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October 26, 2022

Mayor Todd Gloria and Members of the City Council  
City of San Diego  
202 C Street, 11th Floor  
San Diego, CA 92101

**SUBJECT: Opposition to Proposed Downzone in Land Development Code**

Dear Mayor Todd Gloria and Members of the City Council:

On behalf of Circulate San Diego, whose mission is to create excellent mobility choices and vibrant, healthy neighborhoods, I am writing to encourage that you reject the downzones proposed in the Land Development Code Update from the City's Planning Department.

The Proposed Update will eliminate "Transit Priority Areas" (TPAs), and replace them with "Sustainable Development Areas" (SDAs). SDAs would center around the same transit stops as TPAs, but instead of extending a 1/2 mile radius, would extend to either a 1 mile or a 3/4 mile walkshed, depending on the area. This is essentially a remapping of TPAs into different and possibly smaller geographic areas.

This change would be a programmatic citywide downzone. It would change and possibly reduce the total geography that can benefit from many housing incentive programs. Removing parcels from the definition of a TPA would preclude projects on those sites from using successful local programs like parking reforms, certain bonus programs, and Complete Communities. Precluding use of those programs would reduce feasibility, size, and opportunities to create deed-restricted affordable homes for new projects on those parcels.

Any downzone during our current housing crisis would be contrary to the City's recent leadership on housing affordability, the requirements of San Diego's Housing Element, and to the requirements of Senate Bill 330 (2019).

**1. During our housing crisis, there is no good policy reason to downzone land near transit.**

To combat our housing crisis, we need more homes, not fewer. Reducing the development capacity of parcels near transit is the opposite of what the City should be doing.

Some have argued that the current “as the crow flies” definition of a TPA inadvertently incentivizes homes that would require more than a half-mile of walking to access transit. Most people who take transit access it through walking, but that is not the only way. Some people ride a bicycle to transit. They can also be dropped off at a transit station. (This practice has one of the more charming terms in transit policy: “a kiss and ride.”)

Proximity to transit is a useful proxy for access to jobs, grocery stores, and other amenities. Allowing more people to live in these areas means that even if people sometimes drive, they are able to drive less often, and to drive shorter distances. Driving less reduces greenhouse gasses and helps address climate change.

While creating access to transit is an important part of the City's climate goals, it is not the only reason to preserve development capacity on these parcels. In addition to a climate crisis, we also have a housing affordability crisis. Allowing more homes is essential to addressing that crisis.

## **2. Downzoning in TPAs would contradict the City of San Diego's approved Housing Element, and risk decertification from the State.**

Circulate San Diego supported the City of San Diego's Housing Element submission to the California Department of Housing and Community Development.<sup>1</sup> In that letter, we celebrated the City of San Diego's recent success creating citywide programs that improve development certainty for inventory sites, and for creating bonus programs that allow new homes above and beyond the baseline of adequate sites inventories. Those programs were included in the City's Housing Element, committing San Diego to their continued implementation.

Reducing the efficacy of those programs is contrary to the City's commitments in its Housing Element.

If San Diego's Housing Element is decertified, the City risks losing affordable housing funds. If this proposal is intended to pacify opponents to housing, these efforts may even backfire. A decertified Housing Element can allow a “builder's remedy” which supersedes local control and allows builders to construct even larger projects.

## **3. The proposed changes to TPA definitions violate the City's obligations to affirmatively further fair housing.**

The proposed changes to TPAs would reduce the amount of development that can occur in certain high opportunity areas. This is the opposite of California's mandate for localities to affirmatively further fair housing. Areas that have higher resources must allow for new homes, to counteract histories of redlining and racially restrictive zoning.

The City's current proposal to mitigate its downzones with upzones in other more central areas does not meet the requirements for affirmatively furthering fair housing. Under fair

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<sup>1</sup> Colin Parent, “Policy Letter: Support for City of San Diego's 6th Cycle Housing Element,” July 14, 2021, available at [https://www.circulatesd.org/letter\\_support\\_for\\_city\\_of\\_san\\_diego\\_s\\_6th\\_cycle\\_housing\\_element](https://www.circulatesd.org/letter_support_for_city_of_san_diego_s_6th_cycle_housing_element).

housing rules, lowering development capacity in high-income areas is not offset by adding new capacity in low-income areas. Instead, such an action would reinforce the residential segregation patterns the City has an obligation to repair.

**4. Senate Bill 330 prohibits the downzone being proposed here.**

Senate Bill 330 (2019) precludes local governments in California from adopting a downzone. The proposed changes to the Land Development Code to redefine a TPA, would violate this prohibition.

To satisfy Senate Bill 330, any change to the zoning code must result in a gain of housing capacity. To our knowledge, there has been no analysis done to adequately demonstrate that the redefinition of TPAs expands the geography or feasibility of housing development. Without such a demonstration, the downzone would run afoul of Senate Bill 330 and be illegal.

**5. If the City wants to adopt new Sustainable Development Areas, they should be in addition to the existing Transit Priority Areas.**

The proposal from the Planning Department does present an opportunity, if modified. Instead of replacing TPAs, the City could increase the area of TPAs to include both current TPAs and the proposed SDAs. This would create more capacity for homes, adding areas where transit is reachable but TPAs had not previously applied. Such an approach would help address our housing and climate crises together.

**6. Conclusion.**

The City of San Diego has been a champion for more affordable homes in our region and State. The current Mayor and Council have proposed and approved new programs to increase housing production in San Diego. Our local policies have been models for successful statewide legislation like parking reform (AB 2097) and the Affordable Homes Bonus Program (AB 2345). Now is the time to double-down on progressive housing reforms, not to unwind them.

The Mayor and City Council should reject the proposal to downzone within TPAs. In the alternative, they could amend the proposal by adding SDAs to the definition of TPAs.

Sincerely,



Colin Parent  
Executive Director and General Counsel

CC:

- San Diego City Attorney Mara Elliot

- David Zisser, California Department of Housing and Community Development, Housing Accountability Unit
- Eleanor Blume, Office of the California Attorney General, Housing Strikeforce
- Dylan Casey, California Renters Legal Advocacy and Education Fund
- Sonja Trauss, YIMBY Law