



## Sustainable Development Areas Beyond ½ Mile Ineligible for State and Federal Grants

### Executive Summary

By establishing Sustainable Development Areas (SDAs) up to 1 mile away from major transit stops, the City of San Diego will ensure that projects built between ½ and 1 mile from those transit stops will be either completely ineligible for major grant funding or at a severe disadvantage in applying for those monies.

#### CALIFORNIA:

California transportation laws intended to decrease greenhouse gas (GHG) emissions (Transit Village Development Planning Act of 1994; SB 375; SB 743) clearly establish ½ mile as the appropriate distance from transit for transit priority areas (TPAs) and transit-oriented development (TOD). The state has been consistent in defining transit-oriented development as being within ½ mile walking distance of a major transit stop.

Additionally, California grant guidelines (HCD TOD; HCD Infill & Infrastructure; CA Strategic Growth Council & HCD Affordable Housing and Sustainable Communities Program; CA Low Income Housing Tax Credit) tell us that the state considers:

- ½ mile walking distance from transit to be the reasonable limit for transit-oriented development (TOD) and funding
- Functioning transit stops/stations to be the prerequisite for TOD grant funding – not anticipated future transit stops
- Providing affordable housing within 1/3 to ½ mile walkable distance from transit to be a housing priority

#### FEDERAL:

Federal funding for transit-oriented development (TOD) is available based on projects being within ½ mile from transit. The Federal Transit Administration (FTA) states that **“within one-half mile of a public transportation stop or station, pedestrian improvements *ipso facto* have a functional relationship to public transportation”** and **“...by considering pedestrian improvements located within the one-half mile of a**

**public transportation stop or station to have a de facto physical and functional relationship to public transportation**, individuals will benefit from improved traffic flow, shorter trip lengths, safer streets for pedestrians and independence for individuals who prefer not to or are unable to drive.”

If the City approves Sustainable Development Areas (SDAs) up to 1 mile from transit, those projects beyond ½ mile from transit will be ineligible for federal funding **or** will have the added burden to prove a “functional relationship” between the proposed projects and the transit station in question and “demonstrate, based on reasonable analysis, that people can and will safely and conveniently walk or bicycle on a regular basis to” that station. To date, the Planning Department has been unwilling or unable to show any research supporting their decision to make SDAs 1 mile walking distance from transit, suggesting they might have difficulty proving a “functional relationship” as required above for a federal funding exception.

By establishing SDAs beyond ½ mile and up to 1 mile from transit, the City will knowingly make capital improvement projects in those areas ineligible for transit-oriented federal and state grant funds to improve infrastructure being burdened by this improperly designated TOD. Transit-oriented development and affordable housing projects in those areas would also be unlikely candidates for funding given the distance from transit. Extending SDAs to 1 mile does not appear to be a fiscally responsible decision.

San Diego is facing an infrastructure funding gap of historic proportions. The City would be better served by concentrating its transit-oriented development in areas close to transit, where projects will remain eligible for both federal and state grant funds to help pay for much needed infrastructure improvements. San Diego should focus its TOD in areas within ½ mile walking distance of transit, which are most likely to result in increased transit ridership, decreased GHG emissions and to be in sync with funded RTIP projects.

### **State Law/Funding Related to Distance From Transit:**

There are five important pieces of CA code/information referencing distance to transit. I will deal with them in terms of year of inception. They include:

- 1. Transit Village Development Planning Act of 1994 (65460-65460.11) updated as recently as 2017**

2. **SB-375 Transportation planning: travel demand models; sustainable communities strategy; environmental review (2008)**
3. **SB-743 Environmental quality: transit oriented infill projects, judicial review streamlining for environmental leadership development projects, and entertainment and sports center in the City of Sacramento. (2013)**
4. **CA HCD Transit-Oriented Development Housing Programs – Round 4 Guidelines (2020)**
5. **CA Department of Housing and Community Development (HCD) Infill and Infrastructure Grant Program Guidelines (5/12/2021)**
6. **CA Strategic Growth Council & HCD Affordable Housing and Sustainable Communities Program Round 7 Program Guidelines (12/15/2022)**
7. **CA Tax Credit Allocation Committee Regulation Implementing the Federal and State Low Income Housing Tax Credit Laws (LIHTC) (1/18/2023)**

Below is an individual discussion of each of the five items above and why each has implications for establishing ½ mile as the appropriate distance from transit for transit-oriented development, versus to 1 mile being proposed by the Planning Department. Extending SDAs beyond ½ mile walking distance from transit will likely make San Diego ineligible for state grant funds for those projects beyond ½ mile from transit.

