SAN FRANCISCO
PLANNING DEPARTMENT

MEMO

DATE: November 26, 2013

TO: Planning Commission

FROM: Viktoriya Wise, Deputy Environmental Review Officer

RE: CEQA Update: Senate Bill 743 Summary – Aesthetics, Parking and Traffic

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On September 27, 2013, Governor Brown signed Senate Bill (SB) 743. This memorandum summarizes the provisions of this bill as they relate to the California Environmental Quality Act (CEQA).[1] Specifically, it addresses how the bill affects the Planning Department's analysis methodology with respect to aesthetics, parking and traffic.

BACKGROUND

The Legislature found that with the adoption of the Sustainable Communities and Climate Protection Act of 2008 (SB 375), the State had signaled its commitment to encourage land use and transportation planning decisions and investments that reduce vehicle miles traveled and thereby contribute to the reduction of greenhouse gas emissions, as required by the California Global Warming Solutions Act of 2006 (AB 32). Additionally, the California Complete Streets Act of 2008 (AB 1358) requires local governments to plan for a "…balanced, multimodal transportation network that meets the needs of all users, streets, roads, and highways, …".[2]

To further the State's commitment to the goals of SB 375, AB 32 and AB 1358, SB 743 adds Chapter 2.7, *Modernization of Transportation Analysis for Transit-Oriented Infill Projects*, to Division 13 (Section 21099) of the Public Resources Code. Key provisions of SB 743 include reforming aesthetics and parking CEQA analysis for urban infill projects and eliminating the measurement of auto delay, including Level of Service (LOS), as a metric that can be used for measuring traffic impacts in transit priority areas.[3] A map of San Francisco Transit Priority Areas is included as Attachment A of this memorandum.

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[1] SB 743 can be found on-line at: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB743

[2] AB 1358 can be found on-line at: http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_1351-1400/ab_1358_bill_20080930_chaptered.pdf

[3] A "transit priority area" is defined in as an area within one-half mile of an existing or planned major transit stop. A "major transit stop" is defined in Section 21064.3 of the *California Public Resources Code* as a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

AESTHETICS AND PARKING ANALYSIS

The way it is. Under existing law and Planning Department procedures, each project subject to CEQA is evaluated to determine whether it would have the potential to result in a significant aesthetics impact. Based on the recommendations of Appendix G of the CEQA Guidelines, the following thresholds are used to determine if a project would result in a significant CEQA impact on aesthetics:[4]

> Would the project
> a) Have a substantial adverse effect on a scenic vista?
> b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and other features of the built or natural environment which contribute to a scenic public setting?
> c) Substantially degrade the existing visual character or quality of the site and its surroundings?
> d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area or which would substantially impact other people or properties?

Similarly, each project subject to CEQA is also evaluated to determine whether it would result in a potentially significant parking impact. In assessing this, the following threshold is used:

> Would the project
> a) Result in a substantial parking deficit that could create hazardous conditions or significant delays affecting traffic, transit, bicycles or pedestrians and where particular characteristics of the project or its site demonstrably render use of other modes infeasible?

The above aesthetics and parking significance thresholds are applied equally to all projects subject to CEQA. However, the level of information and analysis presented in environmental review documents is typically commensurate with the size and intensity of a project and its unique characteristics, and is completed as necessary to determine the significance of project

[4] The CEQA Guidelines are regulations prepared by the state's Office of Planning and Research and adopted by the Secretary of Natural Resources pursuant to the authority granted by Public Resources Code Section 21083. They provide guidance on the statute's implementation. Appendix G of the CEQA Guidelines contains a sample Environmental Checklist Form that the City and many other jurisdictions use when they make their own environmental determinations. The Planning Department uses many of the thresholds set forth in Appendix G; however, for certain topics the thresholds are not identical in order to account for the unique characteristics of San Francisco (e.g., wind and shadow significance thresholds are not in Appendix G; the Aesthetic significance threshold b is slightly different than `what is in Appendix G, etc.).

impacts. For example, environmental review documents for projects of a certain size or character (e.g., a 250-foot-tall residential tower) typically include visual simulations of the proposal as well as detailed information about the parking conditions, such as parking supply and occupancy within the immediate vicinity, *Planning Code* parking requirements, the project's anticipated parking demand, etc. Environmental review documents for smaller projects, on the other hand, typically present fewer details about these topics and do not include photomontages or detailed parking surveys, as appropriate, on a case-by-case basis.

