



February 24, 2012

CEQA Guidelines Update
c/o Christopher Calfee
1400 Tenth Street
Sacramento, CA 95814

Re: Comments re CEQA Streamlining for Infill Projects (SB 226)

Dear Mr. Calfee:

Thank you for the opportunity to comment on the proposed guidelines for implementation of Senate Bill 226 ("Proposed CEQA Guidelines"). This letter outlines our major areas of support and concern with regard to the draft guidelines. We appreciate the opportunity to provide early input and we plan to continue refining these recommendations.

Comments on Appendix M: Performance Standards

1. Regional Vehicle Miles Traveled (VMT) is the correct framework.

We support the use of VMT as the primary metric for evaluating a project's eligibility for streamlining. Using Traffic Analysis Zones (TAZs) and comparing these to regional average VMT is a straightforward way to quickly identify areas that are appropriate for infill development. As the draft proposal recognizes, even certain projects in higher-VMT zones can reduce their VMT through project design elements, such as by providing compact design, free transit passes or unbundled parking.

2. Eligible residential projects should be in very low VMT locations, or reduce their VMT to 75% or less of average VMT.

SB 226 should not inadvertently increase VMT, but that is a possibility with the draft guidelines. Projects that are in TAZs with per capita VMT levels that are 100% or more than the regional average should not be eligible for SB 226 benefits.

SB 226 explicitly establishes as among its goals the "implementation of the land use and transportation policies in the Sustainable Communities and Climate Protection Act of 2008 (SB 375)" and the "reduction of greenhouse gas emissions under the California Global Warming Solutions Act of 2006 (Division 25.5, commencing with Section 38500, of the Health and Safety Code) [AB 32]."¹

The transportation and land use sector is responsible for nearly 40% of the state's GHG emissions.² This sector is the largest source of GHG emissions in the state. Policy reforms such as SB 226 which are aimed at furthering the goals of AB 32 or SB 375 in the transportation and land use sector must not be allowed to encourage or facilitate above average driving rates. These outcomes would run

¹ California Public Resources Code, Ch. 469, SEC. 7, Section 21094.5.5 (b)

² See *Climate Change Scoping Plan*, Air Resources Board, 2008, and findings in Senate Bill 375 of 2008

directly counter to the explicitly stated goals of SB 375, which is attempting to reduce not increase VMT, as well as SB 226's goals.

The CALGreen building code is a useful tool for promoting energy efficiency and green construction; however this code does not consider project location or other criteria that address VMT. While we support the inclusion of CALGreen in some way in these guidelines, they should not substitute for VMT as the metric for determining eligibility.

As a reference for what is possible, TransForm's GreenTRIP certification uses 25 - 35 VMT/household/day (depending on location) as the maximum daily driving as a cut off for GreenTRIP eligibility. This represents 50% - 70% of the Bay Area's regional household driving average, which is 50 VMT/HH/Day. Projects must also meet a maximum parking criteria and provide at least one of three eligible traffic demand management measures. TransForm's first five GreenTRIP certified projects would produce just 30%-59% of the regional average VMT, measured using URBEMIS as the sketch model.

Some examples of strategies that can be used to reduce VMT in higher VMT zones include:

- Unbundled parking
- Affordable housing generation
- Providing transit passes
- Providing CarShare pods and potentially free memberships

Unbundled parking – In this strategy, the cost of parking is separated from the cost of purchasing or renting a home. This strategy because can reduce the amount of parking needed and thus the costs of development. It is proven to be effective because it incentivizes and rewards those who decide to reduce vehicle ownership. Depending on the price, and demand and convenience of parking work environments, unbundled parking produces parking demand reductions of 10-15%: [MTC Smart Growth Parking Toolbox](#), 2007. According to CAPCOA's 2010 report, *Quantifying Greenhouse Gas Mitigation Measures, unbundling could reduce both VMT and GHG emissions by 2.6% -13% (depending on the location and elasticities)*. Unbundling can also be used for retail, office, industrial and mixed-use projects.

Affordable housing generation: URBEMIS and CalEEmod cap the reduction credit for affordable housing at 4% irrespective of the depth of affordability. The recent City of San Diego affordable housing parking survey showed how this is significantly undercounting the driving reduction credit of dedicated affordable housing, especially for low and very-low income units in urban areas. We believe that by collecting and combining existing data, and conducting new empirical research that is being considered for funding by Caltrans, dedicated affordable housing could ultimately count for even greater reductions.

