

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: November 21, 2022

**SUBJECT: GPT22-006 - AMENDMENT TO CITY COUNCIL POLICY 5-1
(TRANSPORTATION ANALYSIS POLICY) FOR AFFORDABLE
HOUSING PROJECTS**

RECOMMENDATION

The Planning Commission voted 7-2-1-0 (Casey and Ornelas-Wise opposed; Ahluwalia absent) to recommend to the City Council to:

1. Adopt a resolution amending City Council Policy 5-1 titled "Transportation Analysis Policy" to streamline environmental review under Vehicle Miles Traveled (VMT) for affordable housing projects and market rate projects in designated City Planned Growth Areas, and to provide a process for City Council to consider adopting a Statement of Overriding Considerations under the California Environmental Quality Act (CEQA) for housing projects meeting the land use policies of the General Plan with Significant and Unavoidable Impacts in high VMT areas.
2. Reject the Alternative Recommendation by the City Council's Transportation and Environment Committee to amend City Council Policy 5-1 to permit proposed market-rate residential infill projects not designated in the General Plan for residential development to seek a City Council Statement of Overriding Considerations under CEQA due to significant and unavoidable transportation impacts.

OUTCOME

Should the City Council accept the staff's recommended update to the City Council Policy 5-1, the updated policy would go into effect sixty (60) days after City Council approval provided changes related to the process for Statements of Overriding Considerations under CEQA will not be effective until staff brings forward the associated General Plan amendments. Staff anticipates bringing forward the required General Plan amendments in early 2023. Once the updated policy is in effect:

- Affordable housing and market-rate housing projects will be exempted from completing detailed VMT analysis for CEQA in more areas of the city.
- Developers and the general public will have more clarity on how different types of projects are reviewed and against what VMT metric these projects are compared; and
- More housing projects can be considered for an override of Significant and Unavoidable VMT Impacts.

BACKGROUND

Council Transportation Analysis Policy 5-1

In February 2018, City Council Policy 5-1 "Transportation Analysis Policy" replaced the previous City Council Policy 5-3, "Transportation Impact Policy," as the policy for transportation development review in San José. Policy 5-1 aligned the City's CEQA rules and transportation analysis with SB 743 and goals as outlined in the City's Envision San José 2040 General Plan. The change to a VMT-based metric was intended to:

- Streamline CEQA review for projects that improve infrastructure and safety for pedestrians, bicyclists, and transit riders while reducing the need to travel exclusively by automobile;
- Facilitate residential, commercial, and mixed-use infill projects that improve air quality by reducing the number of miles driven by automobiles; and
- Focus CEQA transportation mitigation on pedestrian, bicycle, and transit facilities, as well as transportation demand management.

The City Council passed Policy 5-1 with the direction to return to City Council with potential updates based on lessons learned. This second phase of work on City transportation-related policies has enabled San José to assess City Council Policy 5-1 and propose refinements, as well as adopt complementary strategies to further implement 2040 General Plan goals and strategies, promote planned growth, and complete the multi-modal transportation network.

Alternative Recommendation

At the May 2, 2022, Transportation and Environment (T&E) Committee meeting, the Committee provided input that staff should explore changes to City Council Policy 5-1 that allow the City Council to make findings for a Statement of Overriding Considerations for infill market-rate housing projects in areas with immitigable VMT outside of General Plan growth areas. Councilmember Peralez submitted a memo, approved by the T&E Committee, that provided staff with the direction to:

- Explore amendments to City Council Policy 5-1 that permit potential infill projects not designated in the General Plan for residential development to seek a City Council Statement of Overriding Considerations due to Significant and Unavoidable Impacts as per the policy. Include specific process and programmatic criteria that projects seeking to use this process must perform in attaining the General Plan amendments before being considered by Council.
- These considerations must align with our City's General Plan and Transportation strategies. Considerations should include transportation and public benefits packages commensurate with the impact of the proposed project, and full public outreach processes. Considerations should also not allow employment lands to be converted into residential. Sites to be considered must make a significant contribution to solving the housing crisis and be large enough to provide a balance of uses that enhance and contribute to the vitality of their neighborhood.

At the subsequent August 29, 2022, T&E meeting, staff presented an Alternative Override Criteria (Criteria) to the T&E Committee for its consideration. At this meeting, the T&E Committee accepted the staff's status report on Council Policy 5-1 and provided direction to modify the Criteria's proposed housing requirement to be less prescriptive and more flexible on the amount of affordable housing that should be provided, while establishing an objective that a project contributes towards achieving the City's Regional housing needs assessment goal for low and moderate-income housing. As part of its recommendation to the Planning Commission, staff did not recommend adding the Criteria, developed per the direction of the T&E Committee, to City Council Policy 5.1. For more background on the Criteria in this Alternative Recommendation, refer to the attached Planning Commission staff report.

On November 16, 2022, the Planning Commission held a hearing on the proposed amendments to City Council Policy 5-1. Staff from the Department of Transportation and the Planning Division provided an overview of the proposed amendments and was available to respond to questions from the Planning Commission. The Planning Commission's comments and questions are summarized in the "Commission Recommendation/Input" section below.

PUBLIC TESTIMONY

A total of 14 members of the public spoke on the item. Representatives from the District 6 Neighborhood Leaders Group, Green Foothills, Silicon Valley @ Home, San José Parks Advocate, District 8 Community Roundtable, Greenbelt Alliance, Pala Rancho Cabana Club, Mt. Pleasant neighborhood, and two homeowner associations in Northern Evergreen spoke in favor of the staff recommendation as well as against the T&E Committee's alternative recommendation. One additional public commenter raised concerns but did not express specific opposition to or support for the proposal.

ANALYSIS

A complete analysis of the proposed update to City Council Policy 5-1 is contained in the Planning Commission staff report dated November 4, 2022 (attached).