With respect to parking, the City, in response to *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656, for many years has found that parking loss or deficit in and of itself does not result in direct changes to the physical environment. While the environmental analysis does assess the indirect or secondary environmental effects of parking loss, such as air quality or noise impacts, the direct effects of a parking deficit or loss have been determined to be a significant impact under CEQA in only the rarest of circumstances.

It is important to note that San Francisco has not been alone in recognizing that the adequacy of parking is more appropriately assessed as part of reviewing project merits rather than CEQA. In 2010, the Governor's Office of Planning and Research (OPR) amended Appendix G of the CEQA Guidelines to remove the significance criterion about inadequate parking capacity.[5,6] This policy direction continues to evolve and is strengthened by the provisions of SB 743, as discussed below.

<u>*The way it will be.*</u> SB 743 provides that, "aesthetics and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment." This means that, effective January 1, 2014, aesthetics and parking will no longer be considered in determining if a project has the potential to result in significant environmental effects provided a project meets all of the following three criteria (Attachment C sets forth the definitions of the terms below).

a) The project is in a transit priority area; and
b) The project is on an infill site; and

[5] Attachment B shows the CEQA Guidelines Appendix G Transportation "Significance Thresholds from 2009 and 2010.

[6] The Governor's Office of Planning and Research is responsible, among other things, for drafting and maintaining the CEQA Guidelines, creation of State Environmental Goals and Policy Reports, and operation of the State Clearinghouse for distribution and review of CEQA documents.

c) The project is residential, mixed-use residential, or an employment center.

It is anticipated that most of the residential, mixed-use residential, or employment center projects in San Francisco would be able to meet all three of the above criteria and thus, would no longer be required to consider aesthetics and the adequacy of parking under CEQA. The environmental review methodology for projects that do not meet the above criteria will not be affected.

Senate Bill 743 states that a Lead Agency will continue to maintain the authority to consider aesthetic impacts pursuant to local design review ordinances or other discretionary powers and that aesthetics impacts do not include impacts on Historical or Cultural Resources. As such, there will be no change in the Planning Department's methodology related to design and historic review. Further, the Planning Department recognizes that some discussion of aesthetics, particularly as it relates to visual simulations and, in certain circumstances, light or glare, would be of interest to the public and decision makers. Therefore, it is anticipated that much of the information now provided in the Aesthetics section would be included in the Project Description or other portions of the CEQA document. However, this information would not be used for the purposes of determining environmental impacts under CEQA and its inclusion would not be relevant to the determination of the adequacy of CEQA review. At the discretion of the Environmental Review Officer, visual simulations may be required, especially for projects that have the potential to alter views or settings called out in the Urban Design element of the General Plan.

Similarly, the Planning Department acknowledges that parking conditions may be of interest to the public and the decision makers. Therefore, the Planning Department will present parking demand analysis for informational purposes, and will continue to consider any secondary physical impacts associated with constrained supply through the applicable aspects of the transportation analysis (e.g. the Department will continue to require measures to avoid queuing that affects the public right-of-way by drivers waiting for scarce onsite parking spaces).

LEVEL OF SERVICE ANALYSIS

The way it is. Under existing procedures, each project subject to CEQA is evaluated to determine whether it would have the potential to result in a significant transportation impact. This evaluation considers potential impacts to all modes of transportation, including traffic, transit, bicyclists and pedestrians. With respect to traffic, San Francisco Planning Department, like many other jurisdictions and lead agencies throughout the State, has historically analyzed the change in auto vehicle intersection level of service (LOS) to determine whether a project would result in a significant traffic impact under CEQA. Attachment D provides a detailed definition

of LOS and how it is used to assess impacts. As with aesthetics and parking, the level of information and transportation analysis presented in environmental review documents is typically commensurate with the size and intensity of a project as well as its unique characteristics.

The City and other jurisdictions have recognized for some time that LOS is not the best metric to use in assessing impacts to the environment.[7] This metric has been applied in ways that discourage both infill development and construction of infrastructure for transit, bicycles and pedestrians. With respect to infill development, it has a bias because of the 'last-in development' problem and therefore requires infill to bear the burden of existing cumulative traffic problems. Further, LOS analysis rarely results in meaningful mitigation measures which typically require expansion of the roadway capacity, because such measures could result in other adverse environment and public health impacts and are often infeasible in a built out environment such as San Francisco.[8] At the state level, OPR has also recognized these and other drawbacks of using LOS for a number of years, as demonstrated by revisions to the transportation thresholds in Appendix G of the CEQA Guidelines in 2010 to reframe references to LOS.[9] SB 743 signals yet another shift away from using auto vehicle LOS as significance threshold.

