KITTELSON & ASSOCIATES
155 GRAND AVENUE, SUITE 900
OAKLAND, CA 94612
P 510.839.1742 F 510.839.0871

MEMORANDUM

Date:	June 15, 2020	Project #: 24441
To:	City of San Mateo, Sue-Ellen Atkinson	
From:	Damian Stefanakis, Fernando Sotelo, Claire Casey (Kittelson & Associates, Inc.)	
Project:	City of San Mateo VMT Implementation	
Subject:	Considerations for Establishing VMT Thresholds	

This memorandum (memo) documents recommendations published by the California Office of Planning and Research (OPR) for implementing SB 743 and provides recommendations for the City of San Mateo (City) in implementing key elements under the legislation. The OPR's Technical Advisory on Evaluating Transportation Impacts in CEQA[1] (Technical Advisory) provides guidance and recommendations for lead agencies to establish VMT metrics and implement thresholds for projects under CEQA review. OPR's recommendations are not binding and lead agencies ultimately have the discretion to set or apply their own significance thresholds, provided they are based on significant evidence. OPR has provided detailed recommendations pertaining to the appropriate methodology for analyzing impacts related to residential, office, retail, and other land use projects. There are several key elements for implementing SB 743-compliant standards for land use projects, including the appropriate VMT estimating tools, metrics, and impact thresholds.

Jurisdictions updating to SB 743-consistent transportation analysis guidelines must implement several key elements. This memo summarizes recommendations from OPR followed by the recommended approach for the City of San Mateo under each key element.

SUMMARY

The recommendations provided in the memorandum for the City of San Mateo in establishing VMT metrics and thresholds are as follows:

- **Land Use Development Projects**
  - **Existing Baseline Scenario**
    - **VMT Metrics:** Analyze VMT per capita for residential projects, VMT per employee for employment projects, and total VMT for retail projects.

[1] Technical Advisory on Evaluating Transportation Impacts in CEQA. California Office of Planning and Research, December 2018.

        - **Impact Thresholds:** For residential and employment projects, find a significant impact of VMT per capita or per employee is more than 85% of the existing countywide average. For retail projects, the impact threshold should be an increase in existing total VMT.
    - **Cumulative Scenario**: Assess consistency with the General Plan and RTP/SCS; if inconsistent, conduct an assessment of total citywide VMT with and without the project.
    - **Redevelopment Projects:** Compare net change in VMT to determine if a detailed VMT analysis is needed.
    - **Analyzing Mixed-Use Projects:** Analyze each use separately, taking internalization into account.
- **General Plans and Specific Plans:** Compare areawide VMT per capita and VMT per employee in the horizon year plus project scenario to existing conditions.
- **Transportation (Infrastructure) Projects**
    - **Types of Projects to Analyze:** Utilize recommended list of project types (consistent with OPR's recommendations).
    - **Estimating Tool and Methodology:** Utilize the City's most recent model and the induced demand formula.
    - **VMT Metric and Threshold:** Assess total citywide VMT, with a threshold of no increase.

LAND USE DEVELOPMENT PROJECTS

There are several components for implementing SB 743-compliant standards for land use projects. OPR has provided recommendations pertaining to the appropriate methodology for analyzing impacts related to residential, office, and retail projects. However, these recommendations still allow for discretion by local agencies in setting thresholds and evaluating land uses other than residential, office, and retail.

VMT Metrics and Thresholds for Land Use Types

OPR Recommendation

OPR recommends different approaches in its Technical Advisory depending on the type of land use. Given that residential, office and retail projects tend to have the greatest influence of land use projects on VMT in California, OPR has provided recommended metrics and thresholds for these project types. For residential and office projects, OPR recommends the use of an efficiency metric (VMT per capita or VMT per employee). For retail, the recommended metric is total VMT. The Technical Advisory does not recommend metrics and thresholds for other land use types. It states that lead agencies may develop specific thresholds using location-specific information. The following describes the approach recommended in OPR's Technical Advisory for residential, office and retail uses.

- Residential Projects: OPR recommends the use of *existing* VMT per capita[2] for residential projects. OPR recommends that VMT-based evaluations should be compared to the citywide or regional *existing* VMT per capita average minus 15% (OPR does not indicate whether utilizing the citywide or regional average is preferable). In other words, a project that generates a per capita VMT that is more than 85% of existing VMT may result in a significant impact. If a threshold based on citywide VMT is used for residential projects, proposed development should not cumulatively exceed the number of units specified in the regional Sustainable Communities Strategy (SCS) for that city and should be consistent with the SCS.
- Office Projects: OPR recommends the use of *existing* VMT per employee[3] for office projects. Typically the employee estimates are derived from the model TAZ data which is based on ABAG or city general plan amounts. An employment project would have a significant impact if its VMT per employee is more than 85% of the *existing* regional average. For example, if the regional average 15 VMT per employee, a project would have a significant impact if its VMT per employee is greater than 12.75(85% of the existing regional average). In cases where the region is substantially larger than the geography over which most workers would be expected to live, OPR states that it might be appropriate to refer to a smaller geography, such as the county, that includes the area over which nearly all workers would be expected to live.
- Retail Projects: OPR recommends estimating total VMT in an area as the metric to assess retail projects. A determination of impact would be based on measuring the net decrease or increase in VMT in the study area with and without the project. An impact would occur if there is increase in total VMT resulting from the project. For example, if a new local-serving corner store opens that reduces trips to more distant retail locations (since residents now have a local option), this would shorten trips and result in a net decrease in VMT and no significant impact. However, if a regional shopping center opens and increases trip lengths and VMT, this would result in an impact.

Considerations for the City of San Mateo

Jurisdictions updating transportation analysis guidelines to be consistent with SB 743 must implement VMT metrics and thresholds for land use developments, transportation projects, and long-term plans. The OPR Technical Advisory provides recommendations for the types of projects and thresholds of significance to apply to those projects. Lead agencies should adopt thresholds considering guidance from OPR, based on substantial evidence with development, development context, and community interests. When setting thresholds, lead agencies should consider the goals listed in Section 21099 of the public

[2] When estimating VMT using trip-based models, the home-based VMT per capita should be used. For activity-based models, the VMT per capita should be used.

[3] When estimating VMT using trip-based models, home-based work VMT per employee should be used. For activity-based models, the VMT per employee should be used.

resource code: (1) promote the reduction of greenhouse gas emissions, (2) the development of multimodal transportation networks, and (3) a diversity of land uses.

According to regulations in the CEQA Guidelines,[4] the thresholds developed must be an identifiable quantitative, qualitative or performance level that are supported by substantial evidence.

