

**CITY OF EL PASO, TEXAS
AGENDA ITEM
AGENDA SUMMARY FORM**

DEPARTMENT: Mayor & Council

AGENDA DATE: March 5, 2019

CONTACT PERSON NAME AND PHONE NUMBER: Peter Svarzbein – 915-212-1002

DISTRICT(S) AFFECTED: All districts

STRATEGIC GOAL: #1 – Create an Environment Conducive to Strong Sustainable Economic Development

SUBJECT:

Discussion and Action on Revisions to the City of El Paso Transit Oriented Development (TOD) Policy.

BACKGROUND / DISCUSSION:

To discuss and consider revisions to the City of El Paso Transit Oriented Development (TOD) Policy.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one? Yes.

Policy was approved May 30, 2017.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? N/A

Has the item been budgeted? N/A

If so, identify funding source by account numbers and description of account. Does it require a budget transfer? N/A

*****REQUIRED AUTHORIZATION*****

23.5

RESOLUTION

CITY CLERK DEPT.
2017 MAY 23 AM 10:55

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City of El Paso Transit Oriented Development Incentive Policy attached hereto be adopted and that the Sustainable Cities Center Incentive Policy and Downtown Sustainable Cities Center Incentive Policies be repealed; all items with the effective date of May 30, 2017.


APPROVED this 30th day of May 2017.




ATTEST:


Richarda Duffy Momsen
City Clerk

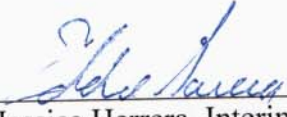
CITY OF EL PASO


Oscar Leeser
Mayor

APPROVED AS TO FORM:


Karla M. Nieman
Senior Assistant City Attorney

APPROVED AS TO CONTENT:


For Jessica Herrera, Interim Director
Economic & International
Development Department

Transit Oriented Development Incentive Policy

SECTION I: PURPOSE

The success of the Rapid Transit System (RTS) and the Streetcar Project will hinge on the quality of urban spaces that surround the transit stations, corridors and stops and the nature of development within the defined incentive areas. It is the policy of the City of El Paso to provide incentives within designated Transit-Oriented Development (TOD) incentive areas (more specifically depicted on the maps attached hereto as Exhibit A, the "Transit-Oriented Development Incentive Areas") to improve mobility and travel choices, spur economic development, support downtown revitalization, and stimulate investment in established neighborhoods.

Transit-Oriented Development is a design and development strategy that links higher-density, walkable neighborhoods to transit stations and corridors. Transit-Oriented Development strengthens the urban fabric that surrounds public transportation with a mix of daily uses, including housing, retail and office. Most transit riders begin and end their trips as pedestrians and the streets around transit stations and stops should be safe, interesting and convenient for pedestrians.

The purpose of this policy is to define the incentives available to encourage the growth and development of sustainable city centers and to jumpstart economic development in the selected locations to improve the quality of life for El Paso residents while reducing the City's carbon footprint.

SECTION II: DEFINITIONS

Adaptive reuse - means the conversion or change of use of all or any part of an existing building to a residential use, a mixed-use or any use allowed in the underlying district or any construction to expand or modify an existing building located in an area designated with an adaptive reuse overlay that meets the development guidelines adopted in the city's comprehensive plan for the area.

Mixed Use – The combination of multiple functions or uses, including but not limited to residential, office or commercial uses, within the same building, development or project.

New Construction Projects - The construction of a new building or the demolition of existing building(s) to create a new structure. If a development includes both rehabilitation and new construction, a project is defined as new construction if the combined square footage of the new building(s) exceeds the square footage of the rehabilitated structures.

Rehabilitation - The act or process of returning a building or structure to a state of utility through repair, remodeling or alteration that makes possible an efficient contemporary use while preserving those portions or features of the building or structure that are significant to its historical, architectural and cultural values.

Transit-Oriented Development (TOD) Incentive Area – The geographic districts more fully described in Exhibit A designated in proximity to the current and planned Rapid Transit System (RTS) stations and

stops and the Streetcar Corridor. Transit-Oriented Development (TOD) Incentive Areas are located in the following eight areas: Streetcar Corridor, Greater Downtown Area, El Dorado, Five Points, Mission Valley, Northgate, the El Paso International Airport Southern Industrial Park (EPIA SIP), and the Medical Center of the Americas (MCA).

Vertical Mixed Use – The combination of different functions or uses, including residential, office or commercial uses, within the same building. More public uses such as retail shops, restaurants or commercial businesses are provided for on the lower floor, while more private uses such as residential units, or office space are provided for on the upper floors.

SECTION III: ELIGIBILITY CRITERIA

To be eligible for incentives under this policy, the property must meet the following eligibility criteria:

1. **Location.** The project must be located within the Transit-Oriented Development incentive areas, as depicted in Exhibit A.
2. **Design.** Applicants requesting Transit-Oriented Development incentives for new construction and rehabilitation projects shall comply with the mandatory design requirements and no less than three (3) of the selective design requirements as identified in Subsection 20.10.280(c).
3. **Use.** The new construction and/or rehabilitation project must be for a mixed use project.
4. **Legal.** The project is in compliance with all local, state and federal laws.

SECTION IV: EXCLUSIONS

For the purposes of this policy, industrial uses will not qualify for incentives.

Any project proposing development activity that does not comply with all of the eligibility criteria contained herein may be eligible for incentives through the Infill Incentive Policy if all Eligibility Criteria and Program Policies are met.

