

DOES THE CITY OF LOS ANGELES FOLLOW ITS “OFFICIAL” TRAFFIC MITIGATION POLICIES?

The City of L.A. has two sets of Traffic Mitigation Policies. Which set is the “official” set?

California State Code 65300 requires California cities to prepare and publish to the public a plan for the city’s growth and the policies by which that growth will be managed.

The City of Los Angeles ascertains that the General Plan of the City of Los Angeles and its area-specific land-use subsections, referred to as Community Plans, fulfill State-Code 65300. Examples of this claim can be found in the following statements:

General Plan Framework Element; STATUTORY REQUIREMENTS

California State Government Code Section 65300 requires each county and city, including charter cities, to adopt a comprehensive general plan.

A general plan may not be a "wish list" or a vague view of the future but rather must provide a concrete direction. In essence, the general plan is a "constitution for development," the foundation upon which all land use decisions in a city or county are to be based.

General Plan Framework Element; INTERNAL GENERAL PLAN CONSISTENCY

According to California State Government Code Section 65300.5, a general plan must be integrated and internally consistent, both among the elements and within each element. This requirement applies to any optional Elements adopted by the City as well as the mandatory elements.

The internal consistency requirement also applies to the community plans which collectively comprise the City's Land Use Element. All principles, goals, objectives, policies, and plan proposals set forth in the general plan must be internally consistent.

All adopted elements have equal status and no element may be made subordinate to another.

General Plan Framework Element; 3. The General Plan Framework Element and its Relationship to Community Plans

Community plans apply the growth and development policies defined in the Framework Element and the other citywide elements as they relate to a smaller geographic area.

The final determination about what is appropriate locally will be made through the community plans...

community-name_ Community Plan; Statutory Requirements

California State law (Government Code Section 65300) and the City of Los Angeles City Charter (Section 96.5) require that the City prepare and adopt a comprehensive, long term general plan for its development. ... California State law requires that the land use element be prepared as part of a city’s general plan and that it correlate with the circulation element. In the City of Los Angeles, thirty-five community plans comprise the City’s land use element.

community-name_ Community Plan; Role of Community Plan

The General Plan [with its thirty-five community plans] is the fundamental policy document of the City of Los Angeles.

The community plans are intended to promote an arrangement of land uses, streets and service which will encourage and contribute to the economic, social and physical health, safety, welfare and convenience of the people who live and work in the community. The Plans also guide development by informing the general public of the City’s goals, policies and development standards with the objective of creating a healthy and pleasant environment.

Therefore, the policies in General and Community Plans are the City’s official Policies.

What are L.A. City's "Official" Traffic Mitigation Policies?

All Los Angeles Community Plans I have reviewed, except the Westchester Community Plan which a developer was allowed to gut of public protections, contain the same two basic Transportation Policies listed below. The two policies have different policy numbers in some Community Plans. (See Footnotes for example policy numbers.) Therefore I will refer to them as Policy 1 and Policy 2. There are currently two different wordings of Policy 1 in the Community Plans for the Westside of Los Angeles. I will refer to these as Policy 1.a and 1.b.

The fundamental Transportation Policies are usually found in the section with the following Goal and Objective:

Goal A SYSTEM OF HIGHWAYS, FREEWAYS AND STREETS THAT PROVIDE A CIRCULATION SYSTEM WHICH SUPPORTS EXISTING AND PLANNED LAND USES **WHILE MAINTAINING A DESIRED LEVEL OF SERVICE AT ALL INTERSECTIONS.**

Objective To comply with Citywide performance standards for **acceptable levels of service (LOS) and ensure that necessary road access and street improvements are provided to accommodate traffic generated by all new development.**

Policy 1.a¹

"Maintain a satisfactory LOS for streets and highways that should not exceed LOS "D" for Major Highways, Secondary Highways, and Collector Streets.

If existing levels of service are LOS "E" or LOS "F" on a portion of a highway or collector street, then the level of service for future growth should be maintained at LOS "E".

Policy 1.b¹

"Maintain a satisfactory LOS for streets and highways that should not exceed LOS "D" for secondary highways and collector streets; nor LOS "E" for major highways or major business districts."

LOS stands for Level of Service on a streets and highways, generally measured at an intersection of the road with another. Intersections are the gating factor on all non freeway roads.

LOS "D" means that vehicle volume demand on a road at an intersection is running or predicted to be, which ever the context, between 80.1% to 90% (inclusive) of the road's physical and operational capacity through the intersection in question.

LOS "E" means that vehicle volume demand is or will be between 90.1% and 100% of the roads physical and operational capacity.