Transit passes and carshare memberships: On-site transportation demand management strategies, such as free transit passes or on-site carsharing with free memberships, can reduce the amount of parking that must be provided. In many areas, especially where the transit agencies provide bulk discounts, these amenities may be able to "pay for themselves" if parking is reduced enough. More transit agencies are now providing bulk monthly transit passes for an entire residential building. By providing it to each resident they can charge the building managers just \$10 to \$20 per month, low enough that it can be covered through the saving of reduced parking.

Recommendation:

For residential projects to benefit from the SB 226 CEQA streamlining we recommend a "cap" on VMT equal to 75% of the regional average VMT. This would ensure that

streamlining only applies to projects that truly benefit the environment and meet both SB 375 and 226 goals. Eligible projects would thus include 1) projects located in TAZs with 75% or lower regional per capita VMT or 2) projects located in a yellow zone (75-100% of per capita regional VMT) that can reduce their VMT to 75% of regional average VMT through project design elements. Projects located in red zones should not be eligible for streamlining. This means eliminating achievement of CALGreen alone as a route to eligibility.

3. Performance Standards Should Consider Affordable Housing Needs Among Residential Infill Projects.

The proposed performance standards do not consider effects on underserved communities. SB 226 makes clear that the CEQA Guidelines to be adopted by the Natural Resources Agency “shall promote” the implementation of the land use and transportation policies of Senate Bill 375 (“SB 375”), or the Sustainable Communities and Climate Protection Act of 2008. Cal. Pub. Resources Code § 21094.5.5(b)(1). SB 375 contains many provisions local governments must abide by with respect to affordable housing:

- Housing element law must make “adequate provision for the housing needs of all economic segments of the community.” Cal. Govt. Code 65583(c).
- Housing element law must “assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.” *Id.* § 65583(c)(1)(C)(2).
- Housing element law must “[c]onserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.” *Id.* § 65583(c)(1)(C)(4).
- Transit Priority Projects cannot “result in any net loss in the number of affordable housing units within the project area.” Cal. Pub. Res. Code § 21155.1(b)(3).
- Transit Priority Projects must ensure that minimum percentages of housing be sold or rented to very low, low-, and moderate-income families and that developers provide legal commitments to ensure continued availability of affordable housing units, or payment of in-lieu fees for development of affordable housing. *Id.* § 21155.1(c).

The Proposed CEQA Guidelines’ four performance standards applicable to all projects (i.e., renewable energy, active transit, transit station area plans, and soil and water remediation) and additional VMT performance standard for residential projects fail to account for the statewide policy objective to maintain and develop affordable housing. While we understand OPR’s objective is to employ the fewest standards necessary to promote a number of environmental objectives, simplicity cannot come at the risk of displacing low-income communities or precluding low-income communities from the recognized benefits of infill development. Accordingly, we propose that affordable housing provisions be included in the performance standards.

Recommendation: For all projects – Residential, Commercial, Office Buildings, or a Small Community Walkable Project – it should be made clear that no project can result in a net loss of affordable housing units within a project area.

For Residential projects in particular, additional performance standards related to minimum provisions of affordable housing for rent or purchase, and sufficient legal commitments to ensure the continued availability of housing for all income levels, should be an added qualification for CEQA streamlining.

Specifically, we recommend a requirement that no less than 15% of the units be affordable for lower income households, 6% affordable to very low-income and 9% affordable to low-income.

For developments where this is not possible, the payment of in-lieu fees for the development of an equivalent number of units could be an alternative to this requirement.

4. Eliminate eligibility for large commercial projects (75,000 square feet or greater).

Large commercial (aka big box) projects are highly auto-oriented (even if they are near public transit) and undermine efforts to preserve or create historic, walkable commercial districts that are woven into the urban fabric. In the short-term an individual big-box project may reduce long-distance driving to the nearest similar store. But there is a long-term impact on smaller, neighborhood-serving business districts, and retail in particular, that must be accounted for. As small walkable retail choices decline, VMT will grow and it becomes more difficult to reduce car ownership. In fact a 2011 study in Southern California by 5 prominent researchers found that the number of businesses per acre is the single most robust indicator of whether people are likely to walk in their neighborhood. They found that people living in neighborhoods with more business establishments per acre conduct more of their travel within the neighborhood and are more likely to travel by walking. (*Retrofitting Suburbs to Increase Walking*, in ITS' ACCESS magazine, Fall 2011.)

Beyond the fact that big box stores may harm the environment overall, there is little evidence to suggest that big-box development is underbuilt in California. With billions in annual profits and dozens of stores opening each year in California, CEQA analysis does not seem to be an unaffordable or unnecessary process for these stores.

