Land Use, Construction & Housing Council
November 3, 2014
10 - 11:30 a.m.

1. Welcome and Self Introductions

2. Downtown Revitalization and PLUM Priorities for 2015 and Beyond
   Jose Huizar, Councilmember, City of Los Angeles District 14

3. Report on Master Planned Development Ordinance
   Phyllis Nathanson, City of LA Planning Department

4. Informational Items and Issues We’re Tracking Today
   - CEQA Reform (State and Local)
   - Seismic Resilience: Building Retrofit Ordinance(s) (City of LA)
   - Clean Up Green Up Initiative (City of LA)
   - Demolition Notification Ordinance (City of LA)
   - Incentive-Based Affordable Housing (State and City of LA)
   - Zoning Code Reform (City of LA)
   - Master Planned Development Zone Ordinance (City of LA)
   - LA City General Plan: Plan for a Healthy LA/Mobility Plan 2035 (City of LA)

Upcoming Chamber Events:
   - State of Infrastructure – Wednesday November 12, 7:30am – 11:45am
   - ACCESS DC – March 9 -11 2015

Next Council Meeting:
   January 28, 2015
   10am – 11:30am
Hon. José Huizar
Los Angeles City Council
District 14

José Huizar was elected to the Los Angeles City Council’s 14th District in 2005 and overwhelmingly re-elected in 2007 and 2011. He is an advocate for public safety, youth programs and sustainable economic development that provides jobs and services to the residents of his district and the City of Los Angeles.

Councilmember Huizar has been at the forefront of several key improvement projects in his district, including the Metro Gold Line Eastside Extension, which links East L.A. to Downtown Los Angeles. Another priority for Councilmember Huizar is his Bringing Back Broadway initiative, an ambitious 10-year plan to renovate downtown’s Broadway Corridor, which includes restoring 12 historic theaters and returning the beloved streetcar back to downtown’s historic core.

Councilmember Huizar also utilizes his knowledge and experience in urban planning and transportation as a member of the Los Angeles County Metropolitan Transportation Authority (MTA) Board of Directors.

Prior to his Council election, Councilmember Huizar served as a member and President of the Los Angeles Unified School District’s Board of Education. He led the successful effort to reform the district’s high school curriculum by ensuring that all students, regardless of their background, had access to the A-G courses required for admission to California’s public universities.

Councilmember Huizar has been awarded numerous awards and distinctions, including profiles by the Los Angeles Business Journal as one of the 25 figures in the Los Angeles Area that “stand out for their potential to shape lives” and by Hispanic Business Magazine as one of the “100 most influential Hispanics” in the United States. Councilmember Huizar received a Bachelor of Arts degree from the University of California, Berkeley, a Master’s degree in Public Affairs and Urban Planning from Princeton University and a Juris Doctorate from UCLA School of Law.
MOTION

On September 27, 2013, Governor Brown signed SB 743 into law, which requires the Governor's Office of Planning and Research (OPR) to create a process to change the manner in which transportation impacts are analyzed under the California Environmental Quality Act (CEQA). Currently, the environmental review of traffic impacts focuses on vehicular capacity at intersections and on roadway segments. SB 743 requires that we move away from the auto-centric metric of level of service (LOS) for determining whether there are traffic impacts under CEQA. Instead, impacts to transportation network performance are to be viewed through a filter that focuses on the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and the promotion of a diversity of land uses.

On August 6, 2014, OPR released a "Preliminary Discussion Draft of Updates to the CEQA Guidelines Implementing Senate Bill 743 (Steinberg, 2013)" ("Discussion Draft"). The Discussion Draft recommends that the primary consideration in determining a project's transportation impacts should be the amount and distance of automobile travel associated with the project, namely, the vehicle miles traveled (VMT). It also recommends considering the effects of the project on transit and non-motorized travel as well as the safety of all travelers. It states that LOS no longer constitutes the basis for finding a significant environmental impact. The Discussion Draft is open for public comment until October 10, 2014, and it will then undergo a certification and adoption process prior to implementation. OPR indicates that the amended Guidelines will be effective by January 2016.