SECTION V: PROGRAM POLICY

The City of El Paso will review Transit Oriented Development incentive policy applications for adherence to the eligibility criteria and compliance with the procedural and program guidelines as detailed in this policy. Project consideration will include the potential impact of the reinvestment project on the immediate and surrounding area.

In order to be considered for incentives under this policy, the proposed project shall comply with the mandatory design requirements and no less than three (3) of the selective design requirements as identified in Subsection 20.10.280(c). In addition proposed projects must also adhere to the following Transit-Oriented Development policy-specific criteria:

1. **New construction projects shall demonstrate the following qualitative criteria:**

- a. Maximize the permitted density of the base zoning district as outlined in Title 20 Appendix B Table of Density and Dimensional Standards of the El Paso City Code.
 - b. The structure will be a minimum of two-stories.
 - c. Within the proposed structure, provide vertical mixed use.
2. Rehabilitation projects shall maximize the permitted density of the base zoning district as outlined in Title 20 Appendix B Table of Density and Dimensional Standards of the El Paso City Code.
3. Minimum Investment. For the purposes of this policy, all applicants will have to comply by the following minimum investment requirements to be considered eligible to receive incentives.
 - A. The minimum investment required for a new construction project is \$400,000.
 - B. The minimum investment required for an adaptive reuse or rehabilitation project is \$200,000.
4. Project must demonstrate the potential to generate revenues to the City which outweigh costs associated with incentives through:
 - a. a net increase or retention of jobs in the City; or
 - b. will add to the tax base; or
 - c. will result in additional rental housing units.
5. APPLICANT/PROPERTY OWNER must provide proof that they neither caused nor contributed to the present blighted condition.
6. Project must not include the demolition of properties with a historic overlay that are deemed historic or contributing.

In addition, the project must:

1. Provide proof that the APPLICANT/PROPERTY OWNER has the financial stability and capacity to complete the project. Proof can include financial statements for a corporation or tax statements for an individual; and
2. Demonstrate compliance with all local, state and federal laws. All proposals must comply with the City's Zoning regulations as to the uses being proposed. In the event that a proposed use is not permitted in the base zoning district the applicant will be required to apply for a rezoning of the property.

In order to receive any such incentives from the City of El Paso, APPLICANT/PROPERTY OWNER will make available credible information to enable the City to prepare a fiscal impact analysis. The APPLICANTS/PROPERTY OWNERS will update this information annually during the term of any incentives contract. The decision to provide any economic development incentives will be considered on a project-

by-project basis, in accordance with the criteria set forth in this policy, at the discretion of the City Manager or his designee, and the City Council of the City of El Paso. In order to be eligible for incentives, businesses or individuals must be current on all city taxes or any other obligation to the City.

Incentives approval for applicants applying for ad valorem property tax rebate incentives for properties located within Tax Increment Reinvestment Zone (TIRZ) boundaries and Transportation Reinvestment Zone (TRZ) boundaries will only be eligible for real ad valorem property tax rebate incentives upon the approval of the respective Tax Increment Reinvestment Zone (TIRZ) and Transportation Reinvestment Zone (TRZ) board of directors' and that of the City Council of the City of El Paso.

SECTION VI: PROCEDURAL AND PROGRAM GUIDELINES

Any person, partnership, organization, corporation or other entity which requests transit oriented development incentives under this policy shall be required to comply with the following procedural guidelines. No representations made herein are considered binding unless and until approved by the City Manager or designee.

Application required. APPLICANTS/PROPERTY OWNERS shall submit a completed "Application for Transit Oriented Development Incentives" form for consideration of financial incentives to the Economic and International Development Department, 801 Texas- Economic Development and International Development Department, El Paso, Texas 79901.

Detailed site development plan required. Applications for rehabilitation or new construction shall require submittal of a detailed site development plan in accordance with Section 20.04.160 of the City Code for review by the Planning Division. The Planning Division shall review the application for conformance with the base zoning district density and dimensional standards found in Section 20.12.020 (Appendix B) of the City Code, as well as the design requirements and guidelines found Subsection 20.10.280(C) of the City Code. In order to be eligible to receive the incentives detailed herein, all applications for rehabilitation or new construction shall comply with the requirements of the Sections 20.12.020 (Appendix B) and 20.10.280(C) of the City Code.

In the event the base zoning district density and dimensional standards are not met, the applicant may request reductions in accordance with Section 20.10.280 or of the City Code. Such request must be filed with the Planning Division prior to consideration as part of the Transit Oriented Development Incentive Policy.

Consideration of the Application. The City Manager or designee will consider requests for financial incentives in accordance with these policies, the City Code, the Texas Tax Code, and the Texas Local Government Code. Additional information may be requested as needed. APPLICANTS/PROPERTY OWNERS satisfying the criteria detailed in the program policy and meeting the location criteria will be considered. When authorized by City Council, the City may enter into a Chapter 380 agreement/incentives contract that outlines the terms and conditions between the City and the

APPLICANTS/PROPERTY OWNERS, and governs the provision of the incentives to be provided for the project.

Pre-submission conference required. A pre-submission conference will be required for rehabilitation or new construction projects receiving incentives under this policy. The pre-submission conference will be scheduled through the Planning and Inspections Department prior to meeting with appropriate project staff to review proposed development and receive instruction/requirements to expedite the review and permitting of the project. The conference will be scheduled and conducted in advance of any plan submittals to the City for plan review and building permit issuance.

