

**RESOLUTION NO. 72765.1**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING MODIFICATIONS TO THE CITY OF SAN JOSE LEVEL OF SERVICE TRANSPORTATION POLICY AND ESTABLISHING A NEW TRANSPORTATION IMPACT POLICY TO REPLACE PREVIOUSLY ADOPTED CITY COUNCIL POLICIES 5-3 (TRANSPORTATION LEVEL OF SERVICE) AND 5-4 (ALTERNATIVE TRAFFIC MITIGATION), WHICH NEW TRANSPORTATION IMPACT POLICY WOULD ALLOW THE EXEMPTION OF CERTAIN VEHICULAR TRAFFIC INTERSECTIONS FROM CERTAIN VEHICULAR TRAFFIC MITIGATION IMPROVEMENTS IF SUCH INTERSECTIONS ARE LOCATED IN CERTAIN AREAS ENUMERATED IN THE POLICY**

**WHEREAS**, on September 5, 1978, the City Council of the City of San José adopted City Council Policy 5-3, the "Transportation Level of Service" Council Policy, which policy was amended on July 22, 1980 and August 26, 1980, to prescribe the mitigation measures that would satisfy the transportation level of service policies of the General Plan of the City of San José; and

**WHEREAS**, on June 23, 1987, the City Council of the City of San José adopted City Council Policy 5-4, the "Alternate Traffic Mitigation Measures" Council Policy, to establish a policy for alternate mitigation measures allowed under the City's General Plan (City Council Policies 5-3 and 5-4 are sometimes collectively referred to herein as the City's "Transportation Impact Policy"); and

**WHEREAS**, in December of 2002, the City Council of the City of San José adopted amendments to the City's General Plan to allow flexibility in the City's General Plan vehicular traffic and transportation policies in order to support multi-modal transportation goals and smart growth land use principles; and

**WHEREAS**, on June 2, 2005, the Planning Commission of the City of San José held a public hearing to consider modifications to the City's Transportation Impact Policy and, together with the City's Director of Planning, Building and Code Enforcement, recommended approval of the proposed modifications to the City's Transportation Impact Policy; and

**WHEREAS**, the potential environmental impacts related to the proposed modifications to the City's Transportation Impact Policy were analyzed in that certain Environmental Impact Report prepared for this project and certified by the City's Planning Commission on June 2, 2005 as complete and prepared in compliance with the California Environmental Quality Act of 1970 ("CEQA"), together with State Guidelines and the provisions of Title 21 of the San José Municipal Code implementing the provisions of CEQA; and

**WHEREAS**, on June 21, 2005 and June 28, 2005, the City Council of the City of San José held a duly noticed public hearing on the proposed modifications to the City's Transportation Impact Policy and indicated their desire to further amend and replace the City's existing Transportation Impact Policy in order to guide analyses and determinations regarding the overall conformance of development proposals with the City's General Plan.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:**

City Council Policies 5-3 (Transportation Level of Service) and 5-4 (Alternate Traffic Mitigation Measures) are collectively hereby amended in their entirety to read as set forth in EXHIBIT "A," entitled "City Council Policy 5-3 Transportation Impact Policy," attached hereto and incorporated herein as though fully set forth herein.

**ADOPTED** this 21<sup>st</sup> day of June, 2005, by the following vote:

**AYES:** CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,  
PYLE, REED, WILLIAMS, YEAGER; GONZALES

**NOES** NONE

**ABSENT:** NONE

**DISQUALIFIED:** NONE

**VACANT:** DISTRICT 7



RON GONZALES  
Mayor

ATTEST:



LEE PRICE, CMC  
City Clerk

TITLE	PAGE	POLICY NUMBER
TRANSPORTATION IMPACT POLICY	1 OF 6	5-3
	EFFECTIVE DATE	REVISED DATE

**BACKGROUND**

The San José City Council adopted the following City Policy on June 21, 2005. This policy repeals and replaces previously adopted Council Policies 5-3, "Transportation Level of Service" and 5-4, "Alternate Traffic Mitigation Measures".