The way it will be. Senate Bill 743 requires OPR to develop revisions to the CEQA Guidelines establishing criteria for determining the significance of transportation impacts of projects within transit priority areas that promote the "…reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses". It also allows OPR to develop alternative metrics outside of transit priority areas. The statute provides that, upon certification and adoption of the revised CEQA Guidelines by the Secretary of the Natural Resources Agency, "automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant" to CEQA. In other words, LOS generally shall not be used as a significance threshold under CEQA.[10] Senate Bill 743 states that in developing alternative

[7] For City research concerning the appropriateness of LOS for assessing transportation impacts, see *Strategic Analysis Report 02-3 on Transportation System Level of Service Methodologies*, available for download at http://www.sfcta.org/sites/default/files/content/legacy/documents/FinalSAR02-3LOS_Methods_000.pdf

[8] For additional discussion of why LOS is not a good metric for assessing transportation impacts, particularly as it relates to infill development, please see OPR's power point presentation here: http://opr.ca.gov/docs/LOS_in_CEQA_slides_for_website_v3.pdf

[9] Attachment E shows the CEQA Guidelines Appendix G Transportation Significance Thresholds from 2009 and 2010.

[10] SB 743 includes a provision that would allow the Office of Planning and Research to adopt guidelines establishing alternative metrics to the metrics used for traffic levels of service for transportation impacts outside

CEQA significance criteria for transportation, OPR can recommend potential metrics that include, but are not limited to, vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated. Senate Bill 743 requires OPR to circulate a draft of such criteria on or before July 1, 2014. These changes would need to be adopted by the Secretary of the Natural Resources Agency and are anticipated to be effective sometime in 2015.

Alongside, but separate from SB 743, the City has been engaged in modifying its practice relative to development review under CEQA through the Transportation Sustainability Program (TSP).[11] This effort has focused on changing how the Planning Department evaluates the effect of new development and transportation projects on the transportation system by replacing auto LOS with a metric that better reflects transportation concerns in an urban setting with multimodal considerations. The passage of SB 743 furthers the TSP in that it provides recognition at the State level that LOS is not an appropriate CEQA metric and affirms the City's position that an alternative threshold needs to be developed. Over the course of the last year, city staff has periodically worked with OPR staff in furthering LOS reform. With the passage of SB 743 the City's and the State's goals of reforming LOS have converged. As a result, City and OPR staff are working together on regular basis to not only share ideas but to ensure that San Francisco's new transportation significance thresholds developed by the City are consistent with the criteria being developed at the State level.

In addition to addressing LOS reform, Section 5 of SB 743 states that, "…the adequacy of parking for a project shall not support a finding of significance…". It is the Department's interpretation, in consultation with the City Attorney, that this provision of the statute expands upon the parking changes discussed on page 3 in that it would apply to all projects in transit priority areas, not just residential, mixed-use residential or employment center projects. However, the date of implementation of this change in the law is uncertain at this time.

CONGESTION MANAGEMENT PLAN

Finally, it is worth noting that SB 743 broadens the eligibility criteria for infill opportunity zones (IOZ). Senate Bill 1636 (Figueroa), passed in 2002, authorized local jurisdictions to designate IOZs. Roadway segments within IOZs are exempt from minimum auto LOS standards and deficiency plan requirements mandated by congestion management code (California

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transit priority areas. The alternative metrics may include the retention of traffic levels of service, where appropriate and as determined by OPR.

[11] Information about the Transportation Sustainability Program can be found on-line: http://www.sf-planning.org/index.aspx?page=3035

Government Code - Section 65089). IOZs must be in areas that meet eligibility criteria to ensure they are compact, mixed-use areas that are well-served by transit. In December 2009, the San Francisco Board of Supervisors designated all then-eligible areas within the City and County of San Francisco as an IOZ.