LOS "F" means that vehicle volume demand is or will be in excess of the roads physical and operational capacity.

Logically, the two wordings of Policy 1. are equal with regard to the worst Level of Service ever to be tolerated on any road after development project impact, that being LOS "E". Version 1.a tolerates a LOS rating of "E" on Secondary Highways and residential Collector Streets if they have already deteriorated to that level from ambient traffic growth or regional traffic impacts before the impact of new development projects from within the City. Policy 1.b, set the worse satisfactory level of service for these streets at LOS "D".

While Policy 1. is worded as an objective, using "should" instead of "shall" or "must", Policy 2 states the ramifications if the terms of Policy 1 are not met by non-"By Rights" development projects.

Policy 2.²

"No increase in density shall be effected ["effectuated" in some Plans] by zone change, Plan amendment, subdivision, or other discretionary action unless it is determined that the transportation infrastructure serving the property can accommodate the traffic generated."

By definition, an LOS "F" road or intersection is already running at its maximum physical and operational capacity and can not accommodate additional traffic. This is a mandatory policy as it uses the working "**No ...action.. shall be effected unless...**".

Does the City of Los Angeles follow its "Official", 65300, Traffic Mitigation Policies?

"NO!". For assessing the traffic impacts and levying mitigation requirements on land development projects, the City of Los Angeles follows policies internal to the Los Angeles Department of Transportation (LADOT), documented in their Traffic Study and Mitigation Policies and Procedures manual, or those published in Transportation Specific Plans. The only significant difference I have found between these two policy sources is that residential development projects have been exempted from paying a Transportation Impact Assessment Fee in Specific Plans covering the Westside.³

Do LADOT’s internal policies support and fulfill the City’s official Transportation Policies published, pursuant to State Code 65300, in the City’s General and Community Plans?

The table below is a comparison between the two pertinent General Plan Policies and LADOT’s internal policies.

General/Community Plan Policy	LADOT internal Policy and Procedure										
<p>Policy 1.b</p> <p>Maintain a satisfactory LOS for streets and highways ...</p>	<p>LADOT does not require a traffic study from projects it estimates will generate 42 or fewer trip during the Peak Traffic Hour.</p> <p>42 trips constitute a 3% increase on a single-lane [each direction] street, typically a residential street, or a 1.5% increase on two-lane Secondary Highways, or a 1% increase on three-lane Major Highways. Any traffic-increasing development project could potentially push a road running at a “satisfactory level of service” to an <u>unsatisfactory</u> level of service.</p> <p>It is impossible to “Maintain a satisfactory LOS” unless a traffic study of every traffic-increasing land development project is done to determine whether the project will cause a “satisfactory” LOS to deteriorate to “unsatisfactory”.</p>										
<p>...that should not exceed LOS “D” for secondary highways and collector streets; nor LOS “E” for major highways or major business districts.</p>	<p>LADOT requires no mitigation from projects generating <u>more than 42 trips</u> during the Peak Traffic Hour unless DOT deems the project to make a “<u>Significant Impact</u>”. LADOT uses a sliding scale to determine “Significant Impact” as follows:</p> <table border="0" data-bbox="565 783 1539 940"> <thead> <tr> <th data-bbox="565 783 1015 814"><u>Intersection LOS at Project Buildout</u></th> <th data-bbox="1052 783 1539 814"><u>Increase required for Significant Impact</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="565 814 1015 846">LOS “C” > 70% - 80% of capacity</td> <td data-bbox="1157 814 1539 846">4% of capacity increase.</td> </tr> <tr> <td data-bbox="565 846 1015 877">LOS “D” > 80% - 90% of capacity</td> <td data-bbox="1157 846 1539 877">2% of capacity increase.</td> </tr> <tr> <td data-bbox="565 877 1015 909">LOS “E” > 90% - 100% of capacity</td> <td data-bbox="1157 877 1539 909">1% of capacity increase.</td> </tr> <tr> <td data-bbox="565 909 1015 940">LOS “F” > 100% of capacity</td> <td data-bbox="1157 909 1539 940">1% of capacity increase.</td> </tr> </tbody> </table> <p>If a project is deemed to make a Significant Impact, DOT only requires mitigation to a level just below those listed above, which it deems as an “<u>Insignificant Impact</u>” which still leave an increase but requires no mitigation.</p> <p>Today’s congestion is the results of hundreds of “Insignificant Impact” project.</p> <p>Obviously LADOT’s policies make not attempt to fulfill this General Plan “official” Transportation Policy. DOT’s <u>expressed</u> attitude is that the General Plan is the guide for City Planning, not LADOT.</p> <p>LADOT’s focus on only Peak Traffic Hour trips and its use on non L.A.-based Trip Generation Rate Tables can also cause intersections to exceed satisfactory LOS policies, and also possibly violate CEQA. See <u>Possible CEQA Violations</u>, below.</p>	<u>Intersection LOS at Project Buildout</u>	<u>Increase required for Significant Impact</u>	LOS “C” > 70% - 80% of capacity	4% of capacity increase.	LOS “D” > 80% - 90% of capacity	2% of capacity increase.	LOS “E” > 90% - 100% of capacity	1% of capacity increase.	LOS “F” > 100% of capacity	1% of capacity increase.
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<p>Policy 2.</p> <p>No increase in density shall be effected by zone change, Plan amendment, subdivision, or other discretionary action unless it is determined that the transportation infrastructure serving the property can accommodate the traffic generated.</p>	<p>LADOT internal policies allow projects to be approved and traffic to be added, as described above, even when the intersections required by project traffic are rated LOS “F”, meaning they have no remaining capacity to accommodate additional traffic.</p> <p>Adding additional traffic at LOS “F” intersections causes queues of waiting vehicles to increase and backup at prior intersection. It can result in a true gridlock occurring if motorists do not observe the “Keep Clear” signs in the middle of intersections. True gridlock is where it is impossible to move out of four adjacent intersections on four adjacent cross-streets.</p> <p>Adding traffic that the infrastructure can not accommodate has another ripple effect discussed under <u>LADOT Policies are Accelerating Traffic Congestion</u>, below.</p>										