Inspection of the Project. During the term of such agreement, the City of El Paso will have the right to inspect the project facility during regular business hours to ensure compliance with the agreement and accuracy of the APPLICANTS/PROPERTY OWNERS certification.

Recapture. If a project is not completed as specified, or if the terms of the agreement are not met, the City has the right to cancel or amend the incentive agreement, recapture any rebated or exempted taxes, and assess penalty payments for the amounts previously paid, which can be secured by City liens against the property and all previously waived fees and abated taxes shall become due to the City.

Effect of Sale, assignment or lease of property. No incentives rights may be sold or assigned without the approval of the City Council. Any sale, assignment or lease of the property may trigger the recapture provision, as outlined above. Incentives cannot be transferred as a result of a change in ownership of the property without the expressed written consent of the City of El Paso. Any new owner shall file a new application for an economic development incentive. It shall be the responsibility of the APPLICANTS/PROPERTY OWNERS to notify the City of any change in ownership.

Additional Information. A project is limited to receiving incentives from only one incentive program. With the exception of work associated with a demolition and/or grading permit, the applicant shall not submit for construction permits or begin construction of the project prior to approval of the Chapter 380 Agreement by the El Paso City Council.

SECTION VII: DIRECT FINANCIAL INCENTIVES

Building and Planning Permit Fee Rebates. For properties located in the Downtown 2015 Plan Area, up to 100% of certain planning, land development and building construction fees will be waived based on the fee schedule established in Ordinance 017725. For properties located outside of the Downtown 2015 Plan Area, up to \$10,000 of certain planning, land development and building construction fees will be rebated based on the fee schedule established in the Ordinance 018581.

Construction Materials Sales Tax Rebate. An approved project may receive a 100% rebate of the City's portion of sales tax collected on the purchase of materials and labor associated with the incentivized project.

Property Tax Rebate. An approved project may have the City's portion of the project's incremental ad valorem property taxes collected over the base year, rebated according to the following schedule.

New Construction and Rehabilitation - Incremental Property Tax Rebate Table														
Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
100%	100%	100%	100%	90%	90%	90%	75%	75%	75%	50%	50%	50%	25%	25%

Retail Sales & Use Tax Rebate. An approved project may have the City's portion of the project's sales & use taxes rebated according to the following schedule.

New Construction and Rehabilitation - Sales Tax Rebate Table				
Year 1	Year 2	Year 3	Year 4	Year 5
100%	75%	50%	25%	25%

SECTION VIII: SUPPLEMENTAL BENEFITS

Lien Waivers. In conjunction with receipt of a direct finance incentive contract, an APPLICANT/PROPERTY OWNER may take advantage of the Lien Waiver Program to be implemented under this Policy. This program will provide APPLICANT/PROPERTY OWNER a release of liens which are attached to properties as the result of condemnation, demolition, sanitation, or other city-imposed non-property tax liens, but excluding Community Development or other federally-funded liens. Release of such liens would only be allowed in consideration for the Applicant's investment in new construction or renovation of eligible facilities and are only waived upon sale of the property to a new owner, upon confirmation that the APPLICANT/PROPERTY OWNER did not contribute to the liens being attached to the property.

SECTION IX: TERM OF FINANCIAL INCENTIVES

The availability of financial incentives under this Policy shall remain in effect for four (4) years from May 30, 2017.