The thresholds adopted by agencies generally fall into the following categories:

- Consistent with OPR's recommendations thresholds for residential and office uses 15% below the existing average VMT.
- Consistent with VMT and Greenhouse Gas (GHG) emissions reduction goals in long range plans such as a Climate Action Plan (CAP) or General Plan.
- Consistent with the Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS) goals for VMT or GHG.
- No net increase in VMT (0% below existing average VMT).

Currently, the City's CAP sets an emissions reduction target of 15% below 2005 levels by 2020. The Plan also targets lower per-capita targets for 2030 and 2050. Furthermore, the Sustainable Communities Act from the State of California sets the Bay Area's GHG target to 7% per capita reduction by 2020 and 15% per capita reduction by 2035. Therefore, using a threshold of 15% below average VMT for residential and office projects is consistent with established citywide and regional GHG emission goals.

OPR's recommended approach for residential and office projects sets the expectation that while these uses generate new trips, these projects should lower VMT generation rates per person, as evident in OPR's recommended residential and office project thresholds of 15% below the regional average VMT per resident or employee. On the other hand, new retail projects are expected to reroute existing trips, so these projects should aim to decrease or maintain VMT levels, as evident in OPR's recommended retail threshold of no increase over existing total VMT. Impact thresholds for residential and employment projects should be developed for the *existing* baseline (or the closest available travel demand mode year). In addition, consistency with Plan Bay Area 2040, or the most current MTC RTP/SCS, should be maintained.

The City of San Mateo should require assessing VMT per capita for residential projects, VMT per employee for office projects, and total VMT for retail projects, consistent with OPR recommendations. Table 1 summarizes existing VMT averages per capita and per employee from the current San Mateo Model for the City and for County.

[4] Section§ 15064.7, see Attachment A

Table 1: City of San Mateo Model VMT Results for Existing (Baseline) Conditions

Project Type	Baseline Geography	VMT Average	VMT 15% Below Average [1]
Residential	City	16.0 VMT/capita	13.6 VMT/capita
	County	15.5 VMT/capita	13.1 VMT/capita
Office	City[2]	16.7 VMT/employee	14.2 VMT/employee
	County	18.0 VMT/employee	15.3 VMT/employee

Note: 1. These thresholds represent a 15% reduction from their respective averages.
2. For informational purposes only, OPR does not recommend the use of a Citywide VMT average to establish thresholds for office uses, since the region used should include the area over which nearly all workers would be expected to live.
Grey shaded cells indicate a suggested threshold for land use projects.

The following suggested thresholds which would result in an impact are described below:

- **Residential**: would result in a significant impact if its VMT per capita is more than 13.1
- **Office**: would result in a significant impact if its VMT per employee is more than 15.3.
- **Retail**: would result in a significant impact if there is an increase in total VMT.

Additionally, the City may add thresholds for other land uses such as industrial, warehouses, schools, auto related uses, hotels, etc. OPR's recommendation to use VMT per employee suggests that land uses that primarily generate trips related to employees may rely on that metric. Therefore, VMT per employee may be the applicable metric for land uses such as research and development, light industrial uses, and hotels, which primarily generate trips related to employment. For example, an office, industrial, or other employment project would have a significant impact if its VMT per employee is more than 85% of the regional average.

Suggested metrics for land uses are outlined below:

- **VMT/capita:** residential projects
- **VMT/employee:** office, research and development, light industrial, hotels, and other employment projects
- **Total VMT:** retail projects

For other land uses such as private schools, the City should require analyzing the trip-making characteristics of the project and determining whether to use the metrics and thresholds used for residential, employment, or retail projects. Due to the regional-serving nature of private schools, the City may require these schools to be reviewed on a case-by-case basis. Public schools are exempt from city review and therefore CEQA analysis.

Finally, the City may exempt public facilities that are publicly owned and operated such as police and fire departments, passive parks[5], libraries, and local-serving community centers. The justification is that these services are local-serving and would reduce overall VMT.

Redevelopment Projects

OPR Recommendation

OPR's Technical Advisory recommends that if a project replaces existing uses and the project leads to a net overall increase in VMT compared to the previous uses, then the thresholds developed by the jurisdiction should apply. For example, if a residential project replaces an office project resulting in a net increase in VMT, the project's VMT/capita should be compared with the thresholds for residential projects.

If a project results in a net decrease in overall VMT, it may be presumed that the project would result in a less-than-significant impact.

Considerations for the City of San Mateo

The City should implement a methodology consistent with OPR. If the project is screened out of requiring a detailed VMT analysis due to map-based screening, adjacency to high-quality transit, being a small project, or consisting of local-serving retail or 100% affordable housing, then calculating the net change in VMT would no longer be required. In addition, if a project is partly screened out (e.g. mixed-use or partly affordable housing), this methodology would not apply. Otherwise, net VMT for both the current and proposed uses should be calculated. If net VMT increases, then the appropriate VMT metrics and thresholds should be applied. If the project is a mixed-use project, then the recommended approach is to analyze each individual use.

Mixed-Used Projects

OPR Recommendation

OPR recommends that lead agencies evaluate each component of a mixed-use project independently and apply the significance threshold for each project type in the mixed-used project. Alternatively, a lead agency may consider only the project's dominant use.

Considerations for the City of San Mateo

The City should require analyzing each use in a mixed-use project separately, taking internalization into account, consistent with OPR recommendations. This approach ensures that the vehicle trip-reducing

[5] A "Passive Park" is one which is principally designed for use in an informal way and requires little maintenance or management.

aspects of such projects are not omitted in the VMT analysis. Given that each component will be analyzed separately, the map-based, local-serving retail, and affordable housing screening criteria recommended in the *Considerations for Implementing Screening Criteria Memorandum* should be applied to the individual uses; uses that are not screened out can then be analyzed under their respective metrics and thresholds.

Analysis Scenarios

OPR Recommendation

OPR generally recommends comparing VMT efficiency metrics (such as VMT per resident or per employee) to existing conditions. Per Section 15064 (h) (1) of the CEQA code, "when assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact[6] is significant and whether the effects of the project are cumulatively considerable." OPR states that a project that falls below an existing efficiency-based metric would have no cumulative impact distinct from the project impact. For example, if an office project generates a VMT per employee that is lower than 85% of the existing regional average VMT per employee, it would not have a significant impact and would therefore not have a cumulative impact either. However, when absolute VMT metrics (such as total VMT recommended for retail and transportation projects) are used, analyzing combined impacts for a cumulative impact analysis may be appropriate. In addition, when existing VMT per capita at the city or community level is utilized for analyzing a residential project, proposed development should not cumulatively exceed the number of units specified in the SCS for that city or community, and should be consistent with the SCS.

Considerations for the City of San Mateo

The City of San Mateo should require comparing VMT metrics to the existing baseline for the land uses under consideration. This would be the basis to determine impacts project-related impacts and would ensure that existing and near-term conditions are evaluated. It is also in line with OPR's reasoning that a project that falls below an existing efficiency-based metric would have no cumulative impact distinct from the project impact.