It is critical that the City begin now to develop the necessary metrics and thresholds of significance for updated City guidelines. The impending changes also present an opportunity to take a fresh look at how the City measures, reviews and monitors the performance of recommended project mitigations.

I THEREFORE MOVE that the Council instruct the Departments of City Planning and Transportation to begin specific tasks in anticipation of the State's adoption of the amended CEQA Guidelines implementing SB 743, which will require changes in the way project impacts to the transportation network performance are determined, as follows:

1. Prepare and submit comments on behalf of the City in response to OPR's Discussion Draft.

2. Prepare and present to the Transportation Committee a report on the following items:
   a. A scope of work that the City will be required to undertake to comply with SB 743, including an implementation schedule, with specific goals and milestones, as well as a provision for monitoring and evaluation requirements that will determine if recommended mitigations are effective.

   b. How VMT will be calculated in conducting CEQA analysis.
c. Clarify if LOS will continue to be used and under what circumstances

d. Map the locations within the City where new VMT metric will apply based on the provisions SB 743 and OPR's draft guidelines

e. Provide recommendations on additional outcomes that the City may have an interest in measuring in conducting CEQA analysis in two general categories:

   i. an approach to CEQA analysis for both land use and transportation projects to disclose impacts

   ii. a new approach to project analysis that includes safety, economic development, public health, transit travel time/reliability, and other metrics

f. Report on the ways the City's implementation of SB 743 will be in alignment with the proposed Mobility Element of the General Plan.

g. Identify any additional resources needed to support the effort, including but not limited to grant funding opportunities.

3. Partner with other municipalities, counties and metropolitan planning organizations as necessary to provide both guidance and consistency in the effort.

PRESENTED BY

MIKE BONIN
Councilmember, 11th District

JOSE HUIZAR
Councilmember, 14th District

SECONDED BY
November xx, 2014

Christopher Calfee, Senior Counsel
Governor’s Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

Re: Comments on the Office of Planning and Research SB 743 Draft Guidelines

Dear Mr. Calfee,

Thank you for meeting with us regarding the formulation and adoption of CEQA Guidelines with respect to the implementation of SB 743. We greatly appreciate the time and consideration you have taken in engaging in an ongoing dialogue regarding these regulatory changes, which will have a huge impact on the viability of infill development.

As outlined in our previous comment letter, we are very concerned that the new guidelines will increase litigation risk, particularly for infill development projects. Infill development is crucial to the Los Angeles economy, and California has struggled to keep up with housing demand due to CEQA abuse. Although significant reform will require new legislation, we do believe that there is statutory authority to go further, as described herein.

**Background**

We appreciate efforts aimed at developing new criteria to analyze transportation impacts. In particular, rejection of the automobile delay metric embodied in level of service or similar measures as a basis for finding a significant transportation\(^1\) impact, is an important step to revolutionize CEQA analysis as it relates to transportation impacts for urban, infill developments within transit priority areas (“TPAs”). PRC Section 21099 appears to endorse our strong belief that locating projects within urban in-fill locations, such as Downtown Los Angeles, where jobs, housing and recreational activities are in close proximity, cannot create a significant transportation impact; greenhouse gases will be less due to the proximity of other uses that reduces the need to drive, and since there are multiple ways of being transported to and within Downtown LA, such as by walking, taking a train, bus or other public transportation, biking, skateboarding, driving, or ride-sharing, etc.

However, we also note that there is now some uncertainty with respect to the definition of a transportation impact and how to measure it created by the abolition of time delay as the sole criteria for analyzing the significance of transportation impacts. Consequently, our concern is that, as drafted, the proposed CEQA Guidelines do not do enough to bolster the clear statutory direction to encourage infill development where there is a diversity of uses and a diversity of

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\(^{1}\) PRC Section 21099(b)(1) relates to transportation impacts, not traffic impacts (and Appendix G of the CEQA Guidelines should be amended accordingly). Webster’s Ninth New Collegiate Dictionary defines traffic as “the movement (as of vehicles or pedestrians) through an area or along a route” and as “the vehicles, pedestrians, ships, or planes moving along a route.” It defines transportation as “an act or process of transport” and the “means of conveyance or travel from one place to another.”
transportation modes available.