1. **Transit Village Development Planning Act of 1994 (65460-65460.11) updated as recently as 2017**

## **Cal. Gov. Code § 65460.5**

Section 65460.5 - Eligibility for transportation funding

A city or county establishing a district and preparing a plan pursuant to this article shall be eligible for available transportation funding.

*Ca. Gov. Code § 65460.5*

Amended by Stats 2016 ch 78 (AB 2605),s 3, eff. 1/1/2017.

This code indicates that San Diego is obligated to build its transit-oriented villages (TOD) within ½ mile of transit stations and that it has to do so to be eligible for state transportation funding.

It also says that these transit village plans need to be handled like general plans, implying that the Sustainable Development Areas (SDAs) would require an EIR?

## 2. SB-375 Transportation planning: travel demand models; sustainable communities strategy; environmental review (2008)

In 2008, the CA legislature passed SB375 having to do with transportation planning, sustainable communities strategy and environmental review. In that and associated laws (attached), the following language appears:

Preamble:

Bill Text - SB-375 Transportation planning: travel demand models: sustainable communities strategy: environmental review.

This bill would exempt from CEQA a transit priority project, as defined, that meets certain requirements and that is declared by the legislative body of a local jurisdiction to be a sustainable communities project. **The transit priority project would need to be consistent with a metropolitan planning organization's sustainable communities strategy or an alternative planning strategy that has been determined by the State Air Resources Board to achieve the greenhouse gas emission reductions targets. The bill would provide for limited CEQA review of various other transit priority projects.**

Bill Text - SB-375 Transportation planning: travel demand models: sustainable communities strategy: environmental review.

### CHAPTER 4.2. Implementation of the Sustainable Communities Strategy

**21155.** (a) This chapter applies only to a transit priority project that is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(b) For purposes of this chapter, a **transit priority project shall** (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; (2) provide a minimum net density of at least 20 dwelling units per acre; and (3) **be within one-half mile of a major transit stop or high-quality transit corridor** included in a regional transportation plan. A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. 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. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

**21155.1.** If the legislative body finds, after conducting a public hearing, that a transit priority project meets all of the requirements of subdivisions (a) and (b) and one of the requirements of subdivision (c), the transit priority project is declared to be a sustainable communities project and shall be exempt from this division. ....

**(7) The transit priority project is located within one-half mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.**

According to SB375 text above, as SDAs go 100% beyond ½ mile and have not been shown to be "consistent with a metropolitan planning organization's sustainable communities strategy or an alternative planning strategy that has been determined by the State Air Resources Board to achieve the greenhouse gas emission reductions targets..." SDAs would not be free from CEQA review. The strong implication here is that the state of California considers ½ mile to be the reasonable distance for transit-oriented projects intended to reduce GHG emissions.

**3. SB-743 Environmental quality: transit oriented infill projects, judicial review streamlining for environmental leadership development projects, and entertainment and sports center in the City of Sacramento. (2013)**

(b) (1) The Office of Planning and Research shall prepare, develop, and transmit to the Secretary of the Natural Resources Agency for certification and adoption proposed revisions to the guidelines adopted pursuant to Section 21083 **establishing criteria for determining the significance of transportation impacts of projects within transit priority areas.** Those criteria shall promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. In developing the criteria, the office shall recommend potential metrics to measure transportation impacts that may include, but are not limited to, vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated. The office may also establish criteria for models used to analyze transportation impacts to ensure the models are accurate, reliable, and consistent with the intent of this section.

(2) Upon certification of the guidelines by the Secretary of the Natural Resources Agency pursuant to this section, **automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion shall not be considered a**

significant impact on the environment pursuant to this division, except in locations specifically identified in the guidelines, if any.

(3) **This subdivision does not relieve a public agency of the requirement to analyze a project's potentially significant transportation impacts related to air quality, noise, safety, or any other impact associated with transportation.** The methodology established by these guidelines shall not create a presumption that a project will not result in significant impacts related to air quality, noise, safety, or any other impact associated with transportation. Notwithstanding the foregoing, the adequacy of parking for a project shall not support a finding of significance pursuant to this section.