A cumulative scenario should also be assessed to ensure that future travel and VMT patterns are taken into account, in the form of thresholds related to total citywide VMT with and without the project as well as consistency with the City of San Mateo General Plan. Factors to make a determination for consistency with the General Plan or RTP/SCS would be established by a decision from the City Planning Commission or City Council and would be based on factors such as density, design, and consistency with the City's General Plan goals and policies. Inconsistencies may be determined if the proposed land use density and

[6] Section 15355 defined cumulative impacts, refer to Attachment A.

land use is beyond the designation for the project site in the General Plan or RTP/SCS, in which the project may result in higher VMT compared to the applicable plan.

i. If a project is consistent with the General Plan or RTP/SCS, it may be considered to result in a less-than-significant cumulative impact.
ii. If a project is not consistent with the General Plan, a cumulative impact analysis would be required to determine if the project would result in a net increase in VMT.

GENERAL PLANS AND SPECIFIC PLANS

In addition to guidance for evaluating individual land use projects, OPR provides guidance on assessing the potential VMT impacts of land use plans such as general plans and specific plans.

OPR Recommendation

OPR states that a general plan, area plan, or community plan may have a significant impact if proposed new residential, office, or retail land uses would in aggregate exceed the respective thresholds recommended by OPR. The VMT evaluation shall cover the full area over which the plan may affect travel patterns, and the VMT shall be counted in full and not truncated. The total VMT for the plan shall be identified for all trip purposes.

Considerations for the City of San Mateo

For future general, specific, or area plans, the City should utilize the most current version of the City of San Mateo travel demand model to compare existing (no project) and horizon year plus project VMT per capita to capture the effects of all trips. The VMT calculations should be conducted for the plan area (in the case of the general plan, all trips originating or ending in the city).

The City may consider local goals and targets to evaluate general, specific, and area plans. The appropriate threshold for analyzing a plan can be informed by goals and targets such as increasing the mode share of walking and biking or reducing GHG emissions. For example, the current CAP sets an emissions reduction target of 15% below 2005 levels by 2020.

The analysis should compare to existing (no project) conditions to the horizon year plus project condition using the VMT per capita metric for the home-based residential trips and the VMT per employee for the home-based attraction trips. Targets should be in line with the applicable area plan, general plan, RTP or CAP.

TRANSPORTATION (INFRASTRUCTURE) PROJECTS

There are several key elements for implementing SB 743-compliant standards for transportation projects. Transportation projects consist of any project where the primary purpose is to facilitate the transport of people or goods via any mode of travel. Examples of transportation projects are adding lanes on a highway or arterial, redesigning an intersection, implementing a new railway, or implementing bicycle,

pedestrian, and transit facilities. OPR guidance and recommendations for transportation projects in the City of San Mateo are outlined below.

Types of Projects to Analyze

OPR Recommendation

OPR recommends analyzing transportation projects if they are expected to increase VMT. This analysis should typically be done at the planning stage (in the CIP/TIF). The OPR Technical Advisory provides a list of transportation project types that would not likely lead to a substantial or measurable increase in vehicle travel and generally should not require a VMT analysis. Examples of such projects are rehabilitation projects, safety projects, auxiliary lanes less than one mile in length, turning lanes, conversion to managed or transit lanes, road diets, removal or relocation of parking spaces, and the addition of non-motorized, transit, and active transportation facilities. Conversely, OPR states that projects that would likely lead to an increase in vehicle travel would require an analysis, such as the addition of through travel lanes. A full list is provided in OPR's Technical Advisory and included in Attachment B to this memo.

Considerations for the City of San Mateo

The City's approach should be consistent with OPR's list of projects to analyze for VMT impacts, which excludes projects that do not encourage increased private vehicle usage (such as transit and active transportation projects). By being consistent with this approach, the City will ensure that VMT-reducing projects will be streamlined and projects that have the potential to increase VMT will be thoroughly assessed and mitigated as appropriate.

The City may also consider excluding a transportation project from a detailed VMT analysis if it has already undergone a VMT analysis as part of a citywide plan (such as a general plan update) because the necessary VMT analysis and potential mitigations would have already been calculated and identified at the plan level.

Estimating Tool and Methodology

While travel demand models could capture the near term effects of additional roadway capacity due to rerouting and mode shift, they generally do not capture the long term effects of new vehicle trips generated as a result of the additional roadway capacity (also known as induced demand). Therefore, OPR recommends incorporating quantitative estimates of induced demand to calculate impacts of transportation projects.

OPR Recommendation

OPR recommends calculating the change in VMT using per-mile demand elasticities to capture the effects of induced demand. In its Technical Advisory, OPR cites recent research that estimates an elasticity of 1.0, meaning that every percent change in lane miles results in a one percent increase in VMT.

Considerations for the City of San Mateo

For projects that require a detailed VMT analysis (e.g., increasing vehicular throughput or not analyzed as part of a citywide plan), the City should require analysis using the most current travel demand model (City of San Mateo model) to estimate changes to citywide VMT due to rerouted trips. To capture long-term effects, an induced demand assessment should be required using the following formula:

[% increase in lane miles] x [existing VMT] x [elasticity] = [VMT resulting from the project]

This formula calculates the net increase in VMT resulting from the project. The percent increase in lane miles corresponds to the percent change in total lane miles that will result from the project at the city level. Existing VMT is calculated using the most current travel demand model. Elasticity is given a value of 1.0 to be consistent with OPR recommendations.

VMT Metric and Threshold

Similarly to land use projects, OPR also provides specific threshold and metric recommendations for transportation projects to assess their effects on VMT.

OPR Recommendation

OPR recommends analyzing the effects of transportation projects by measuring the change in total VMT (as opposed to VMT per capita or per employee). However, OPR does not recommend a specific total VMT threshold. Rather, OPR recommends that a lead agency could develop a project-level threshold using the agency's VMT level and budget delineated by the California Air Resources Board (CARB) Scoping Plan and the CARB Mobile Source Strategy.

Considerations for the City of San Mateo

The City should require total VMT in the City as the appropriate VMT metric, with the impact threshold being any increase in total VMT; this approach would discourage induced demand impacts by requiring that a baseline level of VMT in the City not be exceeded. The City can use the travel demand modeling being conducted as part of this SB 743 implementation to develop the baseline total VMT on City roads for both existing and cumulative conditions. This analysis would only be required for projects specified in the OPR's technical advisory and listed in Attachment B (e.g. the addition of through travel lanes).

CONCLUSION

The recommendations for the City of San Mateo in establishing VMT metrics and thresholds are as follows:

- **Land Use Development Projects**
    - **Existing Baseline Scenario**
        - **VMT Metrics:** Analyze VMT per capita for residential projects, VMT per employee for employment projects, and total VMT for retail projects.