At best, the City is in non compliance with State Code 65300, because it is not following the policies it claims are its fulfillment of 65300. The City may also be guilty of misrepresentation, if the policies it published to the Public are not the policies it actually follows, at least in terms of traffic impact study and mitigation policies.

Furthermore, the traffic impact study and mitigation policies being followed may not be consistent with the California Environmental Quality Act (CEQA).

Are LADOT's Internal Policies Accelerating Traffic Congestion?

LADOT's policies, and those of neighboring cities based on L.A.'s policies, have not only caused today's traffic congestions, but they are now accelerating it.

No land development project gets built unless it meets the policies being followed by a city. Therefore, today's traffic congestion is the results of the traffic mitigation policies used by L.A. and sister cities. Furthermore, these policies create ripple, or more appropriately, a "snowball" effect that is now accelerating traffic congestion.

Area DOT's base their estimates of traffic to be generated by land development projects on Trip Generation Rates published in the Institute of Transportation Engineers (ITE) Trip Generation Tables.

The ITE Peak Hour Trip Generation Rates for 2010-buildout Condo projects, likely to house 2 working commuters per unit and therefore the likelihood of generating 2 trips during each of the AM and PM Commute Periods, is only 0.5 or one-half trip per condo. So DOTs are addressing only about one-quarter of the total commuter period trips possible and probable from 2010-buildout condo projects.

For 2012-buildout projects, the ITE Trip Rate is 0.4 trips per condo during the Peak Traffic Hour, or only one-fifth the total Commute Period trips likely from each condo, which would be 2 trips. Why are these estimates so unrealistically low?

LADOT just points to their profession's organization Handbook and says that's the rates used by their profession. The ITE Trip Generation Rates are compiled for traffic studies of previous, completed projects. However, none of the projects were done in Los Angeles, and as far as I have seen, none done even in California. They are based on projects done:

- In cities with better mass transit options than are available to LA commuters,
- Where two incomes, and therefore the likelihood of two commuters, are not required to purchase a new home,
- As far back as the 1970's when two career families were not the norm.

But you would get about the same Trip Generation Rate if you assumed that all commuters, both existing and new, would willingly and obligingly choose to spread their commutes over enough hours of each AM and PM Commute Period to balance the load on our roads evenly over all hours in each Commuter Period. If so, then if each commute period is currently 4 hours long and each condo generates 2 trips, on average only one-fourth of the total traffic, or 0.5 trips per condo, would be seen leaving a new project during the AM Peak Hour, and only one-fourth, or 0.5 trips per condo, would be observed entering the project during the PM Peak Traffic Hour. If each Commuter Period was five hours long, then only one-fifth of total project traffic, or 0.4 trips per condo, would be observed leaving or entering during any hour of the Commuter Period.