EXHIBIT A: TRANSIT ORIENTED DEVELOPMENT INCENTIVE AREAS

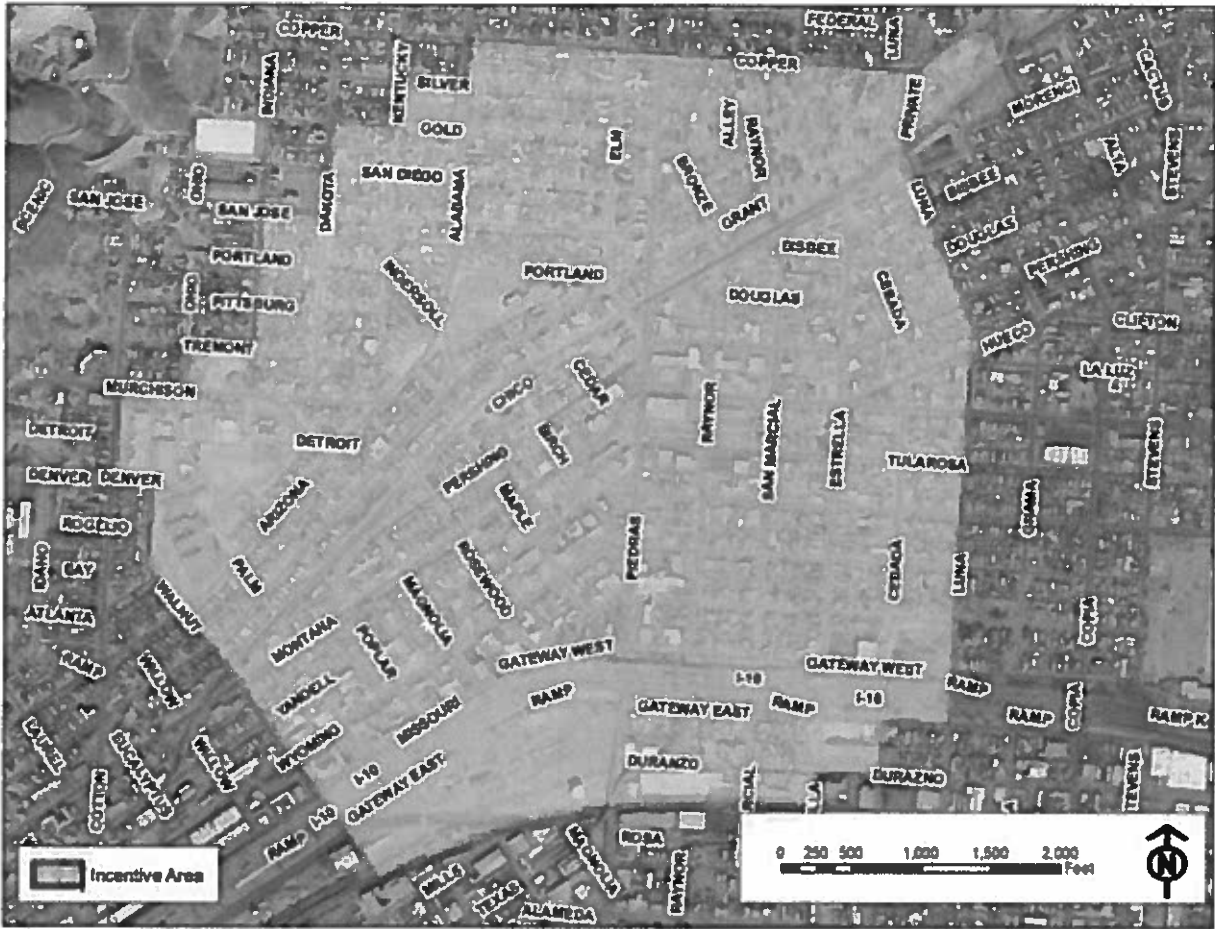
Streetcar Corridor Incentive Area



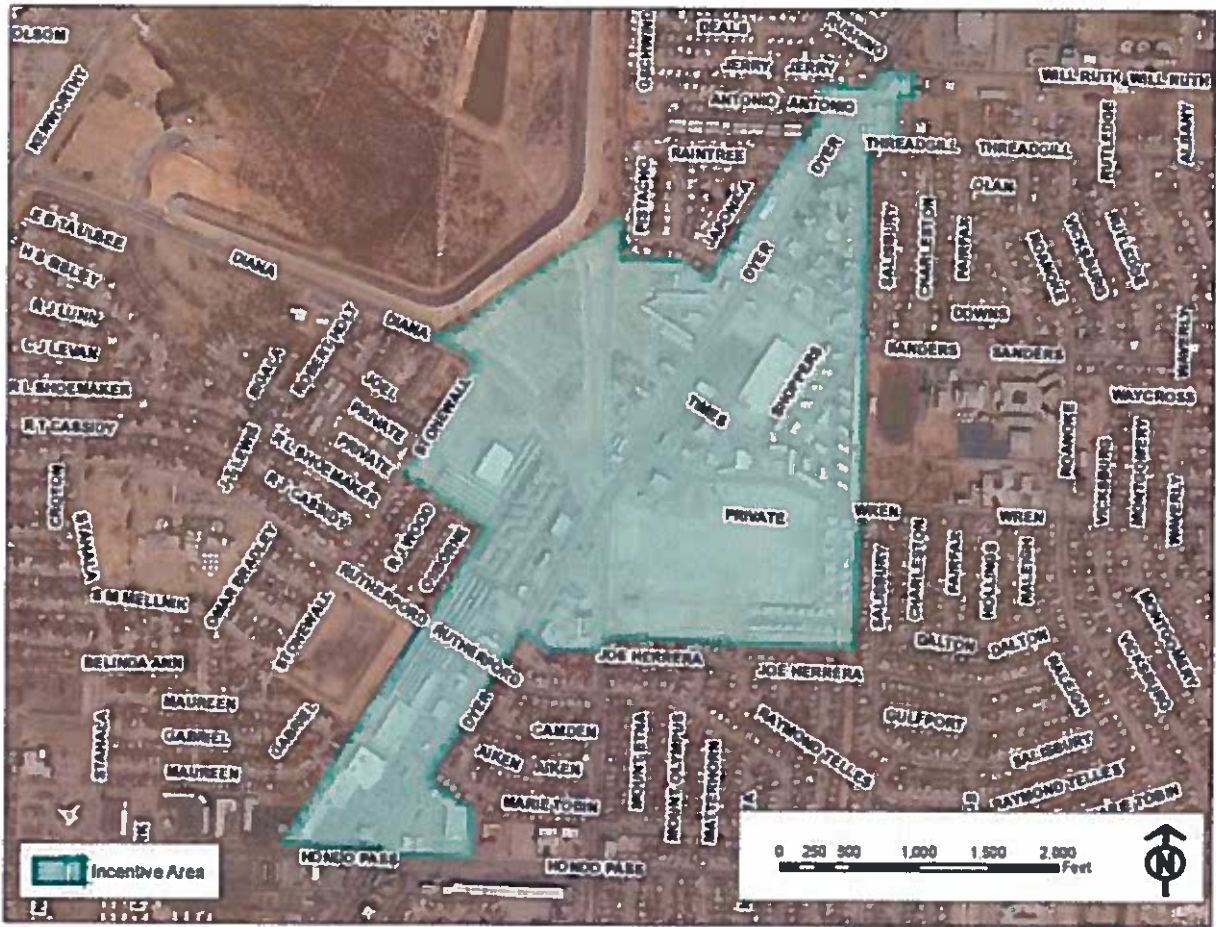
Greater Downtown Incentive Area



Five Points Incentive Area



Northgate Incentive Area



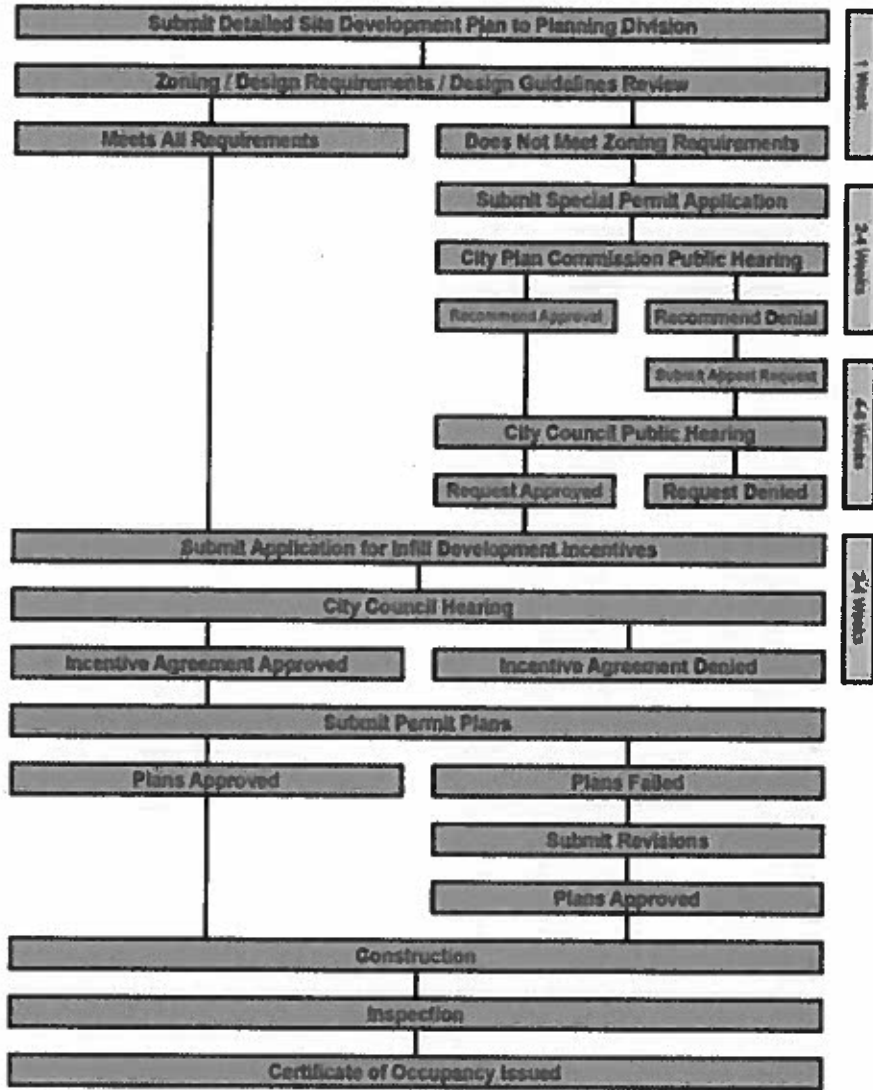
Medical Center of the Americas



EXHIBIT B: DOWNTOWN PLAN AREA



EXHIBIT C: APPLICATION AND TIMELINE



C I T Y O F E L P A S O

TOD POLICY AMENDMENT



Goal 1 - Create an Environment Conducive to Strong Sustainable Economic Development

TOD POLICY

OVERVIEW

Effective Date: 5/31/2017

Purpose

- Extend resources to private developers and offer design and use standards to encourage strategic development within the area surrounding the Street Car corridor and selected Transit Centers in El Paso.

Overall Goals

- Leverage public investments by injecting demand for products and transit services along key transit areas
- Promote compact & mixed-use growth, walkable communities, and vibrant civic spaces by catalyzing Transit Oriented Development (TOD)
- Transform Streetcar Corridor and key Transit Stops into vibrant places to live, work, and play



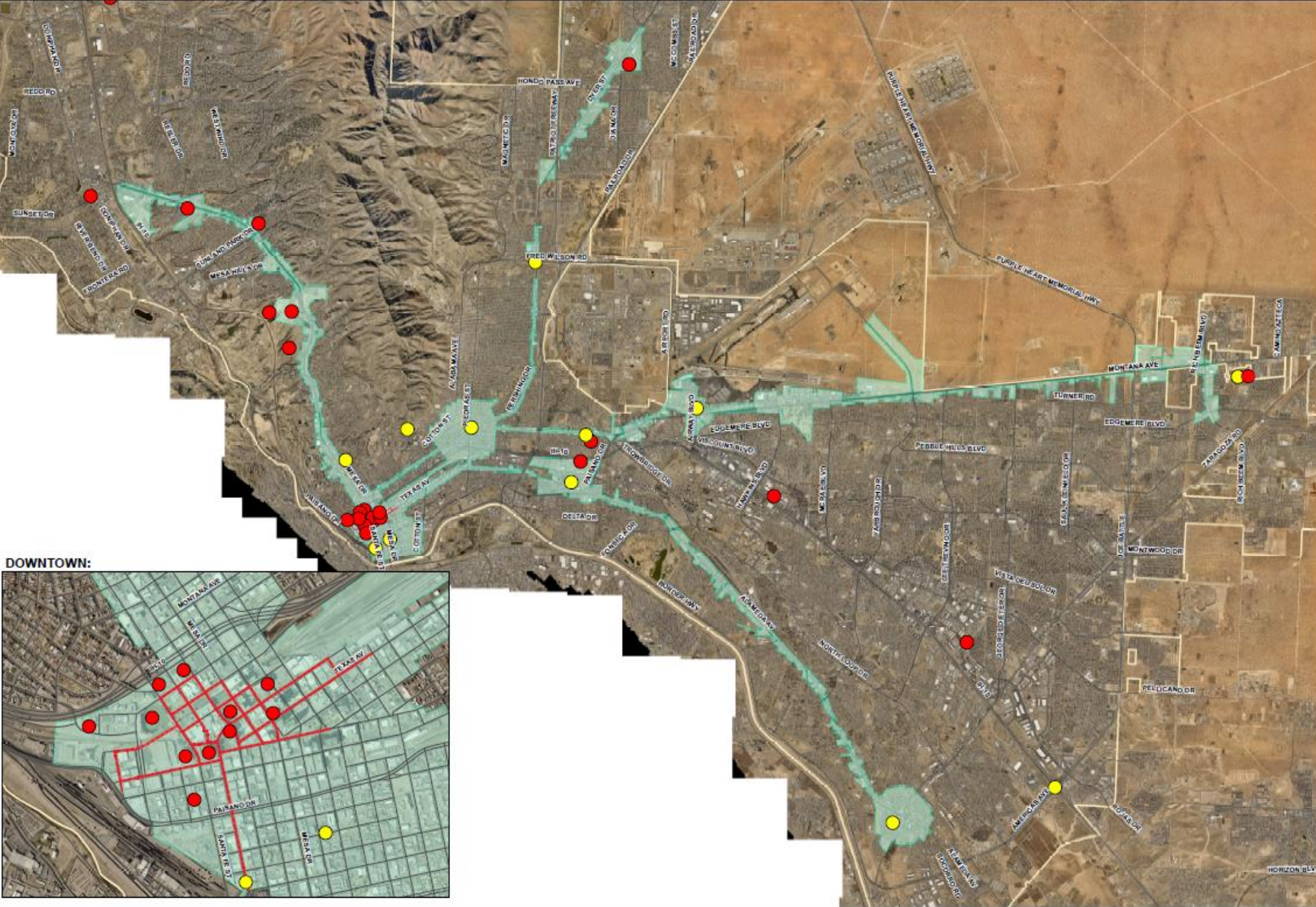
TOD POLICY

GOALS

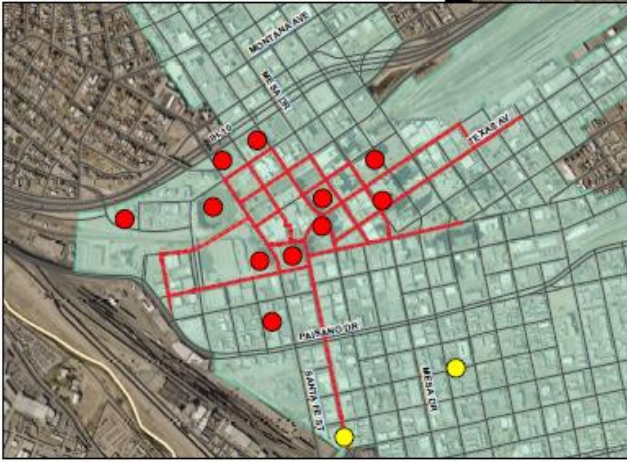
- Design and development strategy linking higher-density, walkable neighborhoods to transit stations
- TOD strengthens the urban fabric that surrounds public transportation with a mix of daily uses, including housing, retail and office



TOD POLICY INCENTIVE ZONES



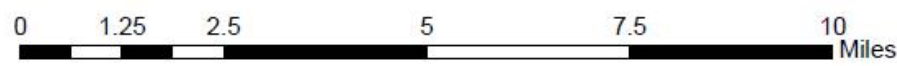
DOWNTOWN:



The features represented on this map are in the Texas State Plane Coordinate system, Central Zone, NAD 83, units feet, using the Lambert Conformal Conic projection.
This map was generated using ArcGIS by the City Development Department - Planning Division for the City of El Paso, Texas. P11 Texas, 141-Pace, 19871 - 4/10/2013 10:55.
This map is designed for illustrative purposes only. The features depicted here are approximate and do not show specific locations. It may be required to show accurate coordinates. Measurements of this map to scales greater than as shown can include errors and may lead to misinterpretations of the data. The City Development Department Planning Division makes no claim to its accuracy or completeness.



- Developments
- Gateway Sites
- Wayfinding
- Incentive Areas
- City Limits



SCCI POLICY

MAJOR PROJECTS



Stevens Building

Residential +
Commercial



La Villita

Commercial +
Retail



Medical Center of
the Americas

Commercial



Metro 31

Residential +
Commercial

TOD POLICY

INCENTIVE PROGRAM

DESIGN | DENSITY | DIVERSITY

Mandatory Requirements

1. Minimum investment requirement
2. Located within incentive zone
3. Parking located in the rear of the property
4. Building oriented towards the main street
5. Setbacks shall not deviate by more than 15% from that of neighbors
6. Must be at least 2-stories
7. **Must be Mixed-Use**
8. **Maximize the permitted density of the base zoning district**



TOD POLICY

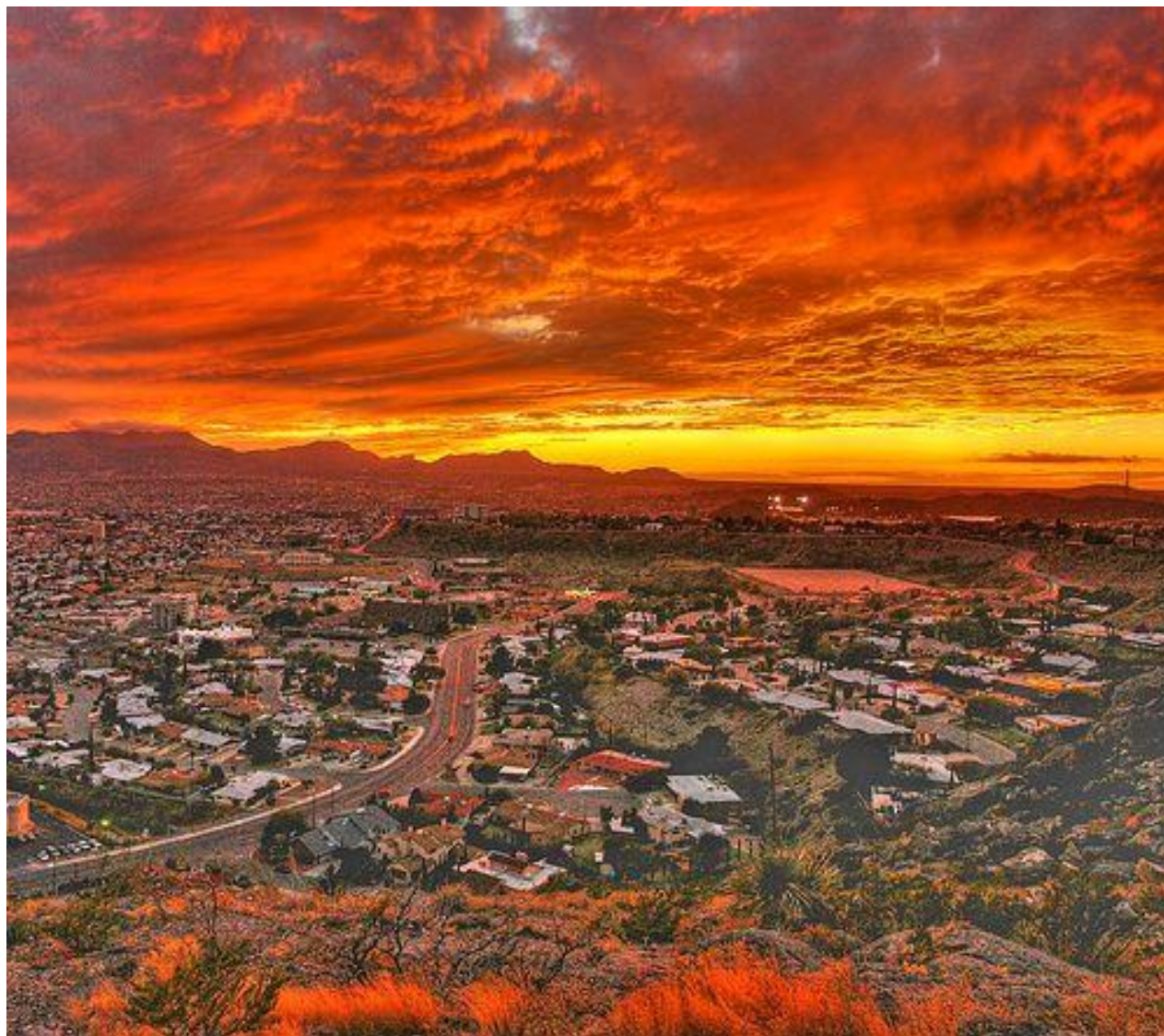
INCENTIVE PROGRAM

DESIGN | DENSITY | DIVERSITY

Selective Design Guidelines (Must comply with no less than 3)

1. **Fenestration:** 50% or more transparent surface on the ground floor
2. **Floor-Area Ratio:** No less than 80%
3. **Sidewalk Activity**
4. **Frontage Build Out:** Greater than or equal to 80% of the total lot width
5. **Architectural Style:** Community Design Manual of Plan El Paso
6. **Building Height:** Equal to at least half the width of the widest abutting street
7. **Storm water Management:** Low Impact, on site
8. **Energy Efficiency:** LEED Certified





TOD POLICY

AMENDMENT

Purpose

1. Adjust two mandatory requirements that have proven impractical for developers to satisfy.
2. Protect older structures along Streetcar Corridor.