CONCLUSION

The Planning Commission voted 7-2-1-0 (Casey and Ornelas-Wise opposed; Ahluwalia absent) to recommend to the City Council to approve the staff recommendation and reject the alternative recommendation.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum aligns with one or more Climate Smart San José energy, water, or mobility goals.

The proposed update to City Council Policy 5-1 would facilitate increasing housing developments, reducing VMT, and increasing mobility choices other than single-occupancy, gas-powered vehicles.

PUBLIC OUTREACH

This memorandum along with two proposed resolutions will be posted on the City Council Agenda website for the November 29, 2022, Council Meeting. The first proposed resolution includes staff recommendations, and the second resolution includes T&E Committee recommendations with additional edits from staff.

Notices for the public hearings on this matter were posted on the City's website and published in the San José Post-Record and emailed to a list of interested groups and individuals. This staff report and attachments were posted on the City's website. Staff has been available to respond to questions from the public.

Since the adoption of the City Council Policy 5-1 in 2018, land use development in San José has provided substantial information to evaluate the performance of the Policy and its impact on City goals, working with developers and consultants implementing the Policy in more than 200 development projects.

City Staff has continued to review best practices and experiences, soliciting input from stakeholders including the Santa Clara Valley Transportation Authority and its working groups, the Big Cities VMT Working Group, the California VMT Exchange Working Group,

subcommittees of the California City Transportation Initiative (CaCTI), and the general public. Staff has conceptualized policies based on State guidance, the General Plan, and input received. A complete discussion of the public outreach is contained in the attached Planning Commission Staff Report.

COORDINATION

Preparation of this memorandum has been coordinated with the Department of Transportation and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

The Planning Commission heard staff presentation, asked questions, discussed the item, and provided the following input:

The Commission was supportive of the concept of streamlining CEQA for more market-rate housing projects near transit and allowing the City Council to consider overriding Significant and Unavoidable VMT impacts for market-rate housing projects that are aligned with the General Plan land use policies. In addition, the Commission was supportive of streamlining CEQA for more 100% affordable housing projects and allowing more affordable housing in high-resource areas of the city. Commissioners noted that this update would streamline the development review process for housing projects and would further promote housing production and affordable housing in San José.

Some Commissioners asked if the alternative recommendation, which would allow the City Council to make findings for a Statement of Overriding Considerations for infill market-rate housing projects in areas with immitigable VMT outside of General Plan growth areas, will further promote housing and go above and beyond the staff recommendation. Commissioner Casey asked why the Policy was designed to not give certain housing projects, despite having immitigable VMT and being outside the City's growth areas, a pathway or a public process for the City Council's consideration. Staff responded that traditionally, the City's Transportation Analysis Policy (including the former Level of Service policy) aims to discourage overriding transportation impacts except under specific additional considerations, which Council sets for itself in the Policy and is memorialize in the General Plan.

Some commissioners stated that the alternative recommendation appears to be related to a particular potential development project and that a citywide policy should not be updated based on considerations for one site. Commissioner Ornelas-Wise noted that the preservation of open space is important for the quality of life for the community and that conversion of open space to private developments should be discouraged. Staff reiterated that the staff recommendation

would provide the City Council a pathway to override immitigable VMT impacts for market-rate housing projects that align with the General Plan. Conversion of open space to housing, which requires a privately initiated General Plan amendment, would not be eligible for this provision per the staff recommendation.

Commissioner Garcia had a question about the merit of the alternative recommendation, asking why a pathway should be considered for projects that do not align with the General Plan. Staff responded that while staff does not recommend the alternative recommendation, they acknowledge the counterpoint made by the T&E Committee that, to help address the City's housing crisis, the City Council should be allowed to make findings for a Statement of Overriding Considerations for infill market-rate housing projects not designated in the General Plan for residential development, including projects that are filed jointly with a privately initiated General Plan amendment to convert the allowable land use to residential.

Commissioner Ornelas-Wise supported the notion of streamlining development reviews but raised concerns about the lack of transportation infrastructure to support projects in the immitigable VMT areas. She emphasized the importance of addressing traffic congestion and safety issues that may be caused by the development being streamlined. Staff responded that even if a project is streamlined for CEQA under this Policy, the Policy would continue to subject the project to the Local Transportation Analysis requirements outside of CEQA and address any adverse effects the project would cause to the local transportation system. Only small projects, such as those with fewer than 25 units of multi-family housing, are exempt from the LTA requirements of the Policy.

Commissioner Oliverio asked how the proposed update to the Policy affects the envisioned housing growth in North San José. Staff responded that since the first adoption of the Policy in 2018, the opening of the Milpitas and Berryessa BART stations helped reduce VMT in North San José. The Santa Clara Valley Transportation Authority Countywide VMT Evaluation Tool is being updated to include the updated VMT data for San José and is expected to be ready by the effective date of the Policy update. It is anticipated that the proposed update to the Policy, along with the updated VMT data in North San José, would further promote housing production and affordable housing in North San José.

Commissioner Cantrell made the motion to recommend to the City Council the staff recommendation and to specifically reject the alternative recommendation. The motion was seconded by Commissioner Lardinois. The Planning Commission voted 7-2-1-0 (Casey and Ornelas-Wise opposed; Ahluwalia absent) to recommend the City Council approve the staff recommendation and reject the alternative recommendation.

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

Determination of Consistency with the Envision San José 2040 General Plan Final Program Environmental Impact Report (FEIR), for which findings were adopted by City Council through Resolution No. 76041 on November 1, 2011, and Supplemental EIR Resolution No. 77617, adopted by City Council on December 15, 2015, and Addenda thereto. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that this activity is within the scope of the earlier approved programs and the Final Program EIRs adequately describe the activity for purposes of CEQA. The project does not involve new significant effects beyond those analyzed in the Final Program EIRs (Public Project # PP17-008).

/s/

Christopher Burton, Secretary
Planning Commission

For questions, please contact Ramses Madou, Division Manager of Planning, Policy and Sustainability at the Department of Transportation, at (408) 975-3283.