**PURPOSE**

The purpose of this Policy is to guide analyses and determinations regarding the overall conformance of a proposed development with the City's various General Plan multi-modal transportation policies, which together seek to provide a safe, efficient, and environmentally sensitive transportation system for the movement of people and goods.

**POLICY**

**I. TRANSPORTATION POLICIES AND PROGRAMS**

**A. General Plan and Adopted Council Policies**

Specific multi-modal transportation policies that are included in the City's adopted General Plan, or have otherwise been formally adopted by the City Council include the following:

**Pedestrians** General Plan policies encourage pedestrian travel between high density residential and commercial areas throughout the City. Pedestrian access is particularly encouraged for access to facilities such as schools, parks and transit stations, and in neighborhood business districts. [*General Plan Transportation Policy 16*]

**Bicycles** General Plan policies encourage a safe, direct and well-maintained bicycle network that links residences with employment centers, schools, parks, and transit facilities. Bicycle lanes are considered appropriate on arterials and major collectors. Bicycle safety is to be considered in any improvements to the roadway system undertaken for traffic operations purposes. [*General Plan Transportation Policies 41, 42, and 46*]

**Neighborhood Streets** General Plan policies discourage inter-neighborhood movement of people and goods on neighborhood streets. Streets are to be designed for vehicular, bicycle

and pedestrian safety. Neighborhood streets should discourage both through vehicular traffic and unsafe speeds. [*General Plan Transportation Policies 1, 8 and 9*]

**Private Developments** When a Transportation Impact Analysis finds that a proposed development project would create an adverse traffic condition within an existing neighborhood, the City's Department of Transportation, other City staff, and the developer's consultants will work to ensure that the development will include appropriate measures, including traffic calming measures where appropriate, to minimize the adverse impacts to the neighborhood.

New development should create a pedestrian friendly environment that is safe, convenient, pleasant, and accessible to people with disabilities. Connections should be made between the new development and adjoining neighborhoods, transit access points, community facilities, and nearby commercial areas. [*Council Policy 5-6: Traffic Calming* adopted 4/25/00 and revised 6/26/01]

**Transit Facilities** General Plan policies state that all segments of the City's population are to be provided access to transit. Public transit systems should be designed to be attractive, convenient, dependable and safe. [*General Plan Transportation Policy 11*]

**Vehicular Traffic** The General Plan provides that the minimum overall performance of signalized intersections within the City should achieve a minimum level of service. A development that would cause the performance of an intersection to fall below the minimum level of service needs to provide vehicular related improvements aimed at maintaining the minimum level of service. If necessary to reinforce neighborhood preservation objectives and meet other General Plan policies, the Council may adopt a policy to establish alternative mitigation measures. [*General Plan Transportation Policy 5*]

**Regional Freeways** General Plan policies encourage the City's continued participation in interjurisdictional efforts, such as the Santa Clara County Congestion Management Agency, to develop and implement appropriate techniques to improve the regional transportation system. [*General Plan Transportation Policy 20*]

## B. Implementation Programs

In support of these policies, the City relies upon a number of implementation policies, ordinances, programs, and development processes to maintain and improve the multi-modal transportation system. Specific techniques for protecting neighborhoods from significant traffic effects, and for ensuring that the burden of serving new development does not fall disproportionately upon existing neighborhoods and businesses, presently include the following:

- (a) requiring that all new developments improve their own public street frontage;
- (b) requiring that all new developments maintain an overall standard of Level of Service D or better at signalized intersections unless the intersections are covered by an Area Development Policy or are otherwise designated by the City Council as exempt from this policy;
- (c) collecting taxes from new development for the purpose of maintaining existing streets and roadways. Existing taxes include the *Building and Structure Construction Tax*

(SJMC §4.46), *Residential Construction Tax* (SJMC §4.64), and the *Construction Tax* (SJMC §4.54)

- (d) implementing a Council “Traffic Calming Policy” (Council Policy 5-6) that provides City resources to prevent, offset, or minimize adverse effects of vehicular cut-through traffic on residential neighborhoods.