(4) This subdivision does not preclude the application of local general plan policies, zoning codes, conditions of approval, thresholds, or any other planning requirements pursuant to the police power or any other authority.

(5) On or before July 1, 2014, the Office of Planning and Research shall circulate a draft revision prepared pursuant to paragraph (1).

(c) (1) **The Office of Planning and Research may adopt guidelines pursuant to Section 21083 establishing alternative metrics to the metrics used for traffic levels of service for transportation impacts outside transit priority areas.** The alternative metrics may include the retention of traffic levels of service, where appropriate and as determined by the office.

(2) This subdivision shall not affect the standard of review that would apply to the new guidelines adopted pursuant to this section.

(d) (1) Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.

(2) (A) This subdivision does not affect, change, or modify the authority of a lead agency to consider aesthetic impacts pursuant to local design review ordinances or other discretionary powers provided by other laws or policies.

(B) For the purposes of this subdivision, aesthetic impacts do not include impacts on historical or cultural resources.

(e) **This section does not affect the authority of a public agency to establish or adopt thresholds of significance that are more protective of the environment.**

SEC. 6. Section 21155.4 is added to the Public Resources Code, to read:

21155.4. (a) Except as provided in subdivision (b), a residential, employment center, as defined in paragraph (1) of subdivision (a) of Section 21099, or mixed-use development project, including any subdivision, or any zoning, change that meets all of the following criteria is exempt from the requirements of this division:

(1) **The project is proposed within a transit priority area, as defined in subdivision (a) of Section 21099.**

(2) **The project is undertaken to implement and is consistent with a specific plan for which an environmental impact report has been certified.**

(3) **The project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy for which the State Air**

**Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emissions reduction targets.**

(b) Further environmental review shall be conducted only if any of the events specified in Section 21166 have occurred (BELOW).

CA PUBLIC RESOURCES CODE Section 21166 - Subsequent or supplemental report required

When an environmental impact report has been prepared for a project pursuant to this division, no subsequent or supplemental environmental impact report shall be required by the lead agency or by any responsible agency, unless one or more of the following events occurs:

**(a)** Substantial changes are proposed in the project which will require major revisions of the environmental impact report. **(b)** Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report **(c)** New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.

*Ca. Pub. Res. Code § 21166*

It appears an EIR is required based on SDAs' "**potentially significant transportation impacts related to air quality, noise, safety, or any other impact associated with transportation" or the significant increase in density (think Complete Communities) out to 1 mile from transit, especially since this code was intended to make exceptions for areas within TPAs and SDAs have far exceeded the area of TPAs. Also, no EIR was ever done on the ADU Bonus Program, which far exceeds state law requirements.**

And if there is any question about whether we are talking about ½ mile radius or as the crow flies, we have now found the following text within SB743 to put an end to that debate:

65088.4. (a) **It is the intent of the Legislature to balance the need for level of service standards for traffic with the need to build infill housing and mixed use commercial developments within walking distance of mass transit facilities, downtowns, and town centers and to provide greater flexibility to local governments to balance these sometimes competing needs. ...**

#### **4. CA HCD Transit-Oriented Development Housing Programs – Round 4 Guidelines (2020)**

The California Department of Housing and Community Development (HCD) administered the Transit-Oriented Development Implementation Program (“TOD Housing Program”). It appears this program has been replaced by or incorporated into #6 below.

**PURPOSE:** “To increase public transit ridership by funding higher density affordable housing developments within **one-quarter mile of transit stations and infrastructure improvements** necessary for the development of specified housing developments.” (<https://www.hcd.ca.gov/grants-and-funding/programs-archived/transit-oriented-development-housing>)

- **FUNDS** the development of apartments and condominiums **within 1/4-mile of transit,**
- **GOALS** of **increasing public transit ridership, minimizing automobile trips, and promoting greenhouse gas (GHG) reductions.**
- **CRITERIA** based on **rigorous empirical data and academic research** on the best methods of reducing auto use and increasing transit ridership.