        - **Impact Thresholds:** For residential and employment projects, find a significant impact of VMT per capita or per employee is more than 85% of the existing countywide average. For retail projects, the impact threshold should be an increase in existing total VMT.
    - **Cumulative Scenario**: Assess consistency with the General Plan and RTP/SCS; if inconsistent, conduct an assessment of total citywide VMT with and without the project.
    - **Redevelopment Projects:** Compare net change in VMT to determine if a detailed VMT analysis is needed.
    - **Analyzing Mixed-Use Projects:** Analyze each use separately, taking internalization into account.
- **General Plans and Specific Plans:** Compare areawide VMT per capita and VMT per employee in the horizon year plus project scenario to existing conditions.
- **Transportation (Infrastructure) Projects**
    - **Types of Projects to Analyze:** Utilize recommended list of project types (consistent with OPR's recommendations).
    - **Estimating Tool and Methodology:** Utilize the City's most recent model and the induced demand formula.
    - **VMT Metric and Threshold:** Assess total citywide VMT, with a threshold of no increase.

Attachments:

- **Attachment A**: Key Definitions and CEQA Terminology
- **Attachment B**: OPR Transportation Projects List
- **Attachment C**: VMT maps

Attachment A: Key Definitions and CEQA Terminology

ATTACHMENT A

CEQA Guidelines Appendix G, Environmental Checklist Form Sample Questions

XVII. TRANSPORTATION

a) Would the project conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

b) Would the project conflict or be inconsistent with CEQA Guidelines § 15064.3, subdivision (b)?

c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

d) Result in inadequate emergency access?

CALIFORNIA CODE OF REGULATIONS. TITLE 14, NATURAL RESOURCES
DIVISION 6, RESOURCES AGENCY
CHAPTER 3: GUIDELINES FOR IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

SECTION 15064.3. DETERMINING THE SIGNIFICANCE OF TRANSPORTATION IMPACTS

(a) Purpose

This section describes specific considerations for evaluating a project's transportation impacts. Generally, vehicle miles traveled is the most appropriate measure of transportation impacts. For the purposes of this section, "vehicle miles traveled" refers to the amount and distance of automobile travel attributable to a project. Other relevant considerations may include the effects of the project on transit and non-motorized travel. Except as provided in subdivision (b)(2) below (regarding roadway capacity), a project's effect on automobile delay shall not constitute a significant environmental impact.

(b) Criteria for Analyzing Transportation Impacts.

(1) Land Use Projects. Vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact. Generally, projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor should be presumed to cause a less than significant transportation impact. Projects that decrease vehicle miles traveled in the project area compared to existing conditions should be presumed to have a less than significant transportation impact.

(2) Transportation Projects. Transportation projects that reduce, or have no impact on, vehicle miles traveled should be presumed to cause a less than significant transportation impact. For roadway capacity projects, agencies have discretion to determine the appropriate measure of transportation impact consistent with CEQA and other applicable requirements. To the extent that such impacts have already been adequately addressed at a programmatic level, such as in a regional transportation plan EIR, a lead agency may tier from that analysis as provided in Section 15152.

(3) Qualitative Analysis. If existing models or methods are not available to estimate the vehicle miles traveled for the particular project being considered, a lead agency may analyze the project's vehicle miles traveled qualitatively. Such a qualitative analysis would evaluate factors such as the availability of transit, proximity to other destinations, etc. For many projects, a qualitative analysis of construction traffic may be appropriate.

(4) Methodology. A lead agency has discretion to choose the most appropriate methodology to evaluate a project's vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household or in any other measure. A lead agency may use models to estimate a project's vehicle miles traveled, and may revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate vehicle miles traveled and any revisions to model outputs should be documented and explained in the environmental document prepared for the project. The standard of adequacy in Section 15151 shall apply to the analysis described in this section.

(c)Applicability.

The provisions of this section shall apply prospectively as described in section 15007. A lead agency may elect to be governed by the provisions of this section immediately. Beginning on July 1, 2020, the provisions of this section shall apply statewide.
Note: Authority cited: Sections 21083 and 21099, Public Resources Code. Reference: Sections 21099 and 21100, Public Resources Code; Cleveland National Forest Foundation v. San Diego Association of Governments (2017) 17 Cal.App.5th 413; Ukiah Citizens for Safety First v. City of Ukiah (2016) 248 Cal.App.4th 256; California Clean Energy Committee v. City of Woodland (2014) 225 Cal. App. 4th 173.

15382. SIGNIFICANT EFFECT ON THE ENVIRONMENT

"Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21068, 21083, 21100, and 21151, Public Resources Code; *Hecton v. People of the State of California*, 58 Cal. App. 3d 653.

15064. DETERMINING THE SIGNIFICANCE OF THE ENVIRONMENTAL EFFECTS CAUSED BY A PROJECT

(a) Determining whether a project may have a significant effect plays a critical role in the CEQA process.

(1) If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, the agency shall prepare a draft EIR.

(2) When a final EIR identifies one or more significant effects, the Lead Agency and each Responsible Agency shall make a finding under Section 15091 for each significant effect and may need to make a statement of overriding considerations under Section 15093 for the project.

(b) (1) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data. An ironclad definition of significant effect is not always possible because the significance of an activity may vary with the setting. For example, an activity which may not be significant in an urban area may be significant in a rural area.

(2) Thresholds of significance, as defined in Section 15064.7(a), may assist lead agencies in determining whether a project may cause a significant impact. When using a threshold, the lead agency should briefly explain how compliance with the threshold means that the project's impacts are less than significant. Compliance with the threshold does not relieve a lead agency of the obligation to consider substantial evidence indicating that the project's environmental effects may still be significant.

(c) In determining whether an effect will be adverse or beneficial, the Lead Agency shall consider the views held by members of the public in all areas affected as expressed in the whole record before the lead agency. Before requiring the preparation of an EIR, the Lead Agency must still determine whether environmental change itself might be substantial.

(d) In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.

(1) A direct physical change in the environment is a physical change in the environment which is caused by and immediately related to the project. Examples of direct physical changes in the environment are the dust, noise, and traffic of heavy equipment that would result from construction of a sewage treatment plant and possible odors from operation of the plant.

(2) An indirect physical change in the environment is a physical change in the environment which is not immediately related to the project, but which is caused indirectly by the project. If a direct physical change in the environment in turn causes another change in the environment, then the other change is an indirect physical change in the environment. For example, the construction of a new sewage treatment plant may facilitate population growth in the service area due to the increase in sewage treatment capacity and may lead to an increase in air pollution.

(3) An indirect physical change is to be considered only if that change is a reasonably foreseeable impact which may be caused by the project. A change which is speculative or unlikely to occur is not reasonably foreseeable.