Memorandum

TO: PLANNING COMMISSION
SUBJECT: Update to City Council Policy 5-1

FROM: Director John Ristow
DATE: November 16, 2022

COUNCIL DISTRICT: Citywide

Project	Update to City Council Policy 5-1 (Transportation Analysis Policy)
Applicability	Citywide
Project Description	Amendment of the City Council Transportation Analysis Policy 5-1 to streamline traffic analysis and expand housing opportunities under CEQA.
CEQA Clearance	General Procedure & Policy Making resulting in no changes to the physical environment. Public Project number PP17-008.
Project Planner	Ramses Madou

RECOMMENDATION

Staff recommends the Planning Commission recommend the City Council take all of the following actions:

- Adopt a Resolution amending City Council Policy 5-1 titled “Transportation Analysis Policy” to streamline environmental review under Vehicle Miles Traveled (VMT) for affordable housing projects and market rate projects in designated City Planned Growth Areas, and to provide a process for City Council to consider adopting a Statement of Overriding Consideration under the California Environmental Quality Act (CEQA) for housing projects meeting the land use policies of the General Plan with Significant and Unavoidable Impacts in high VMT areas.

PROJECT BACKGROUND

California Environmental Quality Act

CEQA was enacted in 1970 in response to growing awareness that environmental impacts associated with proposed discretionary actions (e.g., projects) should be disclosed to the public and decision-makers. This State statute mandates that the public and decision-makers be provided with an objective analysis of the immediate and long-range impacts of a proposed

project on its physical environment through an environmental review process and that decision-makers consider these impacts prior to any discretionary approvals. CEQA plays an important role in the implementation of the City's General Plan goals and policies. The City implements CEQA in accordance with Title 21 (Environmental Clearance Ordinance) of the San José Municipal Code.

The fundamental objectives of CEQA are to conduct thorough environmental analysis based on available scientific and factual data; inform the public and decision-makers, and disclose the project's impacts, especially potentially significant effects to the physical environment and to require projects to mitigate their impacts.

Vehicle Miles Traveled (VMT)

VMT measures the amount and distance people drive by vehicle. Typically, development at a greater distance from differing types of land uses and in areas without transit generates more driving than development near a diversity of land uses with more robust transportation options. Currently, VMT information is used to help measure several CEQA impacts within the City, including transportation, air quality, and greenhouse gas emissions at a project level and, in General Plan or program-level analysis, to identify long-range transportation impacts.

Senate Bill 743 (Environmental Quality: Transit-Oriented Infill Projects)

In September 2013, the California Legislature passed and Governor Brown signed Senate Bill 743 (Steinberg). SB 743 directed the State Office of Planning and Research ("OPR") to establish new CEQA guidance for jurisdictions and institute VMT as the metric for transportation analysis under CEQA, or another measure that "promote[s] the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses." The intent of this change is to shift the focus of transportation analysis under CEQA from vehicle delay and roadway auto capacity to a reduction in vehicle emissions, and the creation of robust multimodal networks that support integrated land uses.

In January 2018, OPR transmitted its proposal for comprehensive updates to the CEQA Guidelines to the California Natural Resources Agency. This package included proposed updates pursuant to Senate Bill 743. The changes have been approved by the Office of Administrative Law and were filed with the Secretary of State. The updated Guidelines became effective on December 28, 2018.

History of Transportation Policies and Relationship to CEQA in San José

In 1978, the City Council established a Transportation Policy (Council Policy 5-3) to meet CEQA requirements and require projects to include mitigation measures to reduce transportation impacts and conform to the Horizon 2000 General Plan. Council Policy 5-3 required the analysis of potential impacts and associated mitigation, typically in the form of expanded intersections and roadways to provide additional capacity for estimated increases in vehicular traffic from projects.

In 1987, the City Council adopted Council Policy 5-4 to establish alternate traffic mitigation measures allowed under the Horizon 2000 General Plan. In 2002, the City Council adopted amendments to the San José 2020 General Plan to allow flexibility in vehicular traffic and

transportation policies to support multi-modal transportation goals and smart growth land use principles.

In 2005, the City Council adopted a new Multi-modal Transportation Policy 5-3 in alignment with the 2002 changes to the 2020 General Plan. This new Council Policy 5-3 entitled “Transportation Impact Policy” consolidated the prior Council Policy 5-3, “Transportation Level of Service,” and Council Policy 5-4, “Alternate Traffic Mitigation Measures.”

Council Transportation Analysis Policy 5-1

In February 2018, Council Policy 5-1 "Transportation Analysis Policy" replaced the previous Council Policy 5-3, "Transportation Impact Policy," as the policy for transportation development review in San José. Policy 5-1 aligned the City's CEQA rules and transportation analysis with SB 743 and goals as outlined in the City's Envision San José 2040 General Plan. The change to a VMT-based metric was intended to:

- Streamline CEQA review for projects that improve infrastructure and safety for pedestrians, bicyclists, and transit-riders while reducing the need to travel exclusively by automobile;
- Facilitate residential, commercial, and mixed-use infill projects that improve air quality by reducing the number of miles driven by automobiles; and
- Focus CEQA transportation mitigation on pedestrian, bicycle, and transit facilities, as well as transportation demand management.

Council passed Policy 5-1 with direction to return to Council with potential updates based on lessons learned. This second phase of work on City transportation related policies has enabled San José to assess Policy 5-1 and propose refinements, as well as adopt complementary strategies to further implement 2040 General Plan goals and strategies, promote planned growth, and complete the multi-modal transportation network.

ANALYSIS

This section describes in detail and analyzes each of the three recommendations to the Planning Commission. Proposed Actions #1 and #2 are recommended for adoption at the current time, with Proposed Action #3 to be adopted concurrently with appropriate updates to the General Plan 2040 policy TR 1.4 to maintain internal consistency between the General Plan and Council Policy 5-1.