**IMPORTANT GUIDELINES TO QUALIFY FOR CA HCD TRANSIT-ORIENTED DEVELOPMENT FUNDING:** (<https://www.hcd.ca.gov/grants-funding/active-funding/docs/TOD-Guidelines-4-30-2020.pdf>)

Developments scored on characteristics deemed **NECESSARY FOR SUCCESSFUL TOD HOUSING:**

- At least 20 units located within **¼-mile to ½-mile from qualifying transit station “along a walkable route.”** Developments located within ½-mile of at least 10 distinct amenities (grocery, school, park, etc.) to avoid use of car to meet basic needs
- Quality of Transit
  - Transit times equal or better than autos and real schedule info to riders
- Bike & Walk Friendly Features
  - **Main walking route between transit station and development must have small street blocks, street lighting after dark, ADA compliant sidewalks and safe street crossings.**
  - **Transit station must have waiting areas with seating, lights, shelter and bike facilities.**



- Developments must provide dedicated units affordable to lower income households.

Attached is a chart comparing HCD's transit-oriented development requirements to SDAs. Needless to say, SDA developments beyond ½ mile from transit would not qualify for HCD funding...or on a variety of other requirements.

### 5. CA Department of Housing and Community Development (HCD) Infill and Infrastructure Grant Program Guidelines (5/12/2021)

The Program's primary objective is to promote infill housing development by providing financial assistance for **Capital Improvement Projects** that are an integral part of or necessary to facilitate the development of a Qualifying Infill Project or a Qualifying Infill Area.

Under the Program, grants are available as gap funding for infrastructure improvements necessary for specific residential or mixed-use infill development Projects or Areas. Both Infill Projects and Areas must have either been previously developed or be largely surrounded by development. Eligible improvements include development or rehabilitation of Parks or Open Space, water, sewer or other utility service improvements, streets, roads, parking structures, transit linkages, transit shelters, traffic mitigation features, sidewalks, and streetscape improvements.

Funds will be allocated through a competitive process, based on the merits of the individual Infill Projects and Areas. The application selection criteria include project readiness, affordability, housing density, **access to transit**, proximity to amenities, and **consistency with regional plans**.

30 out of 250 points (12%) are based on **Access to Transit** and **Consistency with Regional Plans**.

<b>Selection Criteria for Qualifying Infill Areas</b>	<b>Maximum Score</b>
Area Readiness	100
Affordability	60
Density	40
Access to Transit	20
Access to Opportunity and Proximity to Amenities	20
Consistency with Regional Plans	10
<b>Total</b>	<b>250</b>

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**Access to Transit** is given the most points when it is **within one-quarter mile walking distance** from the nearest Transit Station or Major Transit Stop, with fewer points awarded when the project is within one-half mile and **no points given beyond one-half mile**.

**Consistency with Regional Plans** is related to implementation of a sustainable community's strategy determined by the California Air Resources Board (CARB) to achieve the area's GHG goals, GHG emissions reductions, or the project being at least 50% within a TPA as defined below (an area **within one-half mile of a Major Transit Stop** that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a transportation improvement program).

## Conclusion

By establishing Sustainable Development Areas (SDAs) up to 1 mile away from major transit stops, the City of San Diego will be ensuring that those projects built between ½ and 1 mile from those transit stops will receive none of the 30 points awarded based on Access to Transit and Consistency with Regional Plans. HCD does not recognize projects beyond ½ mile from transit as accessible to transit, as noted by the scoring guidelines below. Further, the Consistency with Regional Plans scoring criteria make clear that if over half of a project is not in the TPA (at a minimum), it will not be considered as supporting a regional plan that results in a reduction of GHG emissions. The state is being quite consistent in defining transit-oriented development as being within ½ mile walking distance of a major transit stop.

## Additional Documentation

(d) Access to Transit – 20 points maximum

Points will be awarded based on the proximity of, or accessibility to, the Qualifying Infill Project to a Transit Station or Major Transit Stop. The distance to a Transit Station or Major Transit Stop shall be evidenced by a scaled map.

- (1) A Qualifying Infill Project within one-quarter mile of a Transit Station or Major Transit Stop, measured by a Walkable Route from the nearest boundary of the Qualifying Infill Project to the outer boundary of the site of the Transit Station or Major Transit Stop shall receive 20 points.
- (2) A Qualifying Infill Project within one-half mile of a Transit Station or a Major Transit Stop, measured by a Walkable Route from the nearest boundary of the Qualifying Infill Project to the outer boundary of the site of the Transit Station or Major Transit Stop and located in an area of high segregation and poverty or low resource opportunity area (see TCAC/HCD Opportunity Area Maps) or disadvantaged community pursuant to Senate Bill 535 and Assembly Bill 1550 shall receive 15 points.
- (3) A Qualifying Infill Project within one-half mile of a Transit Station or a Major Transit Stop, measured by a Walkable Route from the nearest boundary of the Qualifying Infill Project to the outer boundary of the site of the Transit Station or Major Transit Stop shall receive 10 points.