## II. TRAFFIC LEVEL OF SERVICE

The following language addresses the specific methods for implementing item (b), the City’s adopted General Plan Level of Service Policy for Traffic, including its applicability and scope and an explanation of relevant concepts. This policy serves as a growth management tool. It establishes a threshold for environmental impact, and requires new developments to mitigate significant impacts. This policy serves the City by helping to protect neighborhoods, manage congestion, and build transportation infrastructure.

### A. Application Of Policy

#### 1. Geographic Areas

This Policy applies to all geographic areas of the City with the following exceptions:

- a. The Downtown Core Area, as defined by the City’s General Plan. The Downtown Core Area is exempt from the City’s Transportation Level of Service Policy.
- b. Any area subject to an Area Development Policy adopted pursuant to the City’s General Plan. Each Area Development Policy includes its own guidelines for implementation of the Level of Service Policy.<sup>1</sup>
- c. Specific intersections within Special Strategy Areas that are not required to meet a minimum LOS D. As described in Section III of this Policy, Special Strategy Areas are identified in the City’s adopted General Plan and include Transit Oriented Development Corridors, Transit Station Areas, Planned Communities, and Neighborhood Business Districts.

#### 2. Types of Developments

This Policy applies to all developments within the applicable geographic areas, except the following types of infill projects shall be exempted from Section II(B) of this Policy, because the Council finds that these projects, individually and cumulatively, will not cause a significant degradation of transportation level of service and subject projects will further other City goals and policies:

- a. All retail commercial buildings containing (5,000) square feet of gross area or less.

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<sup>1</sup>The General Plan states that an “area development policy” may be adopted by the City Council to establish unique traffic level of service standards for a specific geographic area.

- b. All office buildings containing (10,000) square feet of gross area or less.
- c. All industrial buildings of (30,000) square feet or less.
- d. All single-family detached residential projects of (15) dwelling units or less.
- e. All single-family attached or multi-family residential projects of (25) units or less.

In no case shall any of these above types of infill projects be exempted if they are increments of a larger project or parcel.

## B. Policy Implementation

### 1 Level Of Service

As used in this Policy, Level of Service is a measure of traffic congestion at those signalized intersections that are within the areas subject to this policy. The standards used by the City of San José to measure the Level of Service are described in the following table.

The City's goal is to achieve an overall Level of Service of 'D' at signalized intersections. City staff shall determine the appropriate methodology for determining the Level of Service, and shall apply that methodology in a consistent manner.

Level of Service	Description
A	No congestion. All vehicles clear in a single signal cycle.
B	Very light congestion. All vehicles clear in a single signal cycle.
C	Light congestion, occasional back-ups on some approaches or turn pockets.
D	Significant congestion on some approaches, but intersection is functional. Vehicles required to wait through more than one cycle during short peaks.
E	Severe congestion with some long back-ups. Blockage of intersection may occur. Vehicles are required to wait through more than one cycle.
F	Total breakdown. Stop and go conditions.

## 2. Transportation Impact Analysis

When the City determines through the application of its technical methodology that a proposed development may result in a substantial increase in traffic congestion, the applicant must prepare a Transportation Impact Analysis (TIA) to evaluate those project impacts. The TIA must comply with relevant professional standards and the methodology promulgated by City staff. In addition to describing the existing vehicular transportation facilities in the project area, the TIA must also identify the existence, status and condition of pedestrian, bicycle and transit systems and facilities that would serve, or will be impacted by, the proposed development.

The developer must complete the proposed TIA prior to or in conjunction with the analysis of environmental impacts prepared to satisfy the requirements of the California Environmental Quality Act (CEQA).

### a. Significant LOS Impacts

A significant LOS impact occurs when the TIA demonstrates that the proposed development would either: (1) cause the level of service at an intersection to fall below LOS D, or (2) contribute the equivalent of 1% or more to existing traffic congestion at an intersection already operating at LOS E or F.

It has long been San José's policy that adding 1% or more to an already congested intersection is a substantial increase in congestion and constitutes a significant impact, and that is still the intention of this Policy.

When a significant impact occurs, then the TIA must also identify improvements that would reduce traffic congestion so that the intersection operates at the level that would exist without the proposed project. These traffic improvements will be referred to as LOS Traffic Improvements.