Transportation Analysis Policy 5-1 Amendments

Staff proposes to amend Council Policy 5-1 to:

- **Proposed Action #1 Support Housing Production:** modify section A “Project Screening Criteria” to expand the applicability of criteria (5) – Transit Supportive projects in Planned Growth Areas and criteria (6) – Affordable Housing projects in Planned Growth Areas to additional areas of the City.
- **Proposed Action #2 Project Type and VMT Thresholds of Significance:** modify section B, Table 1 “Project Type and VMT Thresholds of Significance” to provide additional clarity on how to apply VMT analysis to a broader range of project types.

- **Proposed Action #3 Significant and Unavoidable Impacts:** modify to allow a process for City Council consideration of a Statement of Overriding Consideration under CEQA for housing projects that comply with the General Plan Land Use/Transportation Diagram with Significant and Unavoidable VMT Impacts program in high VMT areas. The language proposed to be added or removed is included as redline in Exhibit A.

Proposed Action #1 Support Housing Production

Staff recommends amending Council Policy 5-1 to expand the area of the City where affordable housing and market-rate housing projects are exempted from completing detailed VMT analysis.

Under Policy 5-1, projects that meet screening criteria are not required to complete a detailed VMT analysis because the project's impacts are assumed to be less-than-significant. A project is "screened" based on its location, type, size, density, and other attributes that support a presumption that, if a detailed VMT analysis were performed, the project's impact under VMT would be less-than-significant. Currently, projects that meet screening criteria include: (1) transportation projects that reduce or do not increase VMT; (2) small infill projects; (3) local-serving retail; (4) local-serving public facilities (e.g., libraries, community centers, parks, fire stations, etc.); (5) transit-supportive development in Planned Growth Areas with low-VMT that are served by frequent transit; and (6) transit-supportive restricted affordable housing in any Planned Growth Area with frequent transit.

Currently, for screening criteria (5) and (6), Policy 5-1 defines transit-supportive development as projects dense enough to support transit service, without dedicated parking in excess of minimum requirements, that does not degrade the existing multimodal transportation network.

Staff recommends revising Screening criteria (5) - Planned Growth Areas.

Currently, screening criteria (5) aims to promote housing production on sites within Planned Growth Areas near High-Quality Transit (transit routes with headways, or time between transit vehicle arrivals, of less than 15 minutes) **AND** with Low VMT. However, since projects located in Low VMT areas have a straightforward path to comply with 5-1, this exemption has been rarely used. Thus, these projects have not needed to satisfy the additional density and parking requirements included in this exemption. Additionally, State Guidelines assert that lead agencies generally should presume that projects near High-Quality Transit will have a less-than-significant impact on VMT.

To support the goals of promoting focused growth within Planned Growth Areas, infill development near High-Quality Transit, and further streamlining the development review process, it is recommended to expand this screening criteria to development projects in all Planned Growth Areas near High-Quality Transit. This is intended to ease the development of residential projects within approved urban villages, increasing available housing stock in areas served by transit, and meant for densification in the General Plan. Additionally, increasing density and diversity of land uses is assumed to reduce area average VMT, contributing to the assumption of less-than-significant VMT impacts of infill developments in Planned Growth Areas.

Staff recommends revising Screening criteria (6) – Affordable Housing.

Currently, screening criteria (6) aims to promote deed-restricted affordable housing production in Planned Growth Areas (PGAs) with High-Quality Transit. Residents of affordable residential projects typically have a lower VMT footprint than residents in market-rate residential projects, meaning that on average affordable housing residents tend to drive less per person than residents of market-rate housing. This pattern is particularly evident in affordable residential projects near transit. Because of this, proposed transit-supportive, restricted affordable housing projects, near High-Quality Transit, **AND** within PGAs, meet these screening criteria, with an assumed less-than-significant VMT impact.

With the goal of further promoting affordable housing development, it is recommended to expand this screening criteria to areas outside of Planned Growth Areas. This would allow deed restricted affordable housing developments near High-Quality Transit to be exempted in all areas of the City. This would expand the area of the City where affordable housing has access to this exemption from 15 % to 63 %. This has the potential to not only increase the area accessible to affordable housing development but also better allow affordable housing construction in high-resource areas of the City.

Proposed Action #2 Project Type and VMT Thresholds of Significance

Staff recommends amending Council Policy 5-1 to add project types to the VMT Thresholds of Significance that the current policy did not list as described in “Table 1 - Project Type and VMT Thresholds of Significance” of Attachment {Policy 5-1 A}. These changes to “Table 1 - Project Type and VMT Thresholds of Significance” are intended to provide clarity on how different types of projects typically submitted to the City are reviewed and against what metric these projects are compared. This is intended to help staff articulate to both developers and the general public how the development review process identifies which projects are appropriate to exempt from detailed environmental review. The table is reproduced below, with the proposed changes in bold and redline:

Table 1 - Project Type and VMT Thresholds of Significance*

Project Types (as categorized in the General Plan)	Threshold for Determination of Significant Transportation Impact
Residential Uses	<i>VMT</i> per resident greater than the more stringent of the following thresholds: 1) 15 percent below the Citywide per resident <i>VMT</i> , OR 2) 15 percent below regional <i>VMT</i> per resident.

General Employment Uses (e.g. office, R&D, <u>senior assisted living</u>)	VMT per employee greater than 15 percent below existing regional VMT per employee.
Industrial Employment Uses (e.g. warehouse, manufacturing, <u>and</u> distribution uses, <u>and</u> <u>mini storage</u>)	VMT per employee greater than existing regional VMT per employee.
Retail Uses (<u>e.g. including</u> Hotel/ <u>Motel, gas station, and car wash</u>)	A net increase in the total existing VMT for the region.
<u>Educational Uses</u> (<u>e.g. Day Care, K-12 schools, college/university</u>)	<u>A net increase in the total existing VMT for the region.</u>
Public/Quasi-Public Uses	Public/Quasi-Public land use projects will be analyzed using the most relevant threshold as determined by Public Works Director for the proposed use on the site from the enumerated project types in this Table 1.
Mixed-Uses	Each land use component of a mixed-use project will be analyzed independently, applying the significance threshold for each land use component from the enumerated project types in this Table 1.
Change of Use or Additions to Existing Development	Changes of use or additions to existing development will be analyzed applying the significance threshold for each land use component from the enumerated project types in this Table 1.
Urban Village, Station Area Plans, Development Policy, Specific Strategy or Other Area Plans	Each land use component will be analyzed independently, applying the significance threshold for each land use component from the enumerated project types in this Table 1.

