TRANSFORM

WORLD-CLASS PUBLIC TRANSPORTATION. WALKABLE COMMUNITIES.

June 1, 2012

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

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

Dear Mr. Calfee:

Thank you for the opportunity to comment on the *revised* proposed guidelines for implementation of Senate Bill 226 ("Proposed CEQA Guidelines"). This letter outlines our major areas of support and concern with regard to the draft guidelines. We appreciate OPR's efforts to significantly improve the guidelines over what was initially proposed earlier this year.

Comments on *Revised* Proposed Appendix M: Performance Standards May 2012

1. **We applaud the following changes included in the Revised Guidelines that addressed some of our major concerns highlighted in our February 24, 2012 comment letter.**

   - By eliminating the option for projects to benefit from SB 226 by utilizing CALGreen, the new Guidelines protects the intent of the legislation which is to reduce greenhouse gases by directing growth to places that offer a wealth of transportation choices;

   - By eliminating the "red" and "yellow" zones, and establishing a single "green" zone of below-average VMT, the new Guidelines meet their goal of administrative simplicity while also ensuring that most, if not all, SB226 projects will be in low VMT contexts;

   - By reducing the eligibility threshold for commercial projects, the new Guidelines minimize the possibility of SB 226 being used to facilitate the development of "big box" retail.

2. **To qualify for streamlining, both residential and commercial/retail SB226 projects should not only be located in below average VMT areas, they must also demonstrate that it will result in at most 75% of average VMT using sketch modeling.**

Although we applaud removal of red and yellow zones and paths to make them eligible for streamlining, unfortunately the revised "green" zone of eligibility increased from 75% of regional average to just below 100%. SB 226 should not inadvertently increase VMT but that is still a clear possibility with the revised guidelines. Just because a project is located where the existing VMT is currently below average does not mean the project itself will result in below average VMT. The literate supports location as a large function of predicting driving but that is only half the story. How a project is designed, from making homes affordable, the amount of vehicle parking, to robust support for transportation choices (infrastructure based or programmatic), must be considered as ways to qualify for eligibility. Even if a project is consistent with an existing SCS or able to meet the 20 unit/acre minimum density or 0.75 FAR requirements, it does not ensure

that the best strategies to support truly low traffic development are being applied or even considered at the project scale.

Making location the only criteria for eligibility gives away too much. The purpose of this legislation is to facilitate better decisions to ensure new developments maximize cost effective design opportunities to support reduced driving. At the project scale the sketch models provide the only objective tool measuring effectiveness of transportation measures proven to reduce traffic (including homes that are affordable to lower incomes). Without getting projects to think twice about depth of housing affordability, vehicle parking and transportation demand management, the current streamlining eligibility rules could work against our goals of achieving regional and state targets for GHG reduction.

Going through the sketch modeling exercise could help projects become more financially viable by not wasting limited resources on parking spaces that will likely sit unused in a transit rich location. Developers would get exposed to strategies that result in both greener project and substantial savings.

A recent report by VTA on residential parking demand at their TODs, documented that of 12 TOD sites totaling 5,801 units and 9,751 accompanying parking spaces, a staggering 2,496 spaces went unused. This is roughly 20% more parking than what was needed. Assuming spaces cost on average $10,000 each to build, this is a waste of $20 million only a fraction of that amount would've been required to support a transportation demand management program. (http://www.sjsu.edu/urbanplanning/docs/VTA-TODParkingSurveyReport-VolI.pdf)

3. **Add a maximum parking ratio of 2.5 spaces per 1,000 square feet for commercial/retail eligibility criteria.**

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

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

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

Downtown Comparisons - Mode Splits to Actual Demand

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

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

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

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

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

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

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

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

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

For Residential projects in particular, additional performance standards related to minimum provisions of affordable housing for rent or purchase, and sufficient legal commitments to ensure the continued availability of housing for all income levels, should be an added qualification for CEQA streamlining. Specifically, we recommend a requirement that no less than 15% of the units be affordable for lower income households, 6% affordable to very low-income and 9% affordable to low-income. For developments where this is not possible, the payment of in-lieu fees for the development of an equivalent number of units could be an alternative to this requirement.

5. Only allow projects close to a "Major Transit Stop" to qualify for eligibility.

While we appreciate the effort to harmonize the transit-related language in the Guidelines with that used in SB 375, we believe that SB 266 benefits should only accrue to projects in proximity to a "Major Transit Stop," as defined in the Guidelines, and not to projects that are simply adjacent to a "High-quality transit corridor." In a number of cases, such corridors are freeways, and extending CEQA benefits to large swaths of land alongside freeways is not likely consistent with the intent of SB 226 to promote infill and walkable communities.

Thank you again for the opportunity to provide comments on the draft. Please contact us if you have any questions, and we look forward to continuing to work with you.

Sincerely,

Stuart Cohen

Stuart Cohen
Executive Director