(e) Economic and social changes resulting from a project shall not be treated as significant effects

on the environment. Economic or social changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic or social effects of a project, the physical change may be regarded as a significant effect in the same manner as any other physical change resulting from the project. Alternatively, economic and social effects of a physical change may be used to determine that the physical change is a significant effect on the environment. If the physical change causes adverse economic or social effects on people, those adverse effects may be used as a factor in determining whether the physical change is significant. For example, if a project would cause overcrowding of a public facility and the overcrowding causes an adverse effect on people, the overcrowding would be regarded as a significant effect.

(f) The decision as to whether a project may have one or more significant effects shall be based on substantial evidence in the record of the lead agency.

(1) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment, the lead agency shall prepare an EIR (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988). Said another way, if a lead agency is presented with a fair argument that a project may have a significant effect on the environment, the lead agency shall prepare an EIR even though it may also be presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68).

(2) If the lead agency determines there is substantial evidence in the record that the project may have a significant effect on the environment but the lead agency determines that revisions in the project plans or proposals made by, or agreed to by, the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur and there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment then a mitigated negative declaration shall be prepared.

(3) If the lead agency determines there is no substantial evidence that the project may have a significant effect on the environment, the lead agency shall prepare a negative declaration (*Friends of B Street v. City of Hayward* (1980) 106 Cal.App. 3d 988).

(4) The existence of public controversy over the environmental effects of a project will not require preparation of an EIR if there is no substantial evidence before the agency that the project may have a significant effect on the environment.

(5) Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts.

(6) Evidence of economic and social impacts that do not contribute to or are not caused by physical changes in the environment is not substantial evidence that the project may have a significant effect on the environment.

(7) The provisions of sections 15162, 15163, and 15164 apply when the project being analyzed is a change to, or further approval for, a project for which an EIR or negative declaration was previously certified or adopted (e.g. a tentative subdivision, conditional use permit). Under case law, the fair argument standard does not apply to determinations of significance pursuant to sections 15162, 15163, and 15164.

(g) After application of the principles set forth above in Section 15064(f)(g), and in marginal cases where it is not clear whether there is substantial evidence that a project may have a significant effect on the environment, the lead agency shall be guided by the following principle: If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency shall treat the effect as significant and shall prepare an EIR.

(h) (1) When assessing whether a cumulative effect requires an EIR, the lead agency shall consider whether the cumulative impact is significant and whether the effects of the project are cumulatively considerable. An EIR must be prepared if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(2) A lead agency may determine in an initial study that a project's contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. When a project might contribute to a significant cumulative impact, but the contribution will be rendered less than cumulatively considerable through mitigation measures set forth in a mitigated negative declaration, the initial study shall briefly indicate and explain how the contribution has been rendered less than cumulatively considerable.

(3) A lead agency may determine that a project's incremental contribution to a cumulative effect is not cumulatively considerable if the project will comply with the requirements in a previously approved plan or mitigation program (including, but not limited to, water quality control plan, air quality attainment or maintenance plan, integrated waste management plan, habitat conservation plan, natural community conservation plan, plans or regulations for the reduction of greenhouse gas emissions) that provides specific requirements that will avoid or substantially lessen the cumulative problem within the geographic area in which the project is located. Such plans or programs must be specified in law or adopted by the public agency with jurisdiction over the affected resources through a public review process to implement, interpret, or make specific the law enforced or administered by the public agency. When relying on a plan, regulation or program, the lead agency should explain how implementing the particular requirements in the plan, regulation or program ensure that the project's incremental contribution to the cumulative effect is not cumulatively considerable. If there is substantial evidence that the possible effects of a particular project are still cumulatively considerable notwithstanding that the project complies with the specified plan or mitigation program addressing the cumulative problem, an EIR must be prepared for the project.
(4) The mere existence of significant cumulative impacts caused by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable. **Note:** Authority cited: Sections 21083, 21083.05, Public Resources Code. Reference: Sections 21003, 21065, 21068, 21080, 21082, 21082.1, 21082.2, 21083, 21083.05, and 21100, Public Resources Code; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68; *San Joaquin Raptor/Wildlife Center v. County of Stanislaus* (1996) 42 Cal.App.4th 608; *Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359; *Laurel Heights Improvement Assn. v. Regents of the University of California* (1993) 6 Cal.4th 1112; and *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099; and *Rominger v. County of Colusa* (2014) 229 Cal.App.4th 690.

15064.7. THRESHOLDS OF SIGNIFICANCE.

(a) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.
(b) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence. Lead agencies may also use thresholds on a case-by-case basis as provided in Section 15064(b)(2).
(c) When adopting or using thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts, provided the decision of the lead agency to adopt such thresholds is supported by substantial evidence.
(d) Using environmental standards as thresholds of significance promotes consistency in significance determinations and integrates environmental review with other environmental program planning and regulation. Any public agency may adopt or use an environmental standard as a threshold of significance. In adopting or using an environmental standard as a threshold of significance, a public agency shall explain how the particular requirements of that environmental standard reduce project impacts, including cumulative impacts, to a level that is less than significant, and why the environmental standard is relevant to the analysis of the project under consideration. For the purposes of this subdivision, an "environmental standard" is a rule of general application that is adopted by a public agency through a public review process and that is all of the following:
(1) a quantitative, qualitative or performance requirement found in an ordinance, resolution, rule, regulation, order, plan or other environmental requirement;
(2) adopted for the purpose of environmental protection;
(3) addresses the environmental effect caused by the project; and,

(4) applies to the project under review.
Note: Authority cited: Section 21083, Public Resources Code. Reference: Sections 21000, 21082 and 21083, Public Resources Code; *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th 1099.

15370. MITIGATION

"Mitigation" includes:
(a) Avoiding the impact altogether by not taking a certain action or parts of an action.
(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
(c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.
(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
(e) Compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.
Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, 21081, and 21100(c), Public Resources Code; *Masonite Corporation v. County of Mendocino* (2013) 218 Cal.App.4th 230.

15364. FEASIBLE

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.
Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21002, 21002.1, 21004, 21061.1, 21080.5, and 21081, Public Resources Code; Section 4, Chapter 1438 of the Statutes of 1982

15355. CUMULATIVE IMPACTS

"Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.
(a) The individual effects may be changes resulting from a single project or a number of separate projects.
(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.
Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21083(b), Public Resources Code; *Whitman v. Board of Supervisors*, 88 Cal. App. 3d 397, *San Franciscans for Reasonable Growth v. City and County of San Francisco* (1984) 151 Cal. App. 3d 61, Formerly Section 15023.5.

15384. SUBSTANTIAL EVIDENCE

(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.
(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.
Note: Authority cited: Section 21083, Public Resources Code; References: Sections 21080, 21082.2, 21168, and 21168.5, Public Resources Code; *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68; *Running Fence Corp. v. Superior Court* (1975) 51 Cal.App.3d 400; *Friends of B Street v. City of Hayward* (1980) 106 Cal.App.3d 988.