### b. Mitigation for LOS Impacts

The proposed development is required to include construction of all LOS Traffic Improvements identified in the TIA as necessary to mitigate the significant LOS impacts, unless the TIA demonstrates that these improvements would have an unacceptable impact on other transportation facilities (such as pedestrian, bicycle, and transit systems and facilities), as such impacts are described in the next section of this policy. Implementing mitigation measures that cause unacceptable impacts in order to reduce the impacts of traffic congestion from a new development, is not consistent with the City's General Plan policies. In order to achieve conformance with the City's General Plan Traffic Level of Service and other transportation policies, alternative mitigation measure(s) that do not have unacceptable impacts, and that would reduce traffic congestion so that the intersection operates at the level that would exist without the proposed project, must be identified and implemented.

### 3. Unacceptable Impacts of Mitigation

For purposes of this Council Policy, an LOS Traffic Improvement has an unacceptable impact if the TIA demonstrates that the improvement would result in a physical reduction in the capacity and/or a substantial deterioration in the quality (aesthetic or otherwise) of any other planned or existing transportation facilities (such as pedestrian, bicycle and transit systems and facilities).

The following are examples of the kinds of impacts that would be considered unacceptable.

- reducing the width of a sidewalk below minimum city standard
- eliminating a bicycle lane or reducing its width below city standard
- eliminating a bus stop or eliminating a parking lane that accommodates a bus stop
- eliminating a parking strip (between sidewalk and street) that contains mature trees
- encouraging substantial neighborhood cut-through traffic
- creating unsafe pedestrian and/or automobile operating conditions.

## III. SPECIAL STRATEGY AREAS

### A. Background

To continue to expand local intersections in order to increase their vehicular capacity may, under certain circumstances, result in a deterioration of the local environmental conditions near those intersections, and an erosion of the City's ability to both encourage infill in designated Special Strategy Areas, and to support a variety of multi-modal transportation systems.

The City of San José has identified certain local intersections for which no further physical improvement is planned. These specific intersections, because of the presence of substantial transit improvements, adjacent private development, or a combination of both circumstances, cannot be modified to accommodate additional traffic and operate at LOS D or better, in conformance with all relevant General Plan policies. These intersections are all well within the Urban Service Area and the Greenline/Urban Growth Boundary of the City. Future infill development that is otherwise consistent with other General Plan policies encouraging Smart Growth may, therefore, generate additional traffic through these intersections, resulting in a level of congestion that would not otherwise be consistent with the rest of this Policy.

### B. Application

Any intersection that is added to the List of Protected Intersections must be within designated Special Planning Areas as shown in Exhibit I attached to this Policy, and consistent with the General Plan. The process of adding to the List of Protected Intersections is described in greater detail in the Implementation Procedures in Appendix A of this Policy.



### **C. Protected Intersections**

This Policy therefore acknowledges that exceptions to the City's policy of maintaining LOS D at local intersections will be made for certain Protected Intersections that have been built to their planned maximum capacity. A list of these intersections will be approved by the City Council, subsequent to completion of the appropriate CEQA review. The list may be modified by the Council in the future. Any decision to modify the list will only be made after appropriate public review and consideration of any adverse impacts that might result from such a decision.

If a proposed development project would cause a significant LOS impact [as defined in Section II(B)(2) above] at one or more of these Protected Intersections, the proposed development will include construction of specific improvements to other segments of the citywide transportation system, in order to improve system capacity and/or enhance non-auto travel modes.

