



PUBLIC WORKS DEPARTMENT

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CITY COUNCIL STAFF REPORT

Meeting: February 16, 2021

Subject

Consideration of a Municipal Code Amendment as part of the transition from Level of Service (LOS) to Vehicle Miles Traveled (VMT), for determining transportation impacts under the California Environmental Quality Act (CEQA) as required by Senate Bill (SB) 743.

Recommended Actions

That the City Council conduct the first reading and adopt Ordinance No. 21-____ “An Ordinance of the City Council of the City of Cupertino Adding Title 17 and Chapter 17.08 to the Cupertino Municipal Code, Replacing Level of Service (LOS) with Vehicle Miles Traveled (VMT) For Use in Transportation Analysis Pursuant to the California Environmental Quality Act (CEQA)” (Attachment A), as recommended by the Planning Commission on January 26, 2021 to:

1. Find the proposed actions exempt from CEQA;
2. Add to the Cupertino Municipal Code Title 17 (Environmental Regulations) and Chapter 17.08 (Vehicle Miles Traveled Standards), which establishes screening criteria, a 14.4% VMT reduction threshold, and screening criteria for local-serving retail, 100% affordable housing projects, and projects located within one-quarter mile of a High-Quality Transit Corridor, for purposes of CEQA analysis.

Discussion

On September 27, 2013, Governor Brown signed SB 743 into law, requiring the Governor's Office of Planning and Research (OPR) to identify new metrics for identifying and mitigating transportation impacts within CEQA. The OPR selected VMT as the recommended metric for transportation analysis in CEQA.

Establishment of the transportation thresholds of analysis was added as a Fiscal Year (FY) 2019/2020 City Work Program item. A transportation consultant, Fehr and Peers, was hired to provide technical expertise in identifying appropriate options in the implementation of SB 743. Background information on SB743 is available on the City webpage at cupertino.org/vmt.

Recent Public Meetings on SB743

September 22, 2020:¹ The Planning Commission received an informational update from staff regarding the City's progress in implementing SB 743.

November 2, 2020:² City Council Study Session. Council requested that staff return to the Planning Commission for a recommendation.

December 8, 2020:³ Planning Commission Study Session was held, and the Commission provided specific feedback as requested by Council.

January 26, 2021:⁴ Planning Commission unanimously approved Resolution 6917, recommending approval of the draft Ordinance (Attachment A).

Analysis

At its January 26, 2021 meeting, the Planning Commission made the following recommendations to City Council:

1. Establish a 14.4% VMT reduction threshold from the City's baseline rate.
2. No screening of projects in low-VMT areas.
3. Not allowing transportation projects to increase VMT.
4. Screening the following types of projects from VMT analysis:
 - a. Local-serving retail projects of 50,000 square feet or less citywide.
 - b. Projects within one-quarter mile of a High-Quality Transit Corridor (or stop).
 - c. Projects comprised of 100% affordable housing.

VMT Reduction Threshold:

At a December 8, 2020 Planning Commission study session, Commissioners heard a presentation from City staff and Fehr & Peers regarding existing and future VMT conditions in Cupertino. One of the most critical decisions made was in regard to the establishment of a local VMT threshold. The threshold is the percentage of VMT reduction that projects must have so that they do not cause a transportation impact under CEQA. The percentage reduction selected was based on an analysis in the White Paper prepared by Fehr & Peers (Attachment B), which contains substantial evidence supporting the decision-making process. A 14.4% VMT reduction threshold was selected because it provides a challenging, difficult goal, but one that is still achievable for project applicants with mitigation measures in place. This reduction threshold is consistent with recommendations from the California Air Resources Board (CARB) and with the thresholds set by neighboring communities (Attachment C).

Screening of Projects

Screening criteria can be used to identify when a project is expected to cause a less-than-significant VMT impact without conducting a detailed study. This approach is provided for in OPR's Technical Advisory on Evaluating Transportation Impacts in CEQA (December 2018) (Technical Advisory).

Low-VMT Project Screening

The Planning Commission did not recommend an exemption for low-VMT areas. Unlike densely populated communities served by transit, Cupertino has few low-VMT areas that would justify project screening.

High-Quality Transit Corridor (HQTC)

Certain projects located within one-half mile of an HQTC, as that term is defined in CEQA (Public Resources Code § 21155(b)), can be presumed not to have a significant VMT impact according to CEQA Guidelines section 15064.3(b)(1). Cities have the discretion to make local amendments to this provision for purposes of screening fewer projects from more detailed VMT analysis. The Planning Commission recommended reducing the distance to one-quarter mile from an HQTC, which would screen fewer projects. The proposed Municipal Code amendment (Attachment A) further clarifies that this screening criterion is one-quarter mile in walking distance.