**Statutory Authority**

PRC Section 21099 specifically directs the Office of Planning & Research ("OPR") to set the applicable criteria for determining significant and unavoidable impacts in TPAs. This Section requires that OPR establish the criteria on which a local agency decides to establish the transportation threshold of significance and it is similar to the authority that OPR has already exercised in CEQA Guidelines Section 15064.5 for determining the significance of historic resources.

Unlike *Communities for a Better Environment v. California Resources Agency* ("CBE") (2002) 126 Cal.Rptr.2d 441, where the court found that the proposed guidelines of the California Resource Agency ("CRA") had established a “… regulatory standard in a way that forecloses the consideration of any other substantial evidence showing there may be a significant effect,” with PRC Sec. 21099(b)(1) the State has mandated that OPR establish the criteria for determining the significance of transportation impacts. Thus, while lead agencies, such as the City of Los Angeles, still ultimately may decide when to call a transportation impact significant, unlike most other CEQA impact areas, the State has directed OPR to establish the criteria for determining the significance of transportation impacts. In this context, under CBE, “a ‘threshold of significance’ for a given environmental effect is simply that level at which the lead agency finds the effects of the Project to be significant, the term may be defined as a quantitative or qualitative standard, or [set of criteria], pursuant to which the significance of a given environmental effect may be determined.” CBE at 450 (emphasis added). Thus, it is difficult to see much of any meaningful distinction between the threshold of significance and the criteria on which it is based.

Under this framework, synthesizing CBE with PRC Sec. 21099, the State of California has authorized OPR to establish the set of criteria, i.e., quantitative or qualitative standards, pursuant to which the significance of transportation impacts may be determined.

Unlike CBE where the application of a regulatory standard foreclosed the consideration of any other substantial evidence showing there may be a significant effect, here, under SB 743, PRC Sec. 21099(b)(2) specifically mandates that no matter how much substantial evidence of automobile delay exists, as described solely by LOS or similar measures of vehicular capacity or traffic congestion, this potential evidence of automobile delay is prohibited from being considered a significant and unavoidable impact on the environment. As a result, PRC Sec. 21099 makes several dramatic and important changes in CEQA jurisprudence as it relates to transportation impacts: no matter how much substantial evidence is provided, automobile delay as solely described by LOS or similar measures of vehicle capacity or traffic congestion shall not be considered a significant and unavoidable impact on the environment. Consequently, while a lead agency may have a remnant level of service standard in various planning documents, such as a General Plan, the proposed CEQA Guidelines must affirmatively remove automobile delay from all CEQA analysis, whether in the Transportation or Land Use inconsistency sections. We ask you to incorporate this proposed modification into proposed new CEQA Guideline Section 15064.3. For example, if LOS is in a General Plan, then there should not be a CEQA land use

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2 The State has imposed significance criteria for historic and archaeological resources in CEQA.
inconsistency due solely to a deviation from a General Plan’s LOS standard. Further, to the extent LOS is embedded in a Congestion Management Plan ("CMP"), a deviation from a CMP’s LOS standard should not be a CEQA land use inconsistency.

In this bold new CEQA world for transportation impacts, OPR’s proposed guidelines take a much needed step forward, but they can improve substantially because they do not fully and clearly establish the criteria for determining the significance of transportation impacts in TPAs.

The proposed Guidelines may be further improved in the following ways:

- Do not conflate transportation impacts with other CEQA impact areas. Proposed Section 15064.3(a) raises indirect impact areas, such as air quality, noise and hazards/safety. Referencing these other impact areas here creates some confusion about their relationship to transportation impacts and whether some additional analysis is being required. These topics are already required to be analyzed in other sections of an environmental document pursuant to CEQA Guidelines Appendix G, so it seems a duplicative analysis is unnecessary and inefficient.