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Consistency with Regional Plans – 10 points maximum

- (1) Points will be awarded for each of the following (necessary evidence is to be received by the Department by the Program application due date):
  - (A) Five points will be awarded if the Qualifying Infill Project supports the implementation of a sustainable community's strategy or alternative planning strategy that has been determined by the California Air Resources Board to achieve the region's greenhouse gas emissions target. Consistency with such plans must be demonstrated by a letter or resolution executed by an officer or an equivalent representative from the metropolitan planning organization, regional transportation agency, planning, or local transportation commission.

- (B) If a sustainable community's strategy is not required for a region by law, 5 points will be awarded if the Qualifying Infill Project supports a regional plan that includes policies and programs to reduce greenhouse gas emissions. Evidence of consistency with such plans must be demonstrated by a letter or resolution executed by an officer of, or an equivalent representative from, the metropolitan planning organization or regional transportation planning agency or local transportation commission.
- (C) A Qualifying Infill Project in which not less than 50 percent of the land area is within a Transit Priority Area shall receive 5 points. Evidence of Qualifying Infill Project location within, or partially within, a Transit Priority Area must be demonstrated by a letter or resolution executed by an officer of, or an equivalent representative from, the metropolitan planning organization, regional transportation planning agency, or local transportation commission.

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**Definitions:**

"Transit Priority Area" means an area within one-half mile of a Major Transit Stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a transportation improvement program adopted pursuant to Title 23 of the Code of Federal Regulations section 450.216 or 450.322.

"Major Transit Stop" means a site containing any of the following: (1) An existing rail or bus rapid transit station. (2) A ferry terminal served by either a bus or rail transit service. (3) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during peak hours. Peak hours are limited to the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday, or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider at some point between January 2020 and the time of application.

"Transit Station" means a rail or light-rail station, ferry terminal, Bus Hub, or Bus Transfer Station. Included in this definition are planned Transit Stations otherwise meeting this definition whose construction is programmed into a regional or state transportation improvement program to be completed no

more than five years from the deadline for submittal of applications set forth in the NOFA.

“Bus Hub” means an intersection of three or more bus routes, where one route or a combination of routes has a minimum scheduled headway of ten minutes or at least six buses per hour during peak hours. Peak hours are limited to the time between 7 a.m. to 10 a.m., inclusive, and 3 p.m. to 7 p.m., inclusive, Monday through Friday, or the alternative peak hours designated for the transportation corridor by the transit agency. This level of service must have been publicly posted by the provider at some point between January 2020 and the time of application.

“Bus Transfer Station” means an arrival, departure, or transfer point for the area’s intercity, intraregional, or interregional bus service having a permanent investment in multiple bus docking facilities, ticketing services, and passenger shelters.

“Walkable Route” shall mean a route which, after completion of the proposed Project, shall be free of negative environmental conditions that deter pedestrian circulation, such as barriers; stretches without sidewalks or walking paths; noisy vehicular tunnels; streets, arterials or highways without regulated crossings that facilitate pedestrian movement; or stretches without adequate lighting.

SOURCES: <https://www.hcd.ca.gov/grants-funding/active-funding/iigp/docs/iig-guidelines.pdf>  
<https://www.hcd.ca.gov/grants-and-funding/programs-active/infill-infrastructure-grant>

## 6. CA Strategic Growth Council & HCD Affordable Housing and Sustainable Communities Program Round 7 Program Guidelines (12/15/2022)

It appears this program has incorporated #4 above and includes current CA transit-oriented development grants.

- The purpose of the **AHSC Program** is to reduce greenhouse gas (GHG) emissions through projects that implement land-use, housing, transportation, and agricultural land preservation practices to support infill and compact

development, and that support related and coordinated public policy objectives, including the following:

- (5) increasing options for mobility, including the implementation of the Active Transportation Program established pursuant to Section 2380 of the Streets and Highway Code;
- (6) **increasing transit ridership;**

The program invests in projects that reduce GHG emissions by supporting more compact, infill development patterns, encouraging active transportation and transit usage.