Local Serving Retail

Commissioners recommended maintaining a 50,000 square foot or less exemption from more detailed VMT analysis for local-serving retail could help attract more retail options to Cupertino, which many commissioners noted was needed. This screening criterion is based on research cited in OPR's Technical Advisory about the number of trips anticipated to be produced by small projects.

The Use of VMT and LOS

Title 17 of the Cupertino Municipal Code was previously reserved (left blank) for future code provisions. The new VMT standards are proposed as Chapter 17.08 of the Cupertino Municipal Code. This chapter is only for the purpose of evaluating transportation impacts under CEQA; all other portions of the CEQA process are unchanged. LOS standards are in the City's General Plan and new projects will still be required to show consistency with the General Plan. The language used to describe LOS will need to change, because CEQA terms such as "impacts" and "mitigation" will be used for environmental transportation analysis, while new language will be devised to describe consistency with LOS standards.

A minor change was made to the draft ordinance presented at the January 26, 2021 Planning Commission meeting. A short list of definitions has been included for ease of use, added as section 07.08.010, with the subsequent sections renumbered accordingly.

Alternatives to Staff Recommendations

The City Council may consider feedback and recommendations of the Planning Commission and staff and elect to make different choices. The following information provides more detail about alternative decisions that could be made.

VMT Threshold

The most critical decision in the transition to VMT is setting a VMT threshold. The Planning Commission considered the consequences of various possible options presented in the White Paper (Attachment B). The Commission recommended a 14.4% reduction in

VMT from the City baseline rate, which is the recommended scenario of the California Air Resources Board (CARB). A 14.4% reduction from the City's baseline rate would be challenging to achieve, but possible with mitigation measures. Deeper reductions in VMT would result in most projects being unable to meet the threshold, even with mitigation measures.

Statutory Screening of SB743

Two of the screening criteria are also used in certain CEQA statutory exemptions. For projects that are otherwise statutorily exempt from CEQA, these criteria cannot be changed for those projects. This includes statutorily exempt projects located within one-half mile of a High-Quality Transit Corridor (as defined under CEQA), and the screening of projects that are comprised of 100% affordable housing. The Planning Commission recommended reducing the distance of the High-Quality Transit Corridor from one-half mile to one-quarter mile due to concerns about low transit ridership in Cupertino. An adjustment to the screening distance has been executed by another community; however, as stated above certain project may still be exempt under State law if the Legislature provided a CEQA statutory exemption.

Local Serving Retail

The exemption from more detailed VMT analysis for local-serving retail, how it is defined, or whether it should be exempted at all is another question for consideration. The Planning Commission discussed how reducing barriers to attract more local-serving retail would be beneficial in Cupertino.

Low VMT Area Screening

Lastly, the screening of projects in low-VMT areas of Cupertino is another decision point for Council. The Planning Commission felt that this was not appropriate especially given that few low VMT areas exist in Cupertino.

Sustainability Impact

The transition from LOS to VMT is consistent with State, regional, and City goals to reduce transportation-related Greenhouse Gas Emissions (GHG). Vehicle Miles Traveled measures the environmental impacts of driving and will be useful in monitoring progress toward achieving the environmental goals in the City's Climate Action Plan.

Environmental Review

The adoption of a new transportation threshold of significance under CEQA, in accordance with CEQA Guidelines Section 15064.7, does not require environmental review and is not a "project" pursuant to California State CEQA Guidelines Sections 15060(c)(3) and 15378 because it does not involve commitment to any particular project. The use of VMT in evaluating transportation impacts as part of CEQA review is required under SB 743 and Section 15064.3 of the CEQA Guidelines.

¹ Staff report and other materials available online [HERE](#).

² Staff report and attachments available online [HERE](#).

³ Staff report and attachments available online [HERE](#).

⁴ Staff report and attachments available online [HERE](#).

Fiscal Impact

There is no fiscal impact to the City, associated with the required transition to VMT. However, implementation of this project will result in a change in costs and potential fees paid by project applicants. Some large projects that are submitted may not be able to use the free VTA web-based tool, and those projects will need to obtain a license to use the VTA Travel Model. At some point in the future, a Citywide VMT analysis will need to be conducted for a CEQA analysis of the LOS standards in the City's General Plan. Staff is in the early stages of assessing potential costs related to this work.

Next Steps

A second reading of the ordinance is currently scheduled to occur on March 2, 2021, completing the City's transition to VMT. If the ordinance is adopted, the ordinance will be effective 30 days after the second reading/adoption. Thereafter, staff will conduct internal trainings on procedures relating to the use of VMT and will monitor the state of the practice, including providing annual updates and/or recommendations to City Council. All information on the matter will be updated on the City webpage at cupertino.org/vmt.

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Roger Lee, Director of Public Works

Approved for Submission by: Dianne Thompson, Assistant City Manager

Attachments:

A - Draft Ordinance

B - White Paper: SB743 Implementation Decisions for the City of Cupertino

C - SB 743 Summary of Neighboring Communities