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July 21, 2015

SANDAG
Board of Directors, Chair Jack Dale
Transportation Committee, Chair Todd Gloria
Regional Planning Committee, Chair Lesa Heebner
401 B St. Ste. 800
San Diego, CA 92101

RE: SANDAG's Regional Transit Oriented Development Policy

Honorable Jack Dale and SANDAG Board and Committee members:

On behalf of Circulate San Diego, a non-profit organization devoted to transit, active transportation, and sustainable growth, I would like to express concern with SANDAG's draft Transit Oriented Development ("TOD") policy.

1. It is more important than ever for SANDAG to create a meaningful TOD policy.

Local governments in San Diego have made great strides focusing land uses near our region's transit investments.

However, more work is needed. In 1990, SANDAG projected multi-family housing to make up 52 percent of new development. In 2013, after local governments made different land use decisions, 82 percent of future development is projected to be multi-family. This change demonstrates the vital need for a useful TOD policy.

2. The San Diego region must focus on TOD to remain competitive for Federal and State transportation funding.

As outlined in Circulate San Diego's report *TransNet Today*, Federal and state sources of funding are increasingly shifting toward large competitive grant structures.¹ The State Cap-and-Trade funds, and Federal TIGER Grants are two significant examples.

These programs require applicants to show that transportation investments will serve adequate population densities, and will provide sufficient return on investments. For the San Diego region to remain competitive for these types of funding, SANDAG must help localities prepare for TOD.

3. SANDAG's draft "TOD Strategy" contains no actual policy changes.

¹ Circulate San Diego, *TransNet Today* (July 15, 2015), <http://circulatesd.nationbuilder.com/transnettoday>.

The “Draft Regional Transit Oriented Development Strategy” presented by SANDAG staff at the SANDAG Technical Working Group (TWG) on Thursday July 9, 2015, contains no actionable policy changes.²

Instead, the document outlines only areas of policy that SANDAG proposes to “continue,” and areas of potential policy updates that SANDAG proposes to “consider” at unspecified future times. The document does not even outline a time frame for considering policy changes, nor does it explain why those optional policy changes cannot be proposed to the SANDAG Board for immediate or near-term implementation.

The commitment by the SANDAG Board to develop a policy to implement transit oriented development recognized that some improvement was needed for San Diego. Unfortunately, the draft strategy includes only plans to “continue” or “consider” and fails to recognize the clear and stated need in the region to leverage the substantial investments SANDAG has made in transit with better land uses.

Over the course of the many-year stakeholder process SANDAG has engaged in, multiple constituents, including Circulate San Diego, have identified areas where SANDAG can improve TOD. In fact, AECOM, SANDAG’s consultant on this project, has presented a variety of tools that SANDAG can implement.³ SANDAG should implement them, not just plan to consider them.

4. SANDAG Committed to develop a TOD “Policy,” not a mere strategy.

The preparation of a Regional Policy is a commitment made by the SANDAG Board per the 2050 RTP/SCS resolution:

“Implementing an action to develop a regional transit oriented development policy in the 2050 RTP Sustainable Communities Strategy to promote and incentivize sustainable development.”⁴

However, the draft document published by SANDAG staff refers to itself as a “strategy,” as opposed to a policy. While the title of a document is not always dispositive of its content or impact, the draft TOD Strategy SANDAG published cannot be fairly considered to be consistent with what SANDAG agreed to prepare.

A strategy is nothing more than a plan, a document outlining how something is intended to proceed. A policy is a document that *decides* how something will proceed. The SANDAG Board agreed in 2011 not to talk about TOD, or to plan to talk about it. The SANDAG Board directed staff to prepare a “policy,” which can only reasonably be interpreted to mean a document that would actually direct the outcome of programs, funding, or other elements of action by SANDAG.

² SANDAG, Agenda for Technical Working Group (July 9, 2015), http://www.sandag.org/uploads/meetingid/meetingid_4113_19375.pdf.

³ SANDAG, Board of Directors Agenda (May 8, 2015), http://www.sandag.org/uploads/meetingid/meetingid_4069_19155.pdf.

⁴ SANDAG, Draft San Diego Forward: The Regional Plan (2015), Appendix U.4, <http://www.sdfoward.com/pdfs/DraftAppendixU4-SANDAGTransitOrientedDevelopmentStrategy.pdf>.

5. Circulate San Diego is concerned that the development of this Draft TOD Strategy does not represent good faith.

In negotiations around the 2011 Regional Transportation Plan, SANDAG agreed to prepare a TOD Policy, which was a part of why Circulate San Diego's predecessor organizations agreed to support the Plan. However, four years later, SANDAG has made an about face, and is proposing to adopt a document that has no actionable elements, and does not substantively advance transit oriented development in any way.

Circulate San Diego cannot consider a TOD document devoid of any actionable elements to be a good faith fulfillment of the agreement SANDAG made in 2011. Moreover, Circulate San Diego is concerned that the SANDAG staff is also not meeting the expectations or directions given to them by the SANDAG Board in 2011.

6. Among other components, SANDAG's TOD policy should create or modify a grant program to award funds to local governments that are ready for TOD.

In addition to the policies proposed by SANDAG's consultant AECOM, a TOD Policy should incorporate a variety of other elements, as called for by Circulate San Diego in our letter dated May 7, 2015.⁵ Those recommendations are also provided below.

SANDAG should establish a grant program (or modify and expand the existing Smart Growth Incentives Program) to award jurisdictions based on how applicants score on their readiness for TOD . This would encourage local jurisdictions—with a carrot, not a stick—to update local regulations to facilitate development near transit and help to spur development.

a. The TOD grant program can coexist with existing grant programs.

The TOD grant fund would not need to replace the existing other grant programs. Jurisdictions that do not score well for their TOD readiness could still apply for grants as they always have under the existing grant programs.

This TOD grant program could be funded from flexible federal sources. Some of the funds could also be drawn from the TransNet funds that currently fund the existing grant programs. In the alternative, the existing grant programs could be modified to incorporate elements of TOD readiness criteria.

b. SANDAG's consultants AECOM created a useful framework for evaluating TOD readiness.

AECOM prepared a white paper for SANDAG titled "Readiness Criteria: Metrics for Transit-Oriented Districts."⁶ That paper proposes a series of measurements for TOD readiness, including market demand, parking ratios, connectivity to transit, and other important gauges.

⁵ Letter from Circulate San Diego on SANDAG's Transit Oriented Development Strategy (May 7, 2015), http://circulatesd.nationbuilder.com/letter_comments_on_sandag_tod_may_7th.

⁶ AECOM, Readiness Criteria: Metrics for Transit-Oriented Districts (2015), http://www.sandag.org/uploads/conferenceid/conferenceid_360_18634.pdf.

SANDAG could use the metrics in the AECOM white paper to develop a scoring mechanism for their new or modified TOD grant program.

c. A TOD grant program could see large gains with little cost.

Making grant funding available can be a useful, and politically palatable “carrot” to encourage, not require, local governments to update their development rules.

This is a similar model to the Federal Department of Education’s recent “Race to the Top” funding for education. The Department of Education made a relatively small pool of funds available nationally, and scored applications based on how much education reform states adopted. This resulted in a wide range of meaningful changes by states choosing to compete for a limited pool of funds.

7. A TOD policy should include mechanisms to encourage affordable housing near transit.

Most transit riders are low income. The TOD policy must build in mechanisms to ensure that low income people are able to afford to live near the region’s transit investments.

Fortunately, there are a variety of options for SANDAG to incorporate affordable homes in TOD:

- **Land for Homes:** SANDAG should fund a study for how MTS and NCTD can make land available for development into affordable homes. The Los Angeles Metro system recently committed to making 35 percent of its land holdings available for affordable homes. San Diego should examine the same.

For example, while many park-and-ride lots in San Diego are well-utilized, many are not. Land that is underutilized could be repurposed for affordable TOD.

- **TOD Readiness:** When SANDAG creates a TOD grant program, it can include affordable housing tools as one measure of a jurisdiction’s TOD readiness. If a jurisdiction hasn’t planned for how affordable homes will factor into their TOD, they would be scored as less ready.

Attachment A to this letter is a proposal for how to incorporate planning for affordable homes into the framework for readiness criteria developed by AECOM.

- **Contributions to Blended Funds:** Civic San Diego and the San Diego Housing Commission are both examining a blended fund to finance affordable home construction. Relatively small contributions by public entities can leverage huge private investments in blended affordable investment funds.

The Association of Bay Area Governments contributed to a similar blended transit oriented affordable housing fund. SANDAG can make similar funds available in San Diego.

Circulate San Diego is committed to engaging in SANDAG’s ongoing TOD policy planning. We look forward to engaging in a productive dialogue over how SANDAG can both innovate and adopt policies that have proven to work in other regions.

Sincerely,

Colin Parent

Colin Parent
Policy Counsel, Circulate San Diego

Attachment A - Proposed Affordable Housing Readiness Criteria for SANDAG's Transit Readiness Policy:

The below criteria could be inserted in the readiness criteria proposed in the SANDAG white paper: http://www.sandag.org/uploads/conferenceid/conferenceid_360_18634.pdf

C. Affordable Homes. Proximity to transit is a crucial need for low income San Diegans. Transit investments tend to add market value to surrounding land. As land values rise, it becomes increasingly more difficult for developers of affordable homes to successfully bid against market-rate developers for land. However, different market conditions and available resources caution against a one-size-fits all solution. It is proposed that SANDAG include a readiness measurement that gauges how the district plans to mitigate the effect of transit investment on affordable home development.

4 = Plan includes a robust mechanism for ensuring affordable homes are built within the district. Options can include:

- mandatory affordable housing set-asides,
- land value recapture that finances affordable homes within the district,
- housing overlay zone or density bonus program that trades density for inclusionary affordable homes within the district (above and beyond the state density bonus program),
- public land in the district dedicated for affordable homes,
- substantial philanthropic donations of either land or capital costs for affordable homes in the district.

3 = Plan includes a significant mechanism for ensuring affordable homes are built within the district. Options can include:

- the district will generate tax increment through an infrastructure finance district that will be dedicated to affordable homes within the district,
- the district can access a locally administered transit oriented development blended fund.

2 = Plan includes a modest mechanism to develop affordable homes within the district, but may not generate new resources. Options include:

- dedicating an amount of preexisting local funds for affordable homes to be used in the district (HOME, CDBG, Redevelopment, Impact Fee revenue), within the district,
- affordable developments can receive expedited reviews, fee reductions, parking reductions,
- the district includes substantial amounts of multi-family zoned land in areas that would be competitive for nine percent Low Income Housing Tax Credits.

1 = Plan does not include a mechanism to ensure affordable homes are included, including for districts without any residential opportunities.