The **AHSC Program** provides grants and/or loans to projects that achieve GHG emission reductions and benefit **Disadvantaged Communities, Low-Income Communities, and Low-Income Households** through increasing accessibility of affordable housing, employment centers and Key Destinations via low-carbon transportation resulting in fewer vehicle miles traveled (VMT) through shortened or reduced vehicle trip length or **mode shift to transit**, bicycling or walking.

With that in mind, transit-oriented development (**TOD**) **project areas** <sup>SEP</sup> **must include affordable housing developments (AHD) which must be served by High Quality Transit.**

**Definitions:**

“Transit Oriented Development (TOD) Project Area” means a **Project Area** which includes at least one (1) Transit Station/Stop that is served by **High Quality Transit**.

“Transit Station/Stop” means a designated location at which the various **Qualifying Transit** service(s) drop-off and pick-up riders.

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“High Quality Transit” means a **Qualifying Transit** line with high frequencies AND permanent infrastructure as follows:

- 1) Frequency: High Quality Transit must have **Peak Period** headway frequency on the same route, in the same direction, of every 15 minutes or less (e.g., every departure is not more than 15 minutes from the last) and service seven days a week. This level of service must have been publicly posted by the provider at some point between January 2022 and the time of application.
- 2) Permanent Infrastructure: High Quality Transit must operate on a railway or meet the definition of **Bus Rapid Transit**.

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“Bus Rapid Transit” (BRT) means a rubber-tired form of rapid transit in an integrated system of facilities, equipment, services, and amenities that exceed the speed and reliability of regular bus service. BRT projects must meet all of the following criteria:

- 1) Operates along a dedicated right of way for at least two (2.0) **Lane Miles** along its route. Dedicated Right of Way (ROW) means that private motor vehicles are prohibited from use of the lane except for turns, parking, and/or the use of variable pricing High Occupancy Toll (HOT) Lanes.
- 2) All vehicles serving the route are equipped with **Transit Signal Priority (TSP)**
- 3) Has peak period minimum frequencies of 12minutes or less

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(c) **TOD Project Areas** must demonstrate all the following:

- (1) Include at least one (1) **Transit Station/Stop** that is served by **High Quality Transit** at the time of application submittal which is **located no farther than one-half (0.50) mile from the Affordable Housing Development** along a pedestrian access route. If the pedestrian access route is not already in place at the time of application, the route must be in place by the time a certificate of occupancy is provided; and

(A) **Affordable Housing Development Capital Projects** must:

- (ii) **Be located within one-half (0.50) mile from a Transit Station/Stop** that meets the **Project Area** transit requirements as defined in Section 102(c) or (d). The one-half (0.50) mile is to be measured from any edge of the **AHD** parcel to the bus stop or pedestrian entrance to a **Transit Station/Stop** along a pedestrian access route. If the route is not already in place at the time of application, the route must be in place by the time a certificate of occupancy is provided. <sup>L</sup>SEP

For **TOD** and **ICP** projects, the **High Quality Transit** or **Qualifying Transit**, respectively, must be serving the **Transit Station/Stop** at the time of application submittal. For **RIPA** projects, the **Qualifying Transit** must be serving the **Transit Station/Stop** by the time a certificate of occupancy is provided. **For all Project Area Types, the AHD and Qualifying Transit's Transit Station/Stop must be connected by a pedestrian access route no greater than 0.50 miles at the time of certificate of occupancy.** Improvements to complete the pedestrian access route between the **AHD** and the **Transit Station/Stop** may be included as part of the project **STI/TRA** components so long as they are completed by the time a certificate of occupancy is provided.

**(d) Location Efficiency and Access to Destinations - 3 Points Maximum**

(1) Up to 3 points will be given for projects that provide the location of existing **Key Destinations** within one-half (0.50) mile of the AHD. For **TOD Project Areas** and **ICP Project Areas** each type of **Key Destination** is worth one third (0.333) of a point.

SOURCE: [https://sgc.ca.gov/programs/ahsc/docs/20221212-AHSC\\_Round7\\_Guidelines.pdf](https://sgc.ca.gov/programs/ahsc/docs/20221212-AHSC_Round7_Guidelines.pdf)

### **7. CA Tax Credit Allocation Committee Regulation Implementing the Federal and State Low Income Housing Tax Credit Laws (LIHTC) (1/18/2023)**

In California, LIHTC applications take into consideration transit amenities. A total of 7 points are possible and they are based on the project being located **within 1/3 to ½ mile** of a bus rapid transit station, light rail station, commuter rail station, ferry terminal, bus station, or public bus stop (with various service frequency qualifications).