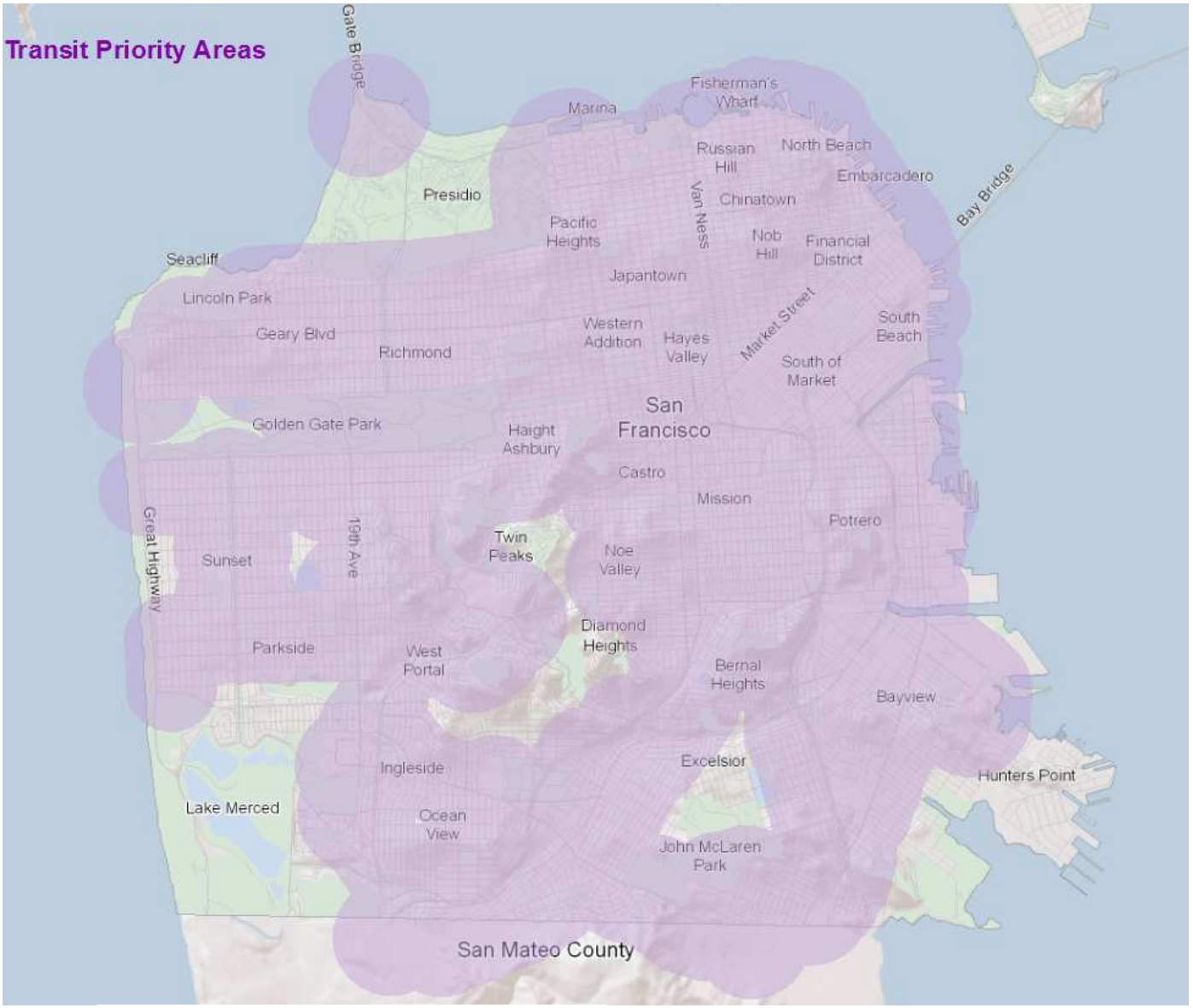
Before the passage of SB 743, the existing law:

- Prohibited the designation of IOZ designation after December 31, 2009, and
- Terminated any IOZ designation if no development project was completed within the zone within four years of designation.

SB 743 authorizes IOZs to be designated within transit priority areas, as well as within ½ mile of a high quality transit corridor, within a Sustainable Communities Strategy (SCS) adopted by the MPO. Further, it repeals the clause that would have terminated IOZs if the development project has not been completed within four years of IOZ designation.

In summary, it is anticipated that in the near future, but no later than the certification of the revised guidelines by the Secretary of the Natural Resource Agency, auto LOS will no longer be used as significance threshold under CEQA, nor trigger deficiency planning in the Congestion Management Plan in transit priority areas.

ATTACHMENT A
TRANSIT PRIORITY AREAS



Source: MTC Regional Transit Database, January 2013

ATTACHMENT B

CEQA GUIDELINES APPENDIX G TRANSPORTATION SIGNIFICANCE THRESHOLDS FROM 2009 AND 2010

2009: Note the transportation threshold of significance f) asks whether a project would result in inadequate parking capacity

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	❐	❐	❐	❐
XV. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	❐	❐	❐	❐
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	❐	❐	❐	❐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	❐	❐	❐	❐
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	❐	❐	❐	❐
e) Result in inadequate emergency access?	❐	❐	❐	❐
f) Result in inadequate parking capacity?	❐	❐	❐	❐
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	❐	❐	❐	❐

2010: Note that the 2010 transportation thresholds of significance no longer ask whether a project would result in inadequate parking capacity.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☐
XVI. TRANSPORTATION/TRAFFIC. Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☐
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☐
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☐
e) Result in inadequate emergency access?	☐	☐	☐	☐
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☐

ATTACHMENT C
DEFINITION OF TERMS IN SB 743

Employment center project means a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within a transit priority area.