General Plan Amendments	General Plan Amendments will be analyzed in conformance with the General Plan's definition of <i>VMT</i> . An increase in City total <i>VMT</i> is a significant transportation impact.
Transportation Projects	Net increase in <i>VMT</i> greater than that consistent with the Regional Sustainable Communities Strategy.

* For the Purposes of this Policy, the region is the Bay Area's Metropolitan Planning Organization's boundaries.

Proposed Action #3 Significant and Unavoidable VMT Impacts:

Staff recommends amending Council Policy 5-1 to expand the types of land-use projects that can be considered for an override of Significant and Unavoidable Impacts related to VMT. This expansion encompasses all residential projects that comply with the General Plan Land Use/Transportation Diagram. This program allows a process for the City Council to consider a Statement of Overriding Consideration under CEQA for land-use projects that have Significant and Unavoidable transportation CEQA Impacts and requires payments for transportation improvements proportionate to the impact they create. The goal of this change is to provide a legible process for the City Council to weigh the cost and benefits of allowing market-rate residential developments in areas currently not allowed under Policy 5-1. Specifically, a small number of sites within the City are zoned for residential development but are excluded from market-rate development under the current Council Policy 5-1 due to assumed significant and immitigable VMT impacts. This change will allow consideration of market-rate residential on these sites on a case-by-case basis, potentially increasing local housing supply. These projects, however, will be, required to mitigate their impacts to the greatest extent possible and provide additional contributions to the multimodal transportation system to mitigate any remaining impact.

In accordance with State CEQA Statute and Guidelines and Title 21 of the San José Municipal Code, projects with significant and unavoidable impacts require the City Council to certify an Environmental Impact Report and adopt a Statement of Overriding Considerations. Adoption of a Statement of Overriding Considerations with findings requires that the specified benefits of such projects outweigh the unavoidable and significant impacts in accordance with Public Resources Code 21081. Based on these requirements, the decision-making body must balance the economic, legal, social, technological, or other benefits of a proposed project against the identified significant environmental effects.

Currently, Council Policy 5-1 allows the City Council to consider overriding a significant transportation impact for housing projects in one of the circumstances enumerated below:

- The Project mitigates its VMT impacts to the maximum extent possible as defined by the City's Analysis Tool and either:

- The Project is a 100 percent deed-restricted affordable, at or below income levels as defined in General Plan Policy IP-5.12; or
- The Project is market-rate housing **within a City Planned Growth Area**, commercial, or industrial, and must construct or fund multimodal transportation improvements.

These provisions ensure that market-rate housing within a City Planned Growth Area has a potential path forward under Council Policy 5-1. However, it doesn't fully ensure that all new housing developments that conform to the General Plan have a path forward.

The amendment to Council Policy 5-1 replaces the Planned Growth Area requirement for market-rate housing with a requirement to be consistent with the General Plan land use designation. This means that so long as a project is sited in a location designated for housing it will have a path forward to development under the policy. However, such projects will still be required to appropriately address their VMT impacts.

The language proposed to be added or removed is included in Attachment {Policy 5-1 A} reproduced below with changes bolded and redlined:

- iii. The Project is either:
 - a. 100% affordable residential project, or
 - b. The Project constructs or funds multimodal transportation improvements as detailed in Appendix B and is:
 - i. Market rate housing within City Urban Villages as defined in the City's General Plan;
 - ii. **Market rate housing consistent with the City's General Plan land use designation effective on November 29th, 2022 or City initiated amendments there-after;**
 - iii. Commercial; or
 - iv. Industrial.

Proposed updates to the process for considering statements of Overriding Consideration for Significant Impacts will require General Plan changes. Once staff has been given direction on how to proceed with these potential amendments, we will process the General Plan changes accordingly with the set of City-initiated General Plan changes.

Effective Date of Amendments to Council Policy 5-1:

If Council approves staff's recommendations, Proposed Action #1 and Proposed Action #2 would be effective 60 days from the date of City Council approval. State law requires the effective date to be 60 days for any changes to CEQA thresholds. As for Proposed Action #3 (or some variation as explained below), staff will need to come back with a General Plan amendment for City Council consideration. Proposed Action #3 will only be effective upon City Council approval of the General Plan amendment related to VMT

Baseline VMT Calculations

Staff is updating the baseline VMT calculations used to evaluate a developments' potential VMT to align with the rest of Santa Clara County. This is an action staff undertakes periodically to keep VMT baseline information relevant and defensible.

A development's expected VMT is based on a variety of factors. These factors include the project's location and the characteristics of the location that influences VMT such as proximity to complementary land uses, transit, and other non-auto transportation options. Current VMT Baselines were developed in 2017 based on land use and transportation network assumptions available at the time.

Since the adoption of the Council Policy 5-1, the VTA has updated County estimates for land use and demographic data based on ABAG Projections 2017 (P'17). The updated land use data set was developed with input from the County's local jurisdictions, including the City of San José.

With the updated data sets provided by VTA, the City and its consultants have developed updated VMT per Capita and VMT per Job calculations for the Region, the City of San José, and Santa Clara County. This updated baseline provides a more accurate representation of expected VMT attributable to future developments.

Detailed methodology and calculations are included in Attachment {TA Website}.