“Distances must be measured using a standardized radius from the development site to the target amenity, unless that line crosses a significant physical barrier or barriers. Such barriers include highways, railroad tracks, regional parks, golf courses, or any other feature that significantly disrupts the pedestrian walking pattern between the development site and the amenity.”

SOURCE: <https://www.novoco.com/sites/default/files/atoms/files/california-lihtc-2023-regulations-01182023.pdf>

### **Federal Law/Funding Related to Distance From Transit:**

Below you will find documentation from the following federal authorities linking federal transit-oriented funding to projects located within ½ mile from public transit. While they discuss radial distance, the Federal register specifically mentions that “it is essential to develop safe, secure and appropriate pedestrian and bicycle infrastructure if the users of public transportation are to have safe, convenient, and practical access routes,” thus disqualifying San Diego’s TPAs requiring crossing freeways and canyons.

The federal organizations and laws cited here include the following:

- 1. Federal Transit Administration (FTA)**
- 2. Railroad Rehabilitation & Improvement Financing Program (RRIF)**
- 3. Transportation Infrastructure Finance and Innovation Act (TIFIA)**
- 4. United States Department of Transportation – Build America Bureau**



## 5. Federal Transit Administration (FTA) – Department of Transportation

### Conclusions:

Federal funding for transit-oriented development (TOD) is available based on projects being within ½ mile from transit. If the City approves Sustainable Development Areas (SDAs) up to 1 mile from transit, those projects beyond ½ mile from transit will be ineligible for federal funding **or** will have the added burden to prove a “functional relationship” between the proposed project and the transit station in question and “demonstrate, based on reasonable analysis, that people can and will safely and conveniently walk or bicycle on a regular basis to” that station. To date, the Planning Department has been unwilling or unable to show any research supporting their decision to make SDAs 1 mile walking distance from transit, suggesting they might have difficulty proving a “functional relationship” as required above for a federal funding exception.

By establishing SDAs beyond ½ and up to 1 mile from transit, the City will knowingly make those areas ineligible for transit-oriented state and federal funds to improve infrastructure being burdened by these improperly designated TOD projects. This is not a fiscally responsible decision.

San Diego is facing an infrastructure funding gap of historic proportions. The City would be better served by concentrating its transit-oriented development in areas close to transit, where projects will remain eligible for both federal and state grant funds to help pay for much needed infrastructure improvements. San Diego should focus its TOD in areas within ½ mile walking distance of transit, which are most likely to result in increased transit ridership, decreased GHG emissions and to be in sync with funded RTIP projects.

### 1. Federal Transit Administration (FTA)

In 2011, the Federal Transit Administration (FTA) published a Final Policy Statement on Eligibility of Pedestrian and Bicycle Improvements under federal Public Transportation Law (76 FR 52046) in the *Federal Register* on the subject of the functional relationship between pedestrian and bicycle improvements and public transportation. This policy acknowledges that poor connection conditions, including distance, are a barrier to accessing transit and **states that within one-half mile of a public transportation stop or**

station, pedestrian improvements *ipso facto* have a functional relationship to public transportation...

The FTA pointed to some of the benefits of including these improvements in transit projects, stating that:

**“...by considering pedestrian improvements located within the one-half mile of a public transportation stop or station to have a de facto physical and functional relationship to public transportation, individuals will benefit from improved traffic flow, shorter trip lengths, safer streets for pedestrians and independence for individuals who prefer not to or are unable to drive.”**

SOURCE: <https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/64496/ftareportno0111.pdf>



### Manual on Pedestrian and Bicycle Connections to Transit

AUGUST 2017

FTA Report No. 0111  
Federal Transit Administration

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2. Railroad Rehabilitation & Improvement Financing Program (RRIF)
3. Transportation Infrastructure Finance and Innovation Act (TIFIA)
4. United States Department of Transportation – Build America Bureau

#### Transit-Oriented Development grants

##### [Access the new TOD Guidance FAQs!](#)

Transit-oriented development (TOD) creates dense, walkable, and mixed-use spaces near transit that support vibrant, sustainable, and equitable communities. TOD projects include a mix of commercial, residential, office, and entertainment land uses.