Floor area ratio means the ratio of gross building area of the development, excluding structured parking areas, proposed for the project divided by the net lot area.

Gross building area means the sum of all finished areas of all floors of a building included within the outside faces of its exterior walls.

Infill opportunity zone means a specific area designated by a city or county, pursuant to subdivision (c) of Section 65088.4, that is within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3 of the Public Resources Code, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

Infill site means a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

Lot means all parcels utilized by the project.

Major transit stop is defined in Section 21064.3 of the *California Public Resources Code* as a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

Net lot area means the area of a lot, excluding publicly dedicated land and private streets that meet local standards, and other public use areas as determined by the local land use authority.

Transit priority area means an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations.

ATTACHMENT D
LOS DEFINITION AND ANALYSIS METHODOLOGY

Statewide, transportation significance standards under CEQA have conventionally focused largely on motor vehicle traffic using a Level of Service (LOS) methodology. Level of Service is a qualitative measure describing operational conditions developed in the *Highway Capacity Manual 2000 (HCM 2000).*

Under the conventional approach, there are six levels of service defined for each roadway or intersection that is analyzed.

In San Francisco intersections are analyzed rather than roadway segments, because intersections generally are the constrained elements of the roadway network. The weighted average delay (in seconds) experienced by all vehicles at an intersection defines the LOS for the intersection.

LOS HAS LETTER DEFINITIONS RANGING FROM A TO F

LOS A and B represent free flow traffic with little or no delay.

LOS C and D can be described as conditions where increased traffic affects maneuverability, causes speeds to drop below the speed limit, and moderate delays.

LOS E indicates substantial delays, although capacity is not exceeded on most movements.

LOS F indicates demand exceeding capacity on one or more critical movements, resulting in queues.

Signalized Intersection Level of Service (LOS) Definitions

Level of Service	Average Control Delay (sec./veh.)
A	≤ 10
B	> 10-20
C	> 20-35
D	> 35-55
E	> 55-80
F	> 80

Source: *2000 Highway Capacity Manual*

Under the current approach to traffic impact analysis used by the Planning Department, LOS A through D are considered acceptable performance levels, while LOS E and F are considered unacceptable.

TYPICAL SAN FRANCISCO LOS ANALYSIS APPROACH

1. Identify the project site

2. Identify a 'Study Area' boundary
3. Select 'potentially affected intersections' (i.e. Study Intersections) within the Study Area
4. Take traffic counts at Study Intersections
5. Calculate the # of vehicle trips associated with the proposed projection
6. Identify trip distribution (i.e. the routes associated with those vehicle trips)
7. Identify intersection delay and resulting LOS for Existing and Existing + Project and Cumulative Conditions.
8. Compare the difference in intersection delay (and LOS) with and without the project in the Existing and Future Cumulative Conditions to isolate the project's impact on those intersections.

ATTACHMENT E

CEQA GUIDELINES APPENDIX G TRANSPORTATION SIGNIFICANCE THRESHOLDS FROM 2009 AND 2010

2009: Note that the 2010 transportation thresholds of significance (on the following page) no longer solely rely on LOS but allow for reliance on other standards.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	❒	❒	❒	❒
XV. TRANSPORTATION/TRAFFIC -- Would the project:				
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?	❒	❒	❒	❒
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?	❒	❒	❒	❒
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	❒	❒	❒	❒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	❒	❒	❒	❒
e) Result in inadequate emergency access?	❒	❒	❒	❒
f) Result in inadequate parking capacity?	❒	❒	❒	❒
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	❒	❒	❒	❒

2010: Note that the 2010 transportation thresholds of significance no longer solely rely on LOS but allow for reliance on other standards. Note also that in Section XVI(a), the focus has shifted from examining traffic capacity to examining the performance of the whole circulation system, taking into account all modes of transportation.

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☐
XVI. TRANSPORTATION/TRAFFIC. Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☐
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☐
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☐
e) Result in inadequate emergency access?	☐	☐	☐	☐
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☐