VTA Countywide VMT Calculator

To improve the user experience and facilitate consistency with tools and methodologies within Santa Clara County, staff is phasing out the San Jose's VMT Evaluation Tool and adopting the VTA Countywide VMT Calculator to assess a project's potential VMT based on the project's description, location, and attributes.

VTA Countywide VMT Calculator is a web-based tool (available at <https://vmttool.vta.org>) to help users conduct a baseline VMT screening evaluation for small- to medium-sized residential, office, and industrial land-use projects in Santa Clara County. The tool is capable of evaluating these land uses individually and in combination with each other.

The VMT Calculator was developed by the VTA with consultant assistance, in collaboration with the 15 cities and towns of Santa Clara County, and the County of Santa Clara itself. VTA Countywide VMT Calculator was developed based on the City's calculator and it includes the same mitigation measures, calculation methodologies and assumptions.

The VMT Calculator is modular such that VTA, along with cities in Santa Clara County and the County of Santa Clara, can include specific VMT screening criteria or model data within the Tool. The tool is scalable such that it can be used for a range of project sizes and locations within any jurisdiction in Santa Clara County. This action does not alter Council Policy 5-1.

A brief overview of the resources VTA has made available, including links to the VMT Calculator Quick Start Guide and FAQs, is available at <https://www.vta.org/programs/congestion-management-program/technical-resources>.

General Plan Conformance

The Envision San José 2040 General Plan encourages the periodic review of City Policies, and other supporting ordinances, to ensure they reflect the goals, policies, and implementation of the General Plan.

The proposed Transportation Analysis Policy amendments are consistent with the following General Plan goals for housing development, and the implementation of the Land Use / Transportation Diagram:

1. **Quality of Life Goal H-1** Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.
2. **Policy IE-1.6.** Plan land uses, infrastructure development, and other initiatives to maximize utilization of the Mineta San José International Airport, existing and planned transit systems including fixed rail (e.g., High-Speed Rail, BART and Caltrain), Light-Rail and Bus Rapid Transit facilities, and the roadway network. Consistent with other General Plan policies, promote development potential proximate to these transit system investments compatible with their full utilization. Encourage public transit providers to serve employment areas.
3. **Policy H-4.2.** Minimize housing's contribution to greenhouse gas emissions, and locate housing, consistent with our City's land use and transportation goals and policies, to reduce vehicle miles traveled and auto dependency.
4. **Policy H-4.3.** Encourage the development of higher residential densities in complete, mixed-use, walkable and bikeable communities to reduce energy use and greenhouse gas emissions.
5. **Policy TR-1.3.** Increase substantially the proportion of travel using modes other than the single-occupant vehicle. The 2030 and 2040 mode split goals for all trips made by San José residents, workers, and visitors are presented in the following table:

- a. Table TR-1: Mode Split Targets for 2030 and 2040

Mode	All Trips to and/or from San José		
	2019	2030 Goal	2040 Goal
Drive alone	80%	No more than 45%	No more than 25%
Shared Mobility/ Carpool	12%	At least 25%	At least 25%
Transit	5%	At least 10%	At least 20%
Bicycle	Less than 2%	At least 10%	At least 15%
Walk	Less than 2%	At least 10%	At least 15%

- b. Source: The 2008 mode split were obtained from the American Community Survey (2008).

6. **Reduction of Vehicle Miles Traveled.** As a means to reduce energy consumption, to reduce greenhouse gas emissions and to create a healthier community, San José maintains the 2030 and 2040 goals to reduce the number of vehicle miles traveled per service population in the city, as presented in the following table:

Table TR-9:

Year	2030 Goal	2040 Goal
% Reduction in citywide VMT per service population	20% below 2017 level	45% below 2017 level

Achieving these goals will require a multi-pronged strategy that includes both land use and transportation. This section includes the transportation goals, policies and actions that are intended to achieve VMT reduction of 20% by 2030 and 45% reduction by 2040. These reductions are measured from the 2017 base year.

7. **Policy TR-9.11.** Adjust the impact thresholds in the Council Policy Transportation Policy 5-1 as appropriate to advance the City's land use goal of reducing job and housing imbalance as well as the VMT reduction goals. Analyze and monitor the City's progress towards these goals.
8. **Policy TR-1.4** Through the entitlement process for new development, projects shall be required to fund or construct needed transportation improvements for all transportation modes giving first consideration to improvement of bicycling, walking and transit facilities and services that encourage reduced vehicle travel demand.
- Development proposals shall be reviewed for their impacts on all transportation modes through the study of Vehicle Miles Traveled (VMT), Envision San José 2040 General Plan policies, and other measures enumerated in the City Council Transportation Analysis Policy and its Local Transportation Analysis. Projects shall fund or construct proportional fair share mitigations and improvements to address their impacts on the transportation systems.
 - The City Council may consider adoption of a statement of overriding considerations, as part of an EIR, for projects unable to mitigate their VMT impacts to a less than significant level. At the discretion of the City Council, based on CEQA Guidelines Section 15021, projects that include overriding benefits, in accordance with Public Resources Code Section 21081 and are consistent with the General Plan and the Transportation Analysis Policy 5-1 may be considered for approval. The City Council will only consider a statement of overriding considerations for (i) market-rate housing located within General Plan Urban Villages; (ii) commercial or industrial projects; and (iii) 100% deed-restricted affordable housing as defined in General Plan Policy IP-5.12. Such projects shall fund or construct multimodal improvements, which may include improvements to transit, bicycle, or pedestrian facilities, consistent with the City Council Transportation Analysis Policy 5-1.

- **Area Development Policy.** An “area development policy” may be adopted by the City Council to establish special transportation standards that identifies development impacts and mitigation measures for a specific geographic area. These policies may take other names or forms to accomplish the same purpose.

The proposed amendments to Policy 5-1 would further promote market rate and affordable housing production by expanding the area of the City where affordable housing projects are screened under CEQA, and by allowing all housing projects meeting the land use policies of the General Plan to have access to the Policy's Significant and Unavoidable Impacts program in high VMT areas.