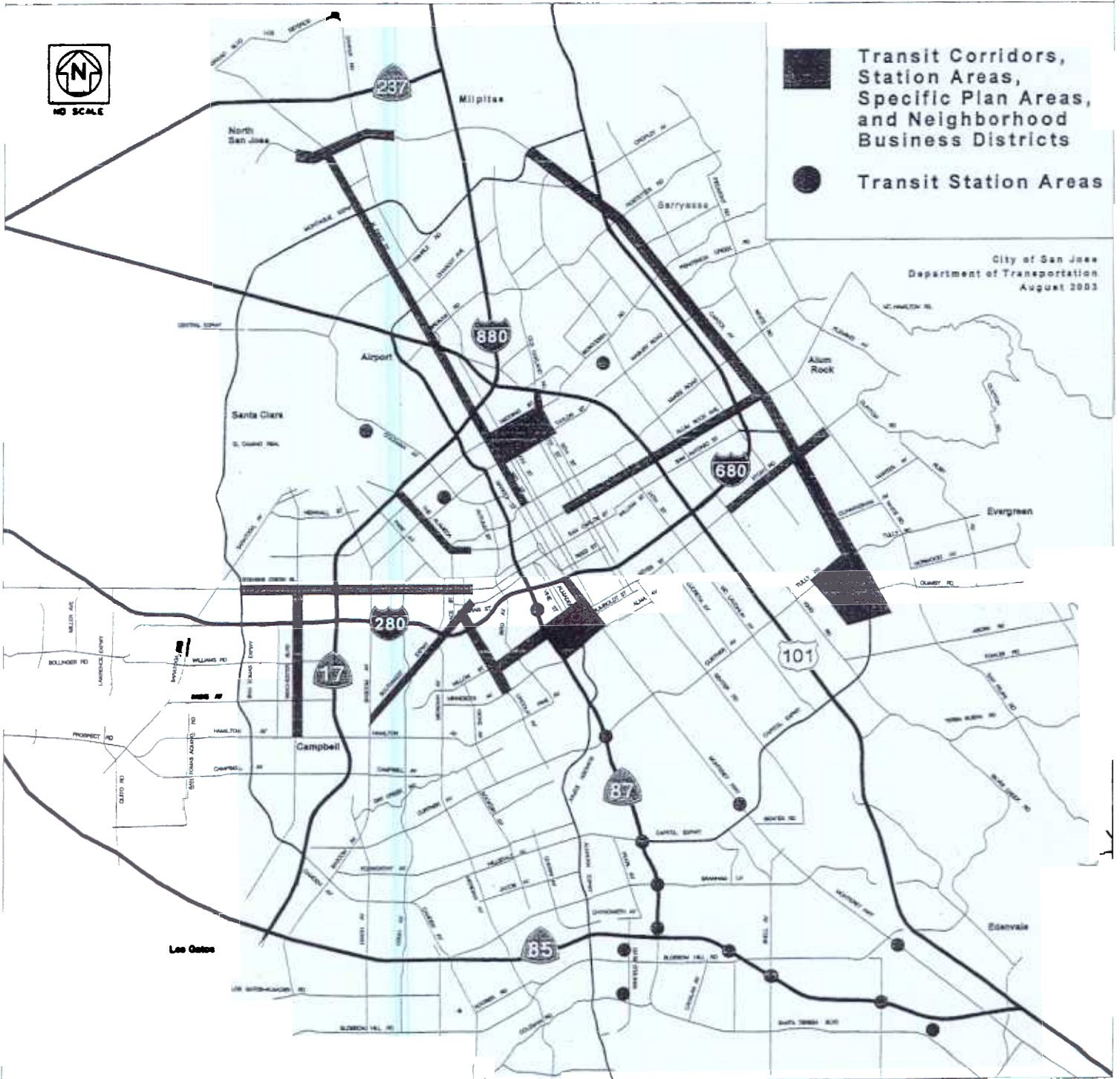
The physical improvements that would be included in the proposed development will be capacity enhancing improvements to the citywide transportation systems. First priority for such improvements will be those improvements identified that would be proximate to the neighborhoods impacted by the development project traffic. The process for identifying and approving these improvements is described in Appendix A of this Policy.

By funding these improvements to the City's overall multi-modal transportation system, the development project will contribute substantially to achieving General Plan goals for improving and expanding the City's multi-modal transportation system. The development project would, therefore, be consistent with the City's General Plan multi-modal Transportation Policies, including the Traffic Level of Service Policy.

### **D. Applicability to Subsequent Projects**

A determination of General Plan conformance for a particular development project would not be applicable to subsequent, different development projects that have LOS impacts on the same Protected Intersection. Any individual project that would result in LOS impacts must be evaluated in the context of its own impacts and its own efforts to conform to this Policy.

