

Challenges of Changing Opportunity Zones

Executive Summary

The proposed Sustainable Development Area (SDA) definition will add California Tax Credit Allocation Committee (CTCAC) high and highest opportunity zones to San Diego's Mobility Zone 4 code. These zones are reevaluated annually, and the map identifying the zones is updated at that time. The constantly changing map adds a level of uncertainty for developing and permitting projects under the SDA definition.

The following questions were not answered in the Staff Report or presentation that accompanied the Land Development Code update:

- Who will be responsible for updating this information in the City's database and parcel maps?
- What will be the schedule for updating the data and maps?
- With the various rules and timelines for a transit stop being included in the SDA, how will project developers and the public determine why a parcel has been determined eligible for SDA incentives?

This is an issue because we are aware of current situations where the City's Zoning and Parcel Information Portal (ZAPP) maps are 3.5 years out of date, showing the wrong zoning on parcels and making building permit applications and code enforcement problematic.

It remains unclear what opportunity zones have to do with transit-oriented development, but if the City insists on making the CTCAC zones part of SDA Code, it is essential that the information be current.

Issues with Applying Opportunity Zones to Land Use

Constantly Changing CTCAC Opportunity Zones

The proposed SDA definition adds California Tax Credit Allocation Committee (CTCAC) high and highest opportunity zones to Mobility Zone 4 code, as follows:

For *parcels* located in Mobility Zone 4, in an area identified as a High or Highest Resource California Tax Credit Allocation Committee (CTCAC) Opportunity Area, the defined walking distance is 1.0 mile.

This is an issue because we are aware of current situations where the City's Zoning and Parcel Information Portal (ZAPP) maps are 3.5 years out of date, showing the wrong zoning on parcels and making building permit applications and code enforcement problematic.

Further, CTCAC Opportunity Zones were created to facilitate financing of affordable housing and not as a component of land use regulations, as San Diego is proposing. As expressed in the California Tax Credit Allocation Committee's Opportunity Mapping Methodology:

"CTCAC intended to adopt this map into its regulations... to accompany new policies aimed at increasing access to high-opportunity areas for families with children in housing financed with 9% Low Income 2 Housing Tax Credits (LIHTCs). For this reason, the research partners designed this map and the methodology behind it with the competitive funding infrastructure for the 9% LIHTC program ... The map has also been used to inform similar policies in other state funding programs, such as HCD's Multifamily Finance Super NOFA and the California Debt Limit Allocation Committee's regulations for 4% LIHTCs. **However, some methodological adjustments may be called for if the map is applied to broader contexts and different application processes.** The research partners update the data contained within the mapping tool annually and review the methodology to make improvements over time." Pg 1-2

Source: <https://www.treasurer.ca.gov/ctcac/opportunity/2023/methodology.pdf>

As noted above, the CTCAC map's creators have advised caution against applying it to contexts beyond the funding programs noted. The potential issues with applying it to SDAs, such as the circumstance that the map is revised every year, have not been fully analyzed in the Staff Report accompanying the LDC update. Neither has this code been subjected to full public review, since it was introduced *after* the LDC review process was initiated. Given that this represents an entirely new land use policy, it should have been included as a standalone proposal and not submitted as part of the omnibus code update process.

The conflation of opportunity zones and transit-oriented development is an unnecessary and unwieldy complication. The City's justification for this policy, as stated in the Staff Report, is that:

To ensure the SDA furthers fair housing throughout the City, the walking distance of a major transit stop increases from 0.75 to 1.0 miles in Mobility Zone 4 to include properties in areas designated as Highest and High Resource Opportunity Areas by the California Tax Credit Allocation Committee. This would expand the eligibility of the City's housing incentive programs and allow for more affordable

housing in areas with more economic and education opportunities and fewer environmental issues.

We disagree that the proposed SDA definition is consistent with Affirmatively Furthering Fair Housing (AFFH). AFFH requires that low income residents have access not just to affordable housing, but also to housing that is reasonably accessible to transit. The proposed SDA definition fails this requirement in two ways: First, locating housing a mile away from transit (rather than the accepted standard of one-half mile or less) places an unfair burden on residents with families or who don't have access to an automobile for shopping and other needs that cannot be easily accomplished by a one-mile walk. Second, allowing housing based on future transit that might not be built for several decades or at all deprives those residents of access to transit altogether.

Conclusion

Affirmatively Furthering Fair Housing requires that low income residents have access not just to affordable housing, but also to housing that is reasonably accessible to transit, and the proposed SDA definition fails this requirement, both by encouraging housing beyond the accepted standard of ½ mile for reasonable access to transit, and by including future transit stops in the Major Transit Stops map that may not exist for years, if not decades, in the future.

It is our recommendation that the SDA code could be simplified and the burden on DSD reduced if CTCAC Opportunity Zones were removed from this code altogether and SDAs were simply defined as an area within a reasonable walking distance from transit. Experts concur that ½ mile would be the appropriate distance for creating transit-oriented development, GHG emissions reductions and realistic transit adoption.

This would enable the City to consider specific regulations appropriate to CTCAC rather than conflating it with future transit projects.

Finally, a proposal has been made to allow Complete Communities Housing Solutions (CCHS) projects to locate the affordable housing units offsite. Not only does this exclusion of classes of people from housing projects contradict the very concept of "complete communities", it deprives those residents of access to the informal communal mechanisms of high opportunities.