Amendments to General Plan Policy TR-1.4 and other applicable guidelines and policies will need to be made to implement Section D.2.c above. Therefore, the effective date of Section D.2.c shall be the same as the effective date to the amendments to General Plan Policy TR-1.4 authorizing the implementation of this Section D.2.c. Staff will bring the required General Plan Amendments and other necessary changes to policies and guidelines to City Council for consideration next year.

Alternative Recommendation by the Council Committee on Transportation and the Environment

At the May 2, 2022, Transportation and Environment (T&E) Committee meeting, the Committee provided input that staff should explore changes to Policy 5-1 that allow Council to make findings for a Statement of Overriding Considerations for infill market-rate housing projects in areas with immitigable VMT **outside of General Plan growth areas**. Such a provision was not proposed in the Policy 5-1 amendments presented by staff to the T&E Committee. Councilmember Peralez submitted a memo, approved by the T&E Committee, that provided staff with the following direction:

- *Explore amendments to Council Policy 5-1 that permit potential infill projects not designated in the General Plan for residential development to seek a City Council Statement of Overriding Considerations due to Significant and Unavoidable Impacts as per the policy. Include specific process and programmatic criteria that projects seeking to use this process must perform in attaining the General Plan amendments before being considered by Council.*
- *These considerations must align with our City’s General Plan and Transportation strategies. Considerations should include transportation and public benefits packages commensurate with the impact of the proposed project, and full public outreach processes. Considerations should also not allow employment lands to be converted to residential. Sites to be considered must make a significant contribution to solving the housing crisis and be large enough to provide a balance of uses that enhance and contribute to the vitality of their neighborhood.*

At subsequent August 29th T&E meeting, staff presented an Alternative Override Criteria to the Committee for its consideration. Staff did not, however, recommend adding this Override Criteria to Policy 5.1. The Criteria, as presented by staff, would only apply to land with a Private Recreation land use designation; staff considered land with other land use designations but did

not see the need, or did not see it as appropriate to apply this path for an Overriding Consideration to land with other land use designations. For more background and analysis of staff's recommendation on where the Override should apply, see Attached T&E memo dated August 10, 2022, Attachment {T&E Memo}.

Based on the direction of the T & E Committee, staff developed criteria to be considered for a Statement of Overriding Considerations. This criteria included the following affordable housing requirements:

1. 35% of the total dwelling units in the residential development shall be affordable (rental or for sale) to those households earning no more than 120% of the area median income.
2. The development shall provide additional on-site affordable housing consistent with the required affordability levels for rental housing in the City's Inclusionary Housing Requirements (IHO), as may be amended. Under the current IHO, 15% of the development's total rental units would need to be affordable at the following levels:
 - 5% of units at a 100% AMI affordable rent cost,
 - 5% of units at a 60% AMI affordable rent cost, and
 - 5% of units at a 50% AMI affordable rent cost.

Alternatively, to fulfill the requirement of item 2 above, the development could provide 10% of the total rental units affordable to households making no more than 30% of AMI.

In response to the direction from T&E, and to provide for neighborhood-serving commercial uses that would help meet the daily needs of residents and provide a 'third space' for neighbors to interact informally, staff proposed that the Override Criteria include the following commercial requirements.

1. Projects between 25-50 acres shall provide at least 2 acres of land dedicated to commercial uses.
2. Projects greater than 50 acres but less than 100 acres shall provide up to 4 acres of commercial.
3. Projects that are 100 acres or greater shall provide up to 6 acres of commercial.
4. Projects less than 25 acres would not be required to provide commercial.

Also, in response to the direction from the T&E Committee, staff recommended that an Override Criteria include the following transportation requirements:

1. Mitigate the project's VMT impacts to the maximum extent feasible per the City adopted VMT Evaluation Tool; and
2. Construct or fund multimodal transportation improvement(s), called Transportation System Improvement(s), that will improve system efficiency and/or safety, enhance non-auto travel modes, and promote citywide reduction of VMT. The value of Transportation System Improvements that the project must construct, or fund, will be based on the amount of VMT impacts the project is unable to mitigate.

These requirements are consistent with those already in place since 2018, under Policy 5-1, for developments that need a Statement of Overriding Considerations.

The Override Criteria presented by staff also recommend the following process for market-rate projects not supported by the General Plan and with immitigable VMT:

1. Proposed projects must conduct a Fiscal and Jobs/Housing Balance Impact Study to provide the Council with an understanding of the fiscal impacts to the City if it were to approve a given project.
2. Privately proposed General Plan amendments must submit a proposed project (e.g., a site development permit) to be considered concurrently by the Planning Commission and City Council.
3. Project must conduct extensive community engagement through the entitlement process and outreach should be conducted in all prominent languages in the given area.

For a more in-depth discussion of the proposed Override Criteria, refer to Attached T&E Memo, Attachment {T&E Memo}.

At the August 29th T&E meeting, the Committee passed a motion (5-0) accepting staff's status report on Council Policy 5-1 and provided direction to staff to modify the housing requirement to be less prescriptive and more flexible on the amount of affordable housing that should be provided, while establishing an objective that a project contributes towards achieving the City's Regional housing needs assessment goal for low and moderate-income housing.

Councilmember Dev Davis also said park needs should be a factor when Council is considering a Statement of Overriding Considerations under the Alternative Override Criteria. She said that a criteria that could be considered is requiring proposed projects in areas underserved by parkland to make further parkland contributions to meet the needs of these areas. While a formal motion was not made on her comment, staff agreed to propose language in the Override Criteria that would address this need. For the updated full policy text for the Alternative Recommendation on the Override Criteria for Planning Commission Consideration see attached Policy 5-1 B, Attachment {Policy 5-1 B}.