- Bolster the exemption from Vehicle Miles Traveled ("VMT") for in-fill development within TPAs. As stated earlier, in-fill development, such as in Downtown Los Angeles, promotes the three listed mandatory priorities of PRC Section 21099. Therefore, proposed Section 15064.3(b)(1) should clearly exempt in-fill development within TPAs from a VMT analysis. The words "... generally may be considered to have a less than significant transportation impact" should be changed to "... generally would be considered to have a less than significant transportation impact." The subsequent words "generally may" should be changed to "generally would" in this subsection.

- Proposed Section 15064(b)(2) should be redrafted or deleted. As drafted, the language provides broad definitions for a "transportation project," and it is possible that required transportation-related mitigations measures for projects could be construed as "transportation projects" themselves. Therefore, we ask for more specific language so that the section can be applied narrowly. However, even if the language were to apply only to traffic-inducing transportation projects, there should not be this extra opportunity to sneak in a capacity or automobile delay significant impact through this new induced traffic metric, as it is not in the spirit of PRC Section 21099. It is becoming well established that increasing roadway capacity induces, directly or indirectly, more vehicular traffic. Since congestion (capacity or automobile delay) will no longer be considered a significant impact, the presence of more cars or capacity should be irrelevant.

- Many of the proposed mitigation measures listed in Appendix F address social and economic factors that are outside the scope of CEQA. Further, they are completely unworkable for individual projects. For example, if a project is residential in nature, it is beyond the scope of a project to increase “access to common goods and services, such as groceries, schools, and daycare.” There is also no factual basis or nexus between “incorporating affordable housing into the project” with transportation impacts. Considering income and net asset thresholds for affordable housing, it is highly likely that to the extent affordable housing residents have
cars, affordable housing residents would have older, more heavily polluting cars compared to market rate residents. Moderate income affordable housing residents, such as those at 60 percent AMI are as likely to drive to their jobs as non-affordable housing residents, except due to income/asset requirements the affordable residents at 60 percent AMI are likely to drive older, more heavily polluting cars. It is absolutely unclear how this “mitigation measure” would promote the reduction of greenhouse gasses or the development of multimodal transportation networks. Numerous other proposed “mitigation measures” suffer from similar infirmities - lacking nexus between the asserted purposes and the impacts.

- If addressing these social and economic issues is a policy goal of the guidelines, then there are other ways it could be addressed more efficiently – without creating the uncertainty created by the risk of litigation. One way to do this might be to include them into the criteria for determining the significance of transportation impacts, rather than including them as possible mitigations. This is one way of taking a “carrots, not sticks” approach. Anything further than this may run afoul of the legislative intent of SB 743, and therefore these social and economic issues may need to be legislated into other portions of CEQA.

We look forward to reviewing revised guidelines that would enhance the statutory priorities of PRC Section 21099 more clearly and directly.

Regards,
Today, Los Angeles is competing in a 21st century global economy with a 20th century infrastructure. With measures, jurisdiction and sectors pitted against one another, L.A. finds itself in a comprehensive infrastructure policy agenda that is informed by past experience of the entire region.

Los Angeles Times Executive Editor John Pybus and the executives, leaders and policy makers of Los Angeles' largest companies and government agencies for an exclusive holiday event on the state and future of infrastructure investment in the region. Experts in the public and private sector will join us for discussions about how to update and expand the infrastructure needed to maintain L.A.'s economic competitiveness in a global economy.

For more information, contact Frank Lopez, 213.236.7773.

PRIVATE SECTOR ROUNDTABLE DISCUSSION

Leaders from some of L.A.'s largest energy, goods movement, telecommunications, real estate and financial institutions will discuss the private infrastructure investments their companies and industries need to make in the region over the next decade in order to maintain their competitiveness and the regulatory and economic challenges impacting those investments.

PUBLIC SECTOR ROUNDTABLE DISCUSSION

Leaders of L.A.'s largest public utilities and transportation agencies will discuss the state of their aging infrastructure, the transformative projects they need to construct over the next decade to meet new and existing mandates and improve L.A.'s economy, and the substantive financing and project delivery tools and resources they need to construct and maintain these facilities.

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