##### [2.2\) How does the Bureau evaluate satisfaction of RRIF TOD Eligibility Criterion #2?](#)

##### [What is the definition of a “physical or functional relationship”?](#)

Projects are functionally related to a station if they are accessible to one another with or without a physical connection. A functional, as opposed to physical, relationship

includes projects located outside the same physical footprint or structural envelope of a station and even separated, for example, by intervening streets, thoroughfares, or unrelated properties. **Projects within 1/2 mile of a station, which is the generally-accepted distance most people can be assumed to safely and conveniently walk on a regular basis to use rail transit, are *ipso facto* functionally related to the station.** If a project is not within 1/2 mile, it may be functionally related to a station, but the functional relationship is not *ipso facto* and the sponsor should be able to demonstrate, based on reasonable analysis, that people can and will safely and conveniently walk or bicycle on a regular basis to a station.<sup>1</sup>

#### **4.1) How does the Bureau evaluate satisfaction of the TIFIA TOD eligibility criteria “located within walking distance of, and accessible to...”?**

**A public infrastructure project within 1/2 mile of a qualified facility or station (see the definitions of qualified facilities and stations in the FAQs below), which is the generally-accepted distance most people can be assumed to safely and conveniently walk on a regular basis to use rail transit, is *ipso facto* located within walking distance of, and accessible to the facility or station.**

This method of analyzing a “functional relationship” is based on the same method used in FTA’s Circular on Joint Development (FTA C 7050.1B), published in 2020, to evaluate a project’s “functional relationship” to transit, which incorporates the same method established in FTA’s statement of policy, published in 2011, on the eligibility of pedestrian and bicycle improvements under Chapter 53 grant programs. (76 FR 52046, Aug. 19, 2011). In the 2011 statement of policy, FTA states, “research indicates that: (1) Pedestrians walk at a pace of approximately two miles per hour, and (2) pedestrians generally are willing to walk approximately fifteen minutes to reach a public transportation stop or station. Accordingly, pedestrians generally are able to walk a distance of approximately one-half mile during a fifteen minute walk at a two mile per hour pace. **Based on this information, FTA hereby establishes a one-half mile de facto pedestrian catchment area. This de facto catchment area will simplify the process of determining whether a pedestrian improvement is eligible for FTA funding.** Moreover, FTA will measure one-half mile using a ‘radial distance’ because the radial method further simplifies these determinations.”

SOURCE: United States Department of Transportation; Build America Bureau: Transit-Oriented Development Guidance FAQs-

<https://www.transportation.gov/buildamerica/TOD/faqs>

## **5. Federal Transit Administration (FTA) – Department of Transportation**

The Federal Transit Administration (FTA) hereby establishes a **formal policy on the eligibility of pedestrian and bicycle improvements for FTA funding and defines the**

**catchment area for pedestrians and bicyclists in relation to public transportation stops and stations.**

For purposes of the Final Policy Statement, FTA believes that a conservative, one-half mile *de facto* catchment area is appropriate. As discussed above, recent research indicates that: (1) Pedestrians walk at a pace of approximately two miles per hour, and (2) pedestrians generally are willing to walk approximately fifteen minutes to reach a public transportation stop or station.<sup>[19]</sup> Accordingly, pedestrians generally are able to walk a distance of approximately one-half mile during a fifteen minute walk at a two mile per hour pace. Based on this information, FTA hereby establishes a one-half mile *de facto* pedestrian catchment area. This *de facto* catchment area will simplify the process of determining whether a pedestrian improvement is eligible for FTA funding. Moreover, FTA will measure one-half mile using a “radial distance” because the radial method further simplifies these determinations.

Adequate sidewalks, pathways, and roadway crossings in the area around public transportation access points and amenities such as benches, shelters, and lighting at stops and stations are important for pedestrian comfort and safety. The most successful and useful public transportation systems have safe and convenient pedestrian access and provide comfortable waiting areas, all of which encourage greater use.<sup>[20]</sup> Well-connected sidewalks should be installed in all areas with regular public transportation service so that public transportation patrons will not be forced to walk in the street while traveling to or from a stop or station. Additionally, roadway crossings should be made safer with an appropriate combination of facilities, such as marked crosswalks, median crossing islands, warning signs, and pedestrian signals.<sup>[21]</sup>

**SOURCE:** <https://www.federalregister.gov/documents/2011/08/19/2011-21273/final-policy-statement-on-the-eligibility-of-pedestrian-and-bicycle-improvements-under-federal>