General Plan Conformance of Alternative Recommendation

The alternative criteria would establish a policy that would facilitate development that is inconsistent with the Focused Growth Major Strategy and detracts from the General Plan goals and policies related to reducing Vehicle Miles traveled and Green House Emissions listed above. To enact this alternative the General Plan will need to be additionally amended. It would also facilitate development contrary to goals and strategies in Climate Smart San José to reduce the City's contributions to climate change. It is imperative that Policy 5-1 reinforce the strategies, goals, and policies in both of these documents. Staff are therefore not recommending the inclusion of the alternative recommendation in an updated Policy 5-1.

While staff acknowledges that a limited amount of other sites may become eligible for consideration under this Policy, staff's analysis has largely focused on a potential privately-initiated General Plan conversion of the developer proposal on the now-closed Pleasant Hill Golf Course located in a county pocket in the Evergreen area. This parcel is currently under the jurisdiction of the County of Santa Clara and would first need to be annexed to the City of San José to be reviewed under the 5-1 Policy, this would require a General Plan amendment. As currently written and as proposed, the Policy would not support a Statement of Overriding Considerations for a market-rate housing development proposal on this property because the resulting VMT would be immitigable. The Policy, as currently proposed, would not preclude Council from considering the redevelopment of this golf course or other potential sites to market rate housing. If Council has other considerations and would like to consider market-rate housing on this property or other properties inconsistent with Policy 5-1, it could direct staff to prepare the appropriate General Plan amendment, zoning, and other policy changes, and possibly an EIR would be required.

If the Council would like to consider allowing the Pleasant Hill Golf Course to redevelop into housing and/or other uses, staff recommends that the City lead a transparent community engagement process, similar to an Urban Village process, to determine how the development of the site could meet the needs of its future residents, the larger community, and the City. Such a process could determine the appropriate mix and type of uses, desired community amenities, needed multimodal transportation improvements, and how, overall, such a development could successfully be integrated into the Evergreen Area. The process should include consideration of how the project could fit with the anticipated redevelopment of other key development sites in the immediate area including Reed Hill View airport and surrounding properties. Review of the development under Policy 5-1 would be one small component of a much larger entitlement process, and the Policy as proposed by staff would not preclude a public planning process or the ultimate approval of a project. One developer's interest in one potential redevelopment project should not drive the direction of Citywide policy.

If the Council approves the alternative recommendation additional General Plan Amendments, as well as possible additional changes to other policies and guidelines, will be required to maintain internal consistency and for this portion of the policy to take affect. Staff will bring the required General Plan Amendments and other necessary changes to policies and guidelines to City Council for consideration next year, if the alternative recommendation is approved.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

General Procedure & Policy Making resulting in no changes to the physical environment. Public Project number PP17-008.

PUBLIC OUTREACH

Notices for the public hearings on this matter were posted on the City's website and published in the San José Post-Record and emailed to a list of interested groups and individuals. This staff report, and attachments were posted on the City's website. Staff has been available to respond to questions from the public.

Since the adoption of the Transportation Analysis in 2018, land use development in San José has provided substantial information to evaluate the performance of the Policy and its impact on City goals, working with developers and consultants implementing the Policy in more than 200 land use projects.

City Staff has continued to review best practices and experiences, soliciting input from stakeholders, and conceptualizing policies based on State guidance, the General Plan, and input received.

- City staff has held multiple sessions with VTA, and are involved members of the VTA Joint Land Use Integration and Systems Operations Management Working Group on VMT.
- City staff are involved members of the Big Cities VMT Working Group and California VMT Exchange Working Group, subcommittees of the California City Transportation Initiative (CaCTI).
- Staff also solicited input and received feedback through the City website (www.sanjoseca.gov/vmt).

The following summarizes the primary feedback received to date:

- Desire to not add cost, time, and complexity to the development review process.
- Concern about the Transportation Analysis Policy being a barrier to housing production, specifically for housing projects that are consistent with the 2040 General Plan land use designation but are located in high VMT areas.
- Concern about the VMT Evaluation tool not able to be used on a non-Windows device.
- Suggestion to provide an online map that can be zoomed in or out to better identify a particular site on the VMT heat maps.
- Suggestion to consider the absolute increase in VMT from a transportation project instead of the increase relative to the existing VMT.
- Question on the effectiveness of VMT mitigation measures over time.
- Question on the level of investments by developers into transportation infrastructure under the VMT Policy.

City staff has taken this feedback into consideration in developing the proposed amendments to the Transportation Analysis Policy. The City recognizes the importance of managing proposed changes thoughtfully and clearly. Staff will focus on communications and procedures to continue to facilitate development during the transition and avoid added cost, confusion, community concern, and unintended consequences.

Project Manager: Ramses Madou

Approved by: /s/, Michael Brilliot, Deputy Director for Christopher Burton, Planning Director

Attachments:	
Exhibit A: Resolution 5-1 A	Proposed City Council Resolution Approving Amendments to Council Policy 5-1 A, as recommended by staff
Exhibit B: Policy 5-1 A	Proposed City Council Policy 5-1A, as recommended by staff
Exhibit C: Resolution 5-1 B	Proposed City Council Resolution Approving Amendments to Council Policy 5-1 B, with alternative criteria as recommended by T&E Committee
Exhibit D: Policy 5-1 B	Proposed City Council Policy 5-1B, with alternative criteria as recommended by T&E Committee
Exhibit E: T&E Memo	Staff Memo to City of San José Transportation and Environment (T & E) Committee dated August 10, 2022
Exhibit F: TA Website	City website on the Transportation Analysis Policy, www.sanjoseca.gov/vmt .
Exhibit G: VTA website	VTA website on the Countywide VMT Calculator, https://www.vta.org/programs/congestion-management-program/technical-resources .

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Links to Attachment A-E

Click on the title to view document

Exhibit A: Resolution 5-1 A
Exhibit B: Policy 5-1 A
Exhibit C: Resolution 5-1 B
Exhibit D: Policy 5-1 B
Exhibit E: T&E Memo

Public Correspondence received after 11/9/22