# Special Planning Areas



APPENDIX A  
TO COUNCIL POLICY 5-3

POLICY IMPLEMENTATION PROCEDURES<sup>1</sup>

The applicant<sup>2</sup> for any proposed development project that might generate a substantial amount of traffic is required to submit a Traffic Impact Analysis (TIA) that identifies (a) project traffic impacts on nearby intersections, and (b) mitigation for any impact identified as significant. The TIA must be prepared by a qualified traffic engineer to the satisfaction of the Director of Public Works and needs to identify not only impacts from project traffic but also possible impacts from any proposed mitigation measures. This must include impacts on roadways and roadway capacity, and on any facilities or systems for alternative forms of transportation (such as transit stops, sidewalks, bicycle lanes, etc.), whether within the public right-of-way or not.

If the TIA concludes that the project would not result in significant traffic Level of Service (LOS) impacts to any intersections or freeway segments, or impacts to any alternative transportation modes, the project can be identified as conforming to the General Plan Traffic LOS Policy. If the project would result in a significant traffic LOS impact, and its proposed LOS mitigation would have unacceptable impacts on other transportation facilities, or if the project itself would result in an unacceptable impact on other transportation facilities, the project would need to be modified in order to avoid both the significant traffic LOS impact and the unacceptable impact(s) on other transportation facilities. The modification could be one or a combination of the following:

- (1) a reduction in the size of the project (less square footage or number of units proposed, etc.) to a degree that would avoid the need for traffic LOS mitigation, or
- (2) the identification of a different mitigation measure that would reduce the traffic LOS impact to an acceptable level and would not itself have unacceptable impacts, or
- (3) modification of the project design to avoid the significant traffic LOS impact and/or the unacceptable impact(s) on other transportation facilities.

Please see the following discussion for a description of what constitutes an unacceptable impact. The directions for preparing a TIA, including the thresholds for triggering its preparation and the criteria used both to determine the significance of traffic impacts and to evaluate the effectiveness of mitigation measures, are described in the detailed methodology prepared and maintained by the City's Department of Transportation, consistent with prevailing professional standards in the field.

*Unacceptable Mitigation Measures – Citywide*

Unacceptable mitigation measures include any LOS Traffic Improvement that would result in substantial degradation of or a reduction in capacity for alternative transportation modes. If any of the LOS Traffic Improvements that are necessary to avoid significant traffic impacts could, themselves, have unacceptable impacts on other existing or planned transportation facilities, those improvements will not be allowed. An unacceptable impact on other existing or planned transportation facilities is defined as reducing any physical dimension of a transportation facility

<sup>1</sup> Except as otherwise noted in this Appendix, terms used herein shall have the meanings described within the Policy.

<sup>2</sup> For this Policy, the term "applicant" refers to someone that has requested an entitlement or discretionary approval from the City of San José.

below the City's stated minimum design standard, or causing a substantial deterioration in the quality of any other planned or existing transportation facilities, including pedestrian, bicycle, and transit systems and facilities, as determined by the Director of Transportation. Examples of unacceptable impacts would include:

- reducing the width of a sidewalk below minimum City standard;
- eliminating a bicycle lane or reducing its width below minimum City standard;
- eliminating a bus stop, or eliminating a parking lane that accommodates a bus stop;
- eliminating a park strip (between sidewalk and street) that contains mature trees that shade and protect the sidewalk;<sup>3</sup>
- encouraging substantial neighborhood cut-through traffic;
- creating unsafe pedestrian and/or automobile operating conditions.

If an LOS Traffic Improvement proposed to mitigate a project impact would itself have unacceptable impacts, the applicant must identify another mitigation measure. If any LOS Traffic Improvement/mitigation measure proposed requires acquisition of right-of-way and/or affects an existing private development near the intersection or elsewhere, sufficient information about the all of the impacts of right-of-way acquisition and redesign of the intersection must also be provided so that the City decision makers and the public will know what the full effects of the mitigation measure would be.