Recommendation: Eliminate the provision that allows commercial or retail projects to be eligible if they prepare a transportation study.

5. Commercial/Retail projects in areas above 75% regional per capita VMT should not be eligible just based on meeting CALGreen criteria.

The proposed guidelines lay out a very strong set of guidelines to promote commercial and retail development that can reduce VMT. Unfortunately, all of those criteria may be undermined in the same way that the residential goals may be undermined. As stated above for residential projects, CALGreen building code does not consider project location or other criteria that address VMT. VMT is an appropriate metric for identifying infill development; CALGreen is not. While we support the inclusion of CALGreen in these guidelines, they should not substitute for VMT as the metric for determining eligibility.

Recommendation: Projects in TAZs that are less than 75 percent of regional VMT and meet the other criteria should be able to receive the SB 226 benefits. But the option of implementing CALGreen Tier 1 or 2 alone as a way to reach eligibility in the higher VMT TAZs should be eliminated. Given that the guidelines point to two other criteria that could be met to eligible -- 1) close proximity to 1,200 households and 2) transit proximity plus low parking -- it may be feasible to develop some standards-based form for considering commercial and residential in yellow and red zone TAZs, but these should not be based on CALGreen and would need to be explored in much greater depth. We are concerned that travel studies would not be adequate as the literature and the modeling capabilities for commercial/retail projects are less robust than for residential and would be ripe for gaming.

6. Include a maximum parking ratio for two of the proposed commercial/retail eligibility criteria

By including two eligibility requirements that eliminate the use of a sketch tool, projects could conceivably be in a good location but generate lots of traffic by providing more parking than necessary. Vast seas of parking can degrade the walkability of a neighborhood and we think it is critical to include a parking “backstop” for commercial projects opting to not use a sketch model to reach eligibility.

The figure below is from the Mobility Study that informed the City of Ventura’s Downtown Parking Management Program. Gathered by Nelson/Nygaard, this data illustrates observed peak parking demand for main-street mixed-use districts at less than 2.0 spaces per 1,000 square feet of development (equivalent to 1 space per 500 square feet). It is important to note that the observed demand is for cities that are economically successful. Despite the relatively high drive alone rates and lack of major transit networks this data shows that parking demand is still under 2 spaces per 1,000 sq. ft.

Simply capping the surface area parking at 15% of surface area for the “**Transit Proximity and Low Parking**” eligibility criteria is not enough particularly if structured parking is proposed, effectively leaving parking uncapped if not provided as a surface lot. The effect of VMT reduction due to reduced commercial parking provided is cited in the CAPCOA Quantifying GHG Mitigations Report. Measure PDT-1 summarizes the effect of limiting the parking supply on reducing VMT and GHGs.

Downtown Comparisons – Mode Splits to Actual Demand

City	City Population	Mode Split ¹		Occupied Parking Spaces per 1,000 SF ³
		Drive Alone	Transit	
Oxnard	193,000	50%	6%	0.98
Chico	59,900	61%	1%	1.7
Palo Alto	58,600	80%	4%	1.9
Santa Monica	84,100	74%	11%	1.8
Kirkland, WA ²	45,600	77%	4%	1.6

¹ Source: Census Transportation Planning Package (CTPP) 2000.

² Commuter mode split for Kirkland, Washington is not limited to the main street district, but covers commuting the entire city, due to lack in data from CTPP 2000.

³ SF refers to occupied non-residential built area in Chico and Palo Alto and both vacant and occupied non-residential built area in Santa Monica and Kirkland.

Recommendation: Modify the two eligibility criteria “Proximity to Households” and “Transit Proximity and Low Parking” to include additional parking maximum of 2.5 parking spaces for every 1,000 square feet of commercial use.

7. Performance standards and sketch tools should be updated regularly to reflect new information.

Both the project performance standards and tools used to evaluate them should be updated regularly. We agree that projects should be able to use a sketch model to demonstrate VMT reductions associated with project design, however the model needs to be one that will be continually updated with new data on proven effects of emerging demand management strategies. URBEMIS doesn't quantify the impact of reduced parking provided for residential uses and it is, as far as we understand, no longer being maintained or updated. Both URBEMIS and CalEEmod significantly undervalue affordable housing as a trip reduction strategy.

Thank you again for the opportunity to provide comments on the draft. Please don't hesitate to contact us if you have any questions, and we look forward to continuing to work with you.

Best,

Sincerely,

A handwritten signature in blue ink that reads "Stuart Cohen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stuart Cohen
Executive Director

cc: