get this classification of less than significant. For this exemption to apply in a manner consistent with SB 743’s purpose and requirements, it must include some requirement for retail to be located near transit or publically accessible transportation service. Otherwise, the exemption will do nothing to incentivize infill development and will facilitate costly greenfield development which conflicts with SB 743’s greenhouse gas reduction imperative.

III. Induced travel analysis exemptions are inadequate and counterproductive to reducing VMTs

OPR's Technical Advisory (TA) lists a series of projects that would likely not lead to a substantial increase in vehicle travel and not necessitate an induced travel analysis. The Draft Guidelines identifies a series of projects that do not align with OPR's guidance to exclude projects that ultimately do not add additional vehicular capacity. OPR's TA excludes projects that improve the condition of existing infrastructure by maintaining, replacing, making safe, and repairing projects whilst not increasing VMTs. The Draft Guidelines identifies several projects involving lane additions², however, it is not considered to induce demand as it is a safety issue. Some excluded project examples that would not require an induced travel analysis include:

- "Addition of an auxiliary lane of less than 1 mi in length designed"
- "Addition of roadway capacity on local or collector streets"
- "Conversion of existing general-purpose lanes (including ramps) to managed lanes or transit lanes"
- "Addition of tolled lanes, where tolls are sufficient to mitigate VMT increase"
- "Addition of passing lanes, truck climbing lanes, or truck brake-check lanes in rural areas that do not increase overall vehicle capacity along the corridor"

Any project that increases capacity by adding more lanes on an existing roadway needs to have an induced travel analysis whenever to better understand the VMT impacts. The Draft Guidelines claims these projects increase roadway safety, however, a basic understanding of induced demand where increasing the supply will make people want or use something more, will tell you otherwise.² Rather, to improve safety the City needs to provide adequate infrastructure and educate both drivers and non-motorized users how to safely share a roadway. The projects listed above should all undergo a comprehensive analysis to ensure that we are not increasing VMTs and we are keeping our roads safe for non-motorized users such as cyclists and pedestrians.

Additionally, the Draft Guidelines state, "[t]he City of Fresno will solely use VMT analysis for CEQA disclosure of transportation projects". p. 19. This statement is concerning as the paragraph continues that it will continue to require a Level of Service (LOS) analysis. The City should not use the VMT analysis to simply fulfill a requirement to comply with CEQA, but rather make the necessary efforts to reduce VMTs as is required by SB 743 and meet our legislative climate goals.

² <https://www.aeaweb.org/articles?id=10.1257/aer.101.6.2616>

IV. Adopt a meaningful VMT threshold in accordance with OPR guidance

Currently, the City's Draft Guidelines provide that any project consistent with the General Plan will result in no net change in VMT and projects seeking a General Plan amendment must use the 13% threshold. The General Plan encourages to "[l]ocate roughly one-half of future residential development in infill areas" which is defined as any land within city limits prior to December 31, 2012 (Fresno City General Plan, p. 3-16). The other half is to be built in identified growth areas within the sphere of influence where infrastructure and density are lacking that would reduce the use of single occupancy vehicles. It is evident that left as is, this threshold will have minimal impact or even have the opposite effect on reducing vehicle travel as not all projects included in the General Plan will not reduce vehicular demand. As such, any project undergoing CEQA that will increase vehicular demand should be required to assess whether or not they surpass the 13% threshold the Draft Guidelines establish.

V. Failure to engage the public and develop community-driven mitigation measures

The Draft Guidelines fails to engage the public in developing this Draft along with the mitigation measures identified in Appendices A, B, and C. From what we are aware, there were no public meetings in developing the Draft Guidelines, nor was there much notice of this process or draft until it was put on the City Council agenda two weeks prior to the July 1st deadline. There was one public meeting noticed by an email to select individuals where, based on a poll that was conducted, seemed to be mostly attended by those who identified as private developers and no community residents. It is inexcusable that the fifth largest city in California has not done its due diligence in engaging its residents in a process that will affect most all development for the foreseeable future. A process that has the ability to create drastic changes in the way we develop, where public and private investments are made, how we mitigate impacts, and how we make our city more climate resilient merit an inclusive meaningful process. Whatsoever, the Draft Guidelines recommend that the City work collaboratively within its region to establish fee programs, mitigation banks, and exchanges as the most efficient way to establish a regional mitigation pathway where the projects can contribute. These aforementioned programs must include the public as it moves forward with development and implementation.

VI. Conclusion

We urge the City of Fresno to delay adoption of the Draft Guidelines while it addresses the significant concerns expressed in this letter to comply with the law.

Sincerely,

Grecia Elenes
Leadership Counsel for Justice and Accountability

Jim Grant
Catholic Diocese of Fresno

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Fresno Building Healthy Communities

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