If a proposed project fails to provide acceptable mitigation for significant traffic impacts (at other than Protected Intersections), in other words, if the proposed project does not avoid significant impacts to both roadways and other modes of transportation in a manner that is acceptable under the Policy – it cannot be found under this Policy to conform to General Plan transportation policies, or to have less than significant impacts on the physical environment.

### *List of Protected Intersections*

The City Council has approved a List of Protected Intersections that have been built to their planned maximum capacity, as stated in this Policy. It is the City's intention that no further expansion of those intersections will occur. In creating this list, an environmental impact report ("EIR") was prepared and that EIR was certified by the City Council, all as required under the provisions of the California Environmental Quality Act of 1970, as amended ("CEQA"), that acknowledged that traffic congestion at those Protected Intersections will eventually exceed the City LOS standard of D.

### *Additions to List of Protected Intersections*

The City Council may decide in the future, based on recommendations from City staff or others, that one or more additional intersections should be added to the List of Protected Intersections. To be eligible for the list, intersections must be at infill locations and within designated Special Planning Areas as shown in Exhibit I attached to the Council Policy, and consistent with the General Plan. Special planning areas may include designations such as the following:

<sup>3</sup> A park strip with mature trees provides a substantial physical separation between pedestrians and vehicular traffic, adds a degree of protection to the sidewalk, and creates a more comfortable environment for pedestrians, especially children.

Transit-Oriented Development Corridors;  
Planned Residential/Community Areas;

- Neighborhood Business Districts;
- Downtown Gateways

Any addition to the List of Protected Intersections must be approved by the City Council. Any revision will undergo the appropriate CEQA review, including an analysis of future conditions that include traffic from planned and reasonably foreseeable development. The current list will be maintained and promulgated by the Director of Transportation. Intersections that are added to the list will be already built to their maximum capacity, where further expansion would cause significant adverse effects upon existing or approved transit or other multimodal facilities, nearby land uses, or local neighborhoods.

Intersections added to the List of Protected Intersections that are also designated on the Santa Clara County Congestion Management Plan must still meet CMP requirements.

#### *Impacts to Protected Intersections*

If a TIA is prepared and identifies a significant LOS impact to a Protected Intersection that is on the Council-approved List of Protected Intersections, the project would not be required in that particular instance to provide further vehicular capacity-enhancing improvements to that intersection in order for the City to find project conformance with the General Plan. Instead, as described below, General Plan conformance could still be found if the applicant chooses to provide improvements to other parts of the citywide transportation system in order to improve transportation-system-wide roadway capacity or to enhance non-auto travel modes in furtherance of the General Plan goals and policies described in this Council Policy. The improvements would be within the project site vicinity or within the area affected by the project's vehicular traffic impacts. With the provision of such other transportation infrastructure improvements, the project would not be required to provide any mitigation for vehicular traffic impacts to the listed intersection in order to conform to the General Plan. The threshold of significance for protected intersections is one-half that of non-protected intersections

#### *Transportation System Improvements*

Improvements made to the Citywide transportation system under the provisions of this Policy may be to either the roadway system or to other elements of the City's overall transportation infrastructure. The specific improvements proposed should generally be identified prior to project approval. Priority will be given to improvements identified in previously adopted plans such as area-wide specific or master plans, Redevelopment Plans, or plans prepared through the Strong Neighborhoods Initiative. Neighborhood outreach will occur prior to and concurrent with the project review and approval process.

In determining the extent, number, and location of the Transportation System Improvements, should an applicant choose this option of addressing unacceptable transportation system impacts created by a proposed project, the process described in this Appendix will be followed in order to assure consistency in the application of this Policy. The total value of improvements proposed to be constructed by a particular project having significant LOS impacts on a Protected Intersection will be determined initially by multiplying \$2,000 by the total number of peak hour project trips generated

by the project, after all vehicular traffic credits have been assigned.<sup>4</sup> The peak hour used as the basis for calculating this value will be the one (AM or PM) having the highest number of net trips after assignment of credits. The \$2,000 base amount will automatically increase 3.5 percent per year, to ensure that the amount remains at a consistent level over time.<sup>5</sup> The total amount of this calculated value will create the budget for construction of the Transportation System Improvements for a project. The improvements must be implemented within the area proximate to the Special Planning Area affected, as shown on the Improvement Zone Map maintained by the City's Department of Transportation in order to maximize the benefit of the traffic improvements on the same area impacted by the project traffic.