MAJOR TRANSIT STOP

Pub. Resources Code, § 21064.3 ("'Major transit stop' means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.").

HIGH QUALITY TRANSIT CORRIDOR

Pub. Resources Code, § 21155 ("For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.").

FAIR ARGUMENT

A fair argument must be supported by substantial evidence that the project may have a significant impact on the environment. The fair argument must be based on the whole record before the lead agency. The fair argument standard entails a strong presumption in favor of requiring full EIRs. The presumption is embodied in numerous provisions, which require that *if* a project is not exempt and *may* cause a potential adverse environmental impact, the lead agency *must* prepare an EIR.13 It takes only one piece of substantial evidence showing that a project *may* have a significant adverse impact to require preparation of a full EIR under the fair argument standard, even if other and more voluminous contrary evidence exists.14Given this very low threshold, there is much less risk of losing a CEQA challenge if an EIR is prepared from the outset for big or controversial projects.

Attachment B: OPR Transportation Projects List

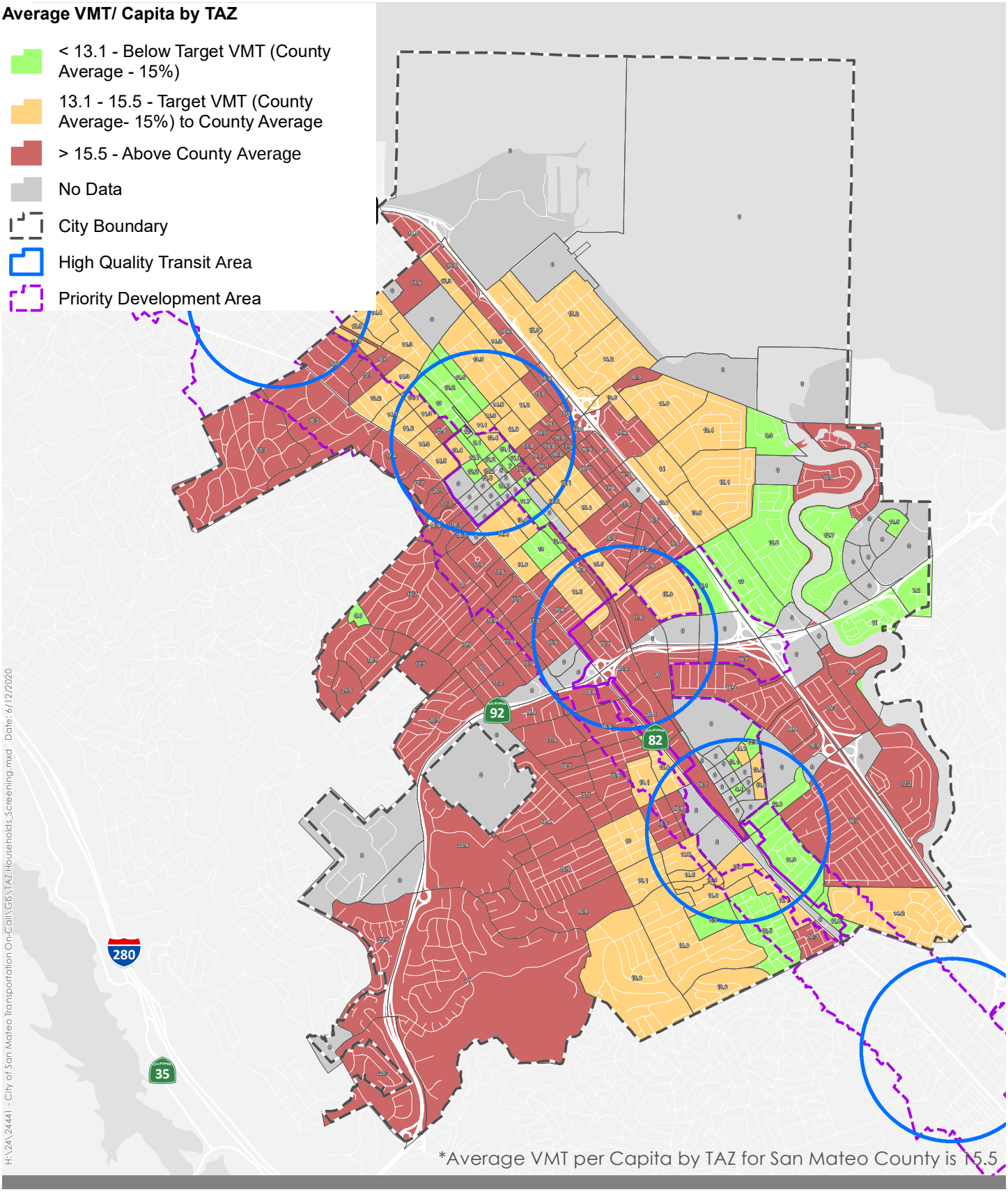
Project types that would likely lead to a measurable and substantial increase in vehicle travel generally include:

- Addition of through lanes on existing or new highways, including general purpose lanes, HOV lanes, peak period lanes, auxiliary lanes, or lanes through grade-separated interchanges.

Projects that would not likely lead to a substantial or measurable increase in vehicle travel, and therefore generally should not require an induced travel analysis, include:

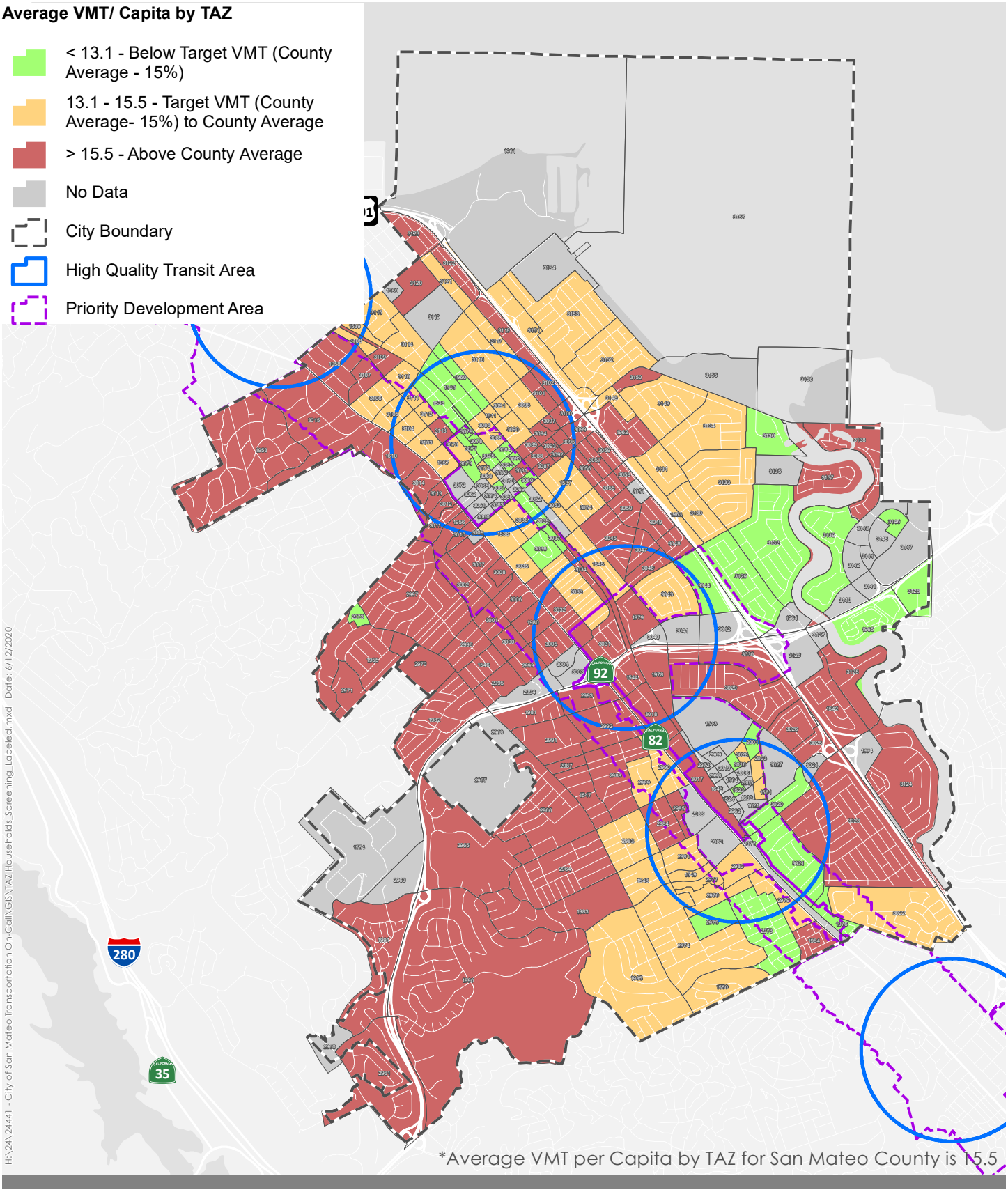
- Rehabilitation, maintenance, replacement, safety, and repair projects designed to improve the condition of existing transportation assets (e.g., highways; roadways; bridges; culverts; Transportation Management System field elements such as cameras, message signs, detection, or signals; tunnels; transit systems; and assets that serve bicycle and pedestrian facilities) and that do not add additional motor vehicle capacity
- Roadside safety devices or hardware installation such as median barriers and guardrails
- Roadway shoulder enhancements to provide "breakdown space," dedicated space for use only by transit vehicles, to provide bicycle access, or to otherwise improve safety, but which will not be used as automobile vehicle travel lanes
- Addition of an auxiliary lane of less than one mile in length designed to improve roadway safety
- Installation, removal, or reconfiguration of traffic lanes that are not for through traffic, such as left, right, and U-turn pockets, two-way left turn lanes, or emergency breakdown lanes that are not utilized as through lanes
- Addition of roadway capacity on local or collector streets provided the project also substantially improves conditions for pedestrians, cyclists, and, if applicable, transit
- Conversion of existing general purpose lanes (including ramps) to managed lanes or transit lanes, or changing lane management in a manner that would not substantially increase vehicle travel
- Addition of a new lane that is permanently restricted to use only by transit vehicles
- Reduction in number of through lanes
- Grade separation to separate vehicles from rail, transit, pedestrians or bicycles, or to replace a lane in order to separate preferential vehicles (e.g., HOV, HOT, or trucks) from general vehicles
- Installation, removal, or reconfiguration of traffic control devices, including Transit Signal Priority (TSP) features
- Installation of traffic metering systems, detection systems, cameras, changeable message signs and other electronics designed to optimize vehicle, bicycle, or pedestrian flow
- Timing of signals to optimize vehicle, bicycle, or pedestrian flow
- Installation of roundabouts or traffic circles
- Installation or reconfiguration of traffic calming devices
- Adoption of or increase in tolls
- Addition of tolled lanes, where tolls are sufficient to mitigate VMT increase
- Initiation of new transit service
- Conversion of streets from one-way to two-way operation with no net increase in number of traffic lanes
- Removal or relocation of off-street or on-street parking spaces
- Adoption or modification of on-street parking or loading restrictions (including meters, time limits, accessible spaces, and preferential/reserved parking permit programs)
- Addition of traffic wayfinding signage
- Rehabilitation and maintenance projects that do not add motor vehicle capacity
- Addition of new or enhanced bike or pedestrian facilities on existing streets/highways or within existing public rights-of-way
- Addition of Class I bike paths, trails, multi-use paths, or other off-road facilities that serve non-motorized travel
- Installation of publicly available alternative fuel/charging infrastructure
- Addition of passing lanes, truck climbing lanes, or truck brake-check lanes in rural areas that do not increase overall vehicle capacity along the corridor

Attachment C: VMT Maps



KITTELSON & ASSOCIATES

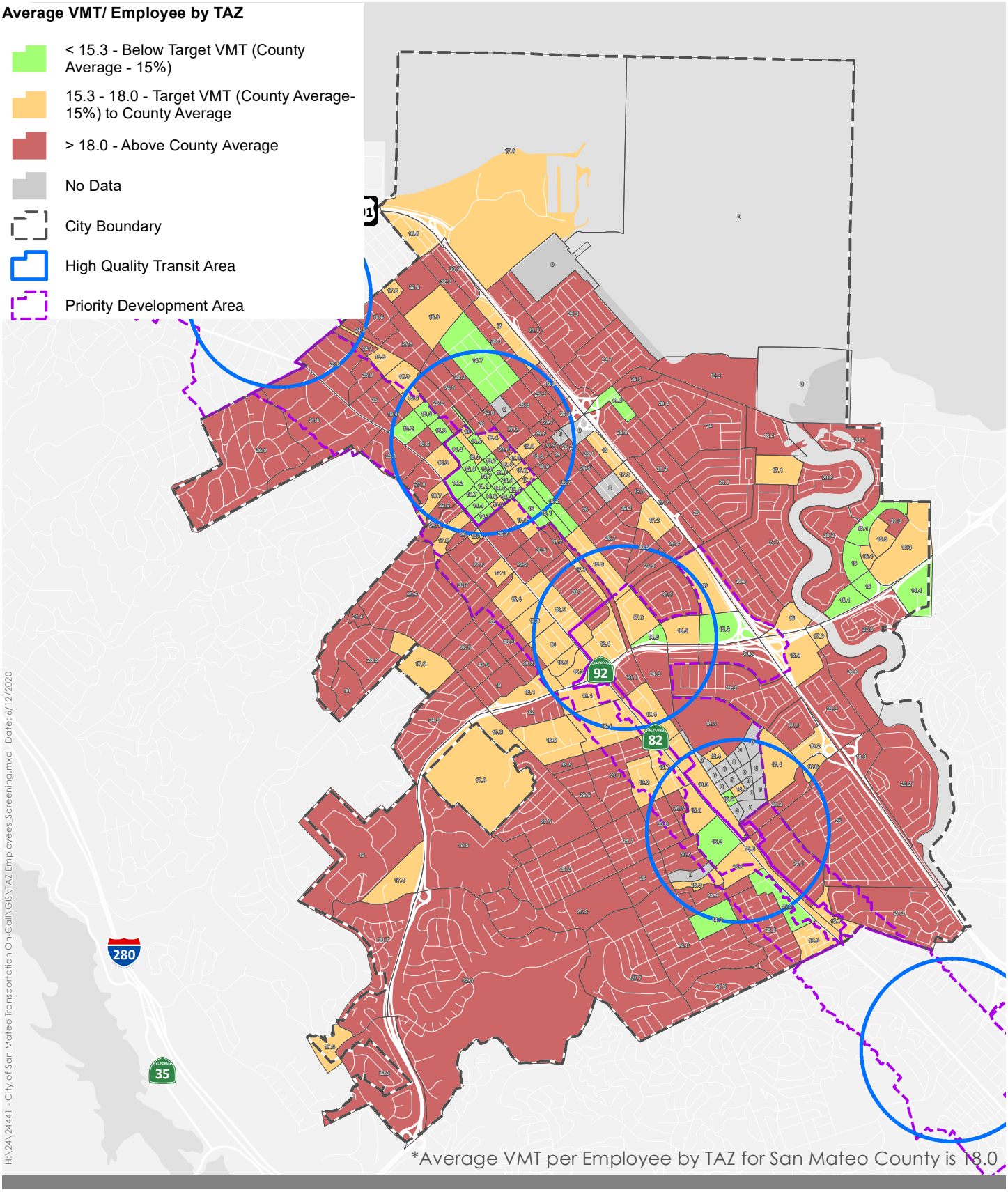
Average VMT per Capita by TAZ
VMT per Capita Labeled
City of San Mateo, CA



0 3,900 Feet

Average VMT per Capita by TAZ
TAZ Number Labeled
City of San Mateo, CA

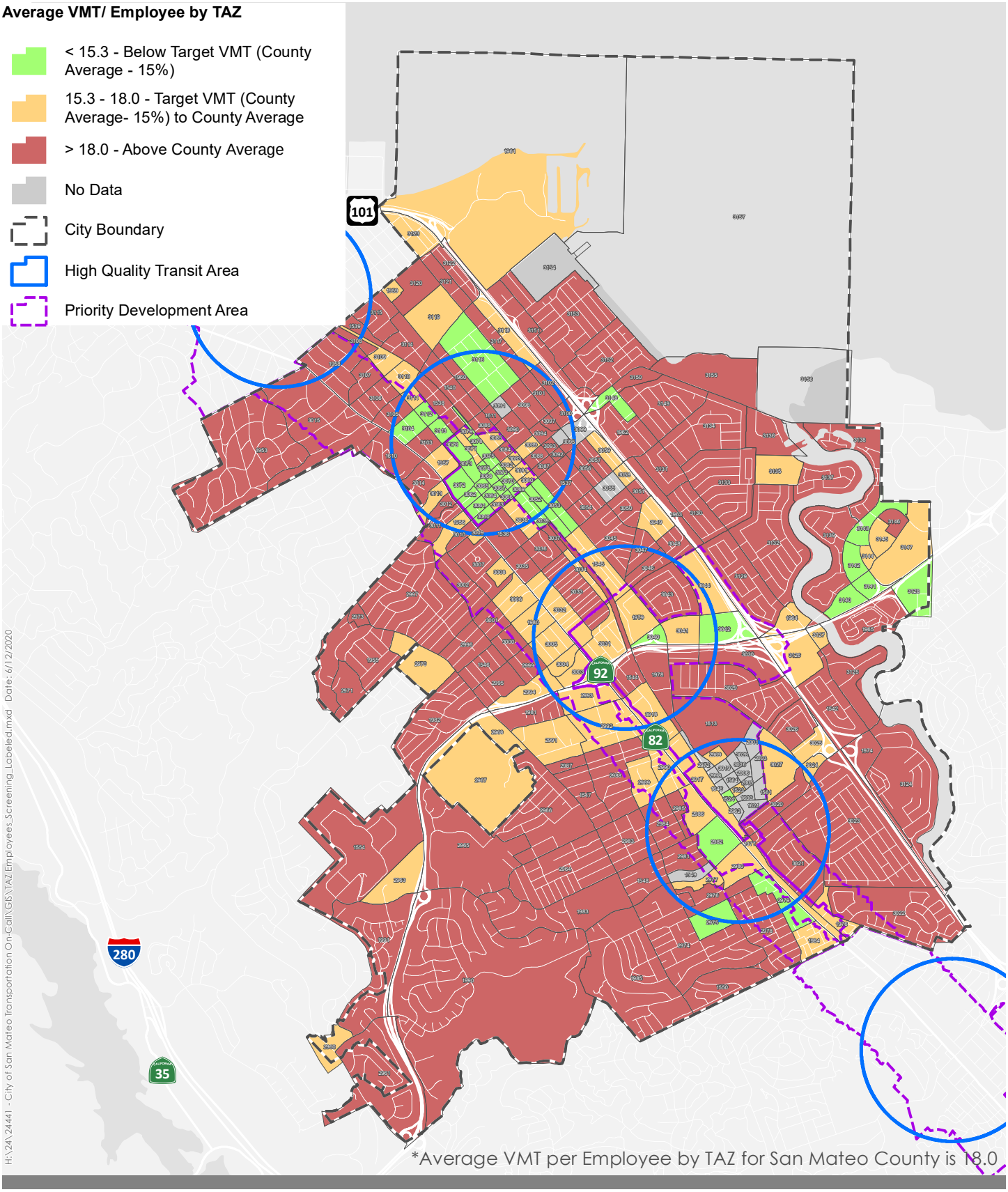
KITTELSON & ASSOCIATES



0 3,900 Feet

Average VMT per Employee by TAZ
VMT per Employee Labeled
City of San Mateo, CA

KITTELSON & ASSOCIATES



0 3,900 Feet

Average VMT per Employee by TAZ
TAZ Number Labeled
City of San Mateo, CA

KITTELSON & ASSOCIATES