There is only one thing wrong with the above logic. Commuters do not and will not voluntarily spread their commutes over 8 to 10 hours of the day. If there is some reality of the above reasons for low trip rates, it is because LADOT's policies are forcing commuters to spread their commutes over such hours. And this is inconsistent with "**City's goals, policies and development standards with the objective of creating a healthy and pleasant environment.**", and inconsistent with "**maintaining a satisfactory Level of Service to support existing and future land uses**", and that "**contribute to the economic, social and physical health, safety, welfare and convenience of the people who live and work in the community.**"

So however the Trip Generation Rates are derived, the reality is that the combination of un-addressed non-Peak Hour traffic, the Peak Hour-but-unstudied traffic, and Peak Hour studied-but-unmitigated "Insignificant Impact" traffic continually forces existing and new commuters to spread their commuting over more hours of the day, expanding the AM and PM Commute Periods, which in turn results in fewer trips per unit built being observed from new projects during the one Peak Hour of the day, which it turn results in fewer "Peak Hour" trips to be estimated per unit for future projects.

The above “snowball effect” allows increasingly larger projects to escape study and mitigation as time passes. Below are examples of how the LADOT’s policies are accelerating traffic congestion from new development projects.

Project Year	Number of Condos	Trips Likely per Condo each Commute Period	Total Possible Commute Period Trips	Length of Peak Commute Period	Trip Rate per Unit	Trips Estimated in the Peak Hour	Is Study or Mitigation Required?
1970	21	2	42	1 Hour each	2	42	NO
2010	84	2	168	4 Hours each	0.5	42	NO
2012	105	2	210	5 Hours each	0.4	42	NO

Do LADOT’s Internal Policies Violate CEQA?

LADOT only considers traffic it estimates to be generated during the one Peak Traffic Hours of the day when considering the possible traffic impacts of land development and re-development projects. DOT bases its rationale for doing so on the 1970 California Environmental Quality Act (CEQA) which states that traffic impacts are to be assessed during the worst traffic conditions. While this may have been sufficient four decades ago when additional traffic could be accommodated by expanding or building new roads large enough to accommodate the Peak Hour demand, it is inadequate for mitigating today’s commuter increases by expansion of mass transit systems, the cost of which increases with each additional hour of required operation.

However, there is another problem. **Since the developer has no power to control the commuting habits of the commuters added to an area by their project, then it must be assumed that the “worst case” CEQA condition will be that all project-generated commute trips will occur during the Peak Traffic Hour. This would quadruple the number of trips subject to study and mitigation,** and basically stop development in Los Angeles unless the developer is willing to pay their fair share for new mass transit systems to accommodate their project’s additional commuters.

As a member of L.A. City Councilman Bill Rosendahl’s Transportation Advisory Committee, I developed a motion for a set of Traffic Mitigation Policy reforms that would do just that. The policies support the General Plan’s “official” Transportation Policies. My reform policies require accounting for all project trip increases, not just Peak Hour increases, and the mitigation of all traffic increases via either roadway enhancement (not likely possible today), or payment of a “Commuter Accommodation (CA) Fee” to cover acquisition and first-year operation of the additional transit seats required to accommodate a development project’s additional commuters. The unburdened CA Fee is in the neighborhood of \$15,000 per condo. Councilman Rosendahl says he can not get such a motion adopted by the L.A. City Council as currently constituted. The motion is attached in case it may provide you with additional ideas.

Caveat

All of the above is based on my layman’s understanding of the General Plan of the City of Los Angeles, the Community Plans listed under Footnotes below, LADOT’s internal Traffic Study and Mitigation Policies and Procedures, the Coastal Transportation Corridor Specific Plan and the West Los Angeles Transportation Improvement and Mitigation Specific Plan. This information should be independently-verified before use in legal matters.

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Footnotes:

¹ Policy 16-1.1 in the Palms, Mar Vista, del Rey, Venice, and West Los Angeles Community Plans.
Policy 15-1.1 in the Westwood Community Plan
Policy 14-1.1 in the San Pedro Community Plan
Policy 13-1.1 in the Brentwood, Pacific Palisades Community Plans
Also in the Westchester Community Plan before it was removed in 2004 to aid Playa Capital.

² Policy 16-2.1 in the Palms, Mar Vista, del Rey, Venice, and West Los Angeles Community Plans.
Policy 15-2.1 in the Westwood Community Plan
Policy 14-2.1 in the San Pedro Community Plan
Policy 13-2.1 in the Brentwood, Pacific Palisades Community Plans
Also in the Westchester Community Plan before it was removed in 2004 to aid Playa Capital.

³ The Coastal Transportation Corridor Specific Plan and the West Los Angeles Transportation Improvement and Mitigation Specific Plan were implemented in 1993 and 1997, the years in which a Playa Vista phases were to come up for approval. Coincidence?