T O D P O L I C Y

AMENDMENT

Part 1

Intent

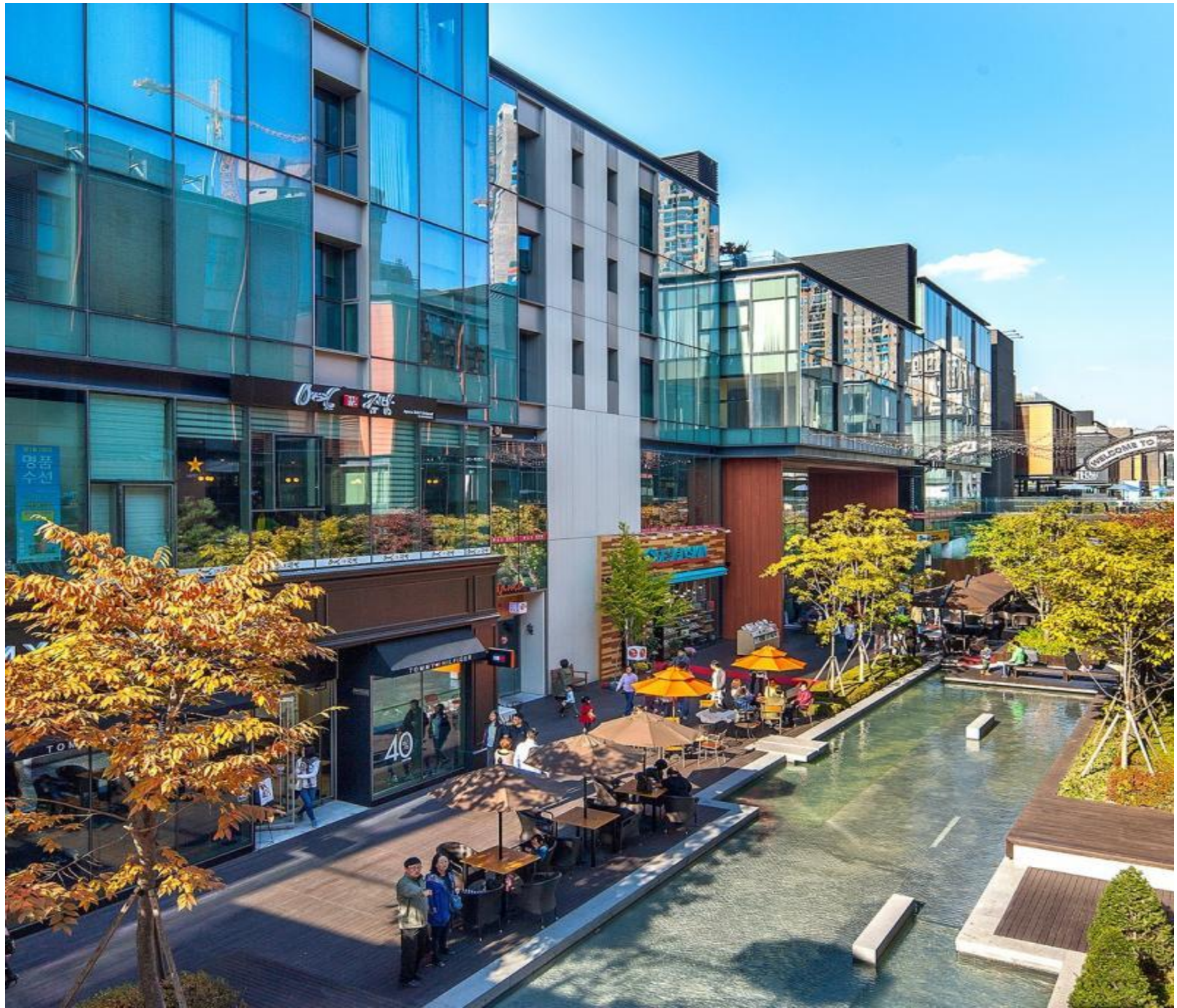
Adjust mandatory requirements have proven impractical for developers to satisfy.

Identified Mandatory Requirements

1. Must be Mixed-Use (to include residential)
2. Maximize the permitted density of the base zoning district

TOD POLICY

MIXED-USE



TOD POLICY

MIXED-USE AMENDMENT

Currently, all developments must be **mixed-use**.

Issue:

- Disallows development diversity
- Rejecting attractive residential developments that would still increase density.

Mixed Use - The combination of multiple functions or uses, including but not limited to residential, office or commercial uses, within the same building, development or project.



TOD POLICY

Mixed-Use : Staff Recommendation

OFFICE + RETAIL

(Residential not Mandatory)

Advantages

- Increase policy flexibility while still achieving increased density
- Live, work, play and shop in one place
- Diversification of uses in mixed-use facilities aids greatly in efficiency.
- Connectivity reduces the need for private vehicles.
- Uses will evolve (e.g. Farmer's Markets, Public Events)
- Increased economic activity



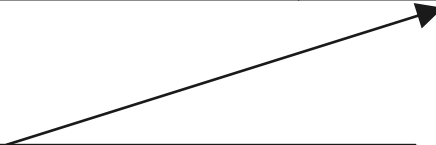
TOD POLICY

PROPOSED TIERS

New Construction and Rehabilitation – Incremental Property Tax
Rebate Table

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
100%				90%			75%			75%			75%	

Residential OR (2) Mixed Uses



Residential AND Additional Use





TOD POLICY
DENSITY

TOD POLICY DENSITY AMENDMENT

Currently, all developments must maximize the permitted density of the base zoning district.

Issue:

- Sets extremely high bar (*potentially unattainable*)
- Disallows housing diversity
- Potentially forces developer to generate unfeasible product

Note: Best practices recommend 15-20 units per acre for initial desired density.

[Source: http://www.newurbanism.org/density.html](http://www.newurbanism.org/density.html)