There are caps on the maximum value of Transportation System Improvements that would be required for impacts from a single project on a single Protected Intersection, and for impacts from a single project on two or more Protected Intersections. The maximum values are as shown:

Project Size	1 Impact	2+ Impacts
Less than 400 Trips	\$2,000 per trip	\$3,000 per trip
Over 400 trips	TBD during CEQA process	TBD during CEQA process

The value, location and specific type of improvements, may be some of the information that could be available to the public during the community outreach process that takes place prior to project approval. However, specific improvements can be determined/finalized during subsequent planning permit stages.

For purposes of clarification, building improvements to the Citywide transportation system is not "mitigation" for significant traffic LOS impacts, as mitigation is defined by CEQA. Such improvements would not reduce or avoid the significance of the impacts to the listed intersections. Rather, the improvements accomplished in this way would be a means of providing substantial additional benefit to the community by improving the overall multi-modal transportation system in the area, which the decision makers would consider in deciding whether or not to approve the proposed project. The fact that such improvements would be built if an applicant chose to proceed with a project having an unacceptable impact at a Protected Intersection under the provisions of this Policy were identified in the EIR that addressed the impacts of designating Protected Intersections, [and the benefits of these anticipated improvements were addressed in the Statement of Overriding Considerations adopted by the City Council in approving the revised Level of Service Policy.] In approving this Policy, the City has determined that building such improvements will contribute substantially to achieving General Plan goals for improving and expanding the City's multi-modal transportation system. A development project that conforms to this Policy could, therefore, be found to be consistent with the City's General Plan multi-modal Transportation Policies, including the Traffic LOS Policy.

<sup>4</sup> Credits, or reductions in the net number of trips generated by a proposed development project, can be based on factors such as existing development on the project site that will be removed if the proposed project is implemented and/or reductions in trip generation rates assumed consistent with policies of the Congestion Management Agency or assumptions based on studies conducted by the City or the Institute of Transportation Engineers (ITE).

<sup>5</sup> The 3.5 percent cost escalation adjustment is based on a 20-year average construction cost factor. The adjustment will take effect annually on July 1<sup>st</sup>, beginning in 2006.

*CEQA Process for Subsequent Projects*

A traffic LOS impact to a Protected Intersection will still be considered a significant impact for the purposes of CEQA. A development project that conforms to this Policy which results in significant traffic impacts at one or more of the Protected Intersections will not normally be required to prepare a separate EIR just to address its impacts at one of the listed Protected Intersections. It is anticipated that the project-specific environmental review may be able to use the EIR certified for the purpose of placing the impacted intersection on the Council-adopted list of Protected Intersections as a base and "tier" off it, as allowed by CEQA and the City's Environmental Review Ordinance.<sup>6</sup> The EIR certified for the Protected Intersection(s) will, however, be used only for the purpose of addressing the impacts of traffic at one or more Protected Intersections. The project-specific environmental document, whether an Initial Study or Subsequent/Supplemental EIR, will include analysis of all other impacts, including other traffic impacts, as required by CEQA. If the project also has a significant impact at another (non-protected) intersection, that impact and its mitigation(s) will be addressed as they have been in the past under existing policies. If the impact is fully mitigated in a fashion that is consistent with the General Plan and the adopted Council Transportation Impact Policy, it will not trigger preparation of an EIR.

If an applicant for a project found to have a significant impact on one of the listed Protected Intersections chooses not to construct other transportation system improvements, the other alternative method available for finding that project consistent with the General Plan would be to downsize the proposed project, so that it would not result in a significant impact at the listed intersection. If the applicant chooses not to implement transportation system improvements as allowed for under this Policy, or to downsize the project in order to eliminate the significant LOS impact at the Protected Intersection, then the project could not be found to be consistent with the City's General Plan and could not be approved. The project would also have a significant unavoidable CEQA impact.

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<sup>6</sup> The Environmental Review Ordinance is contained at Title 21 of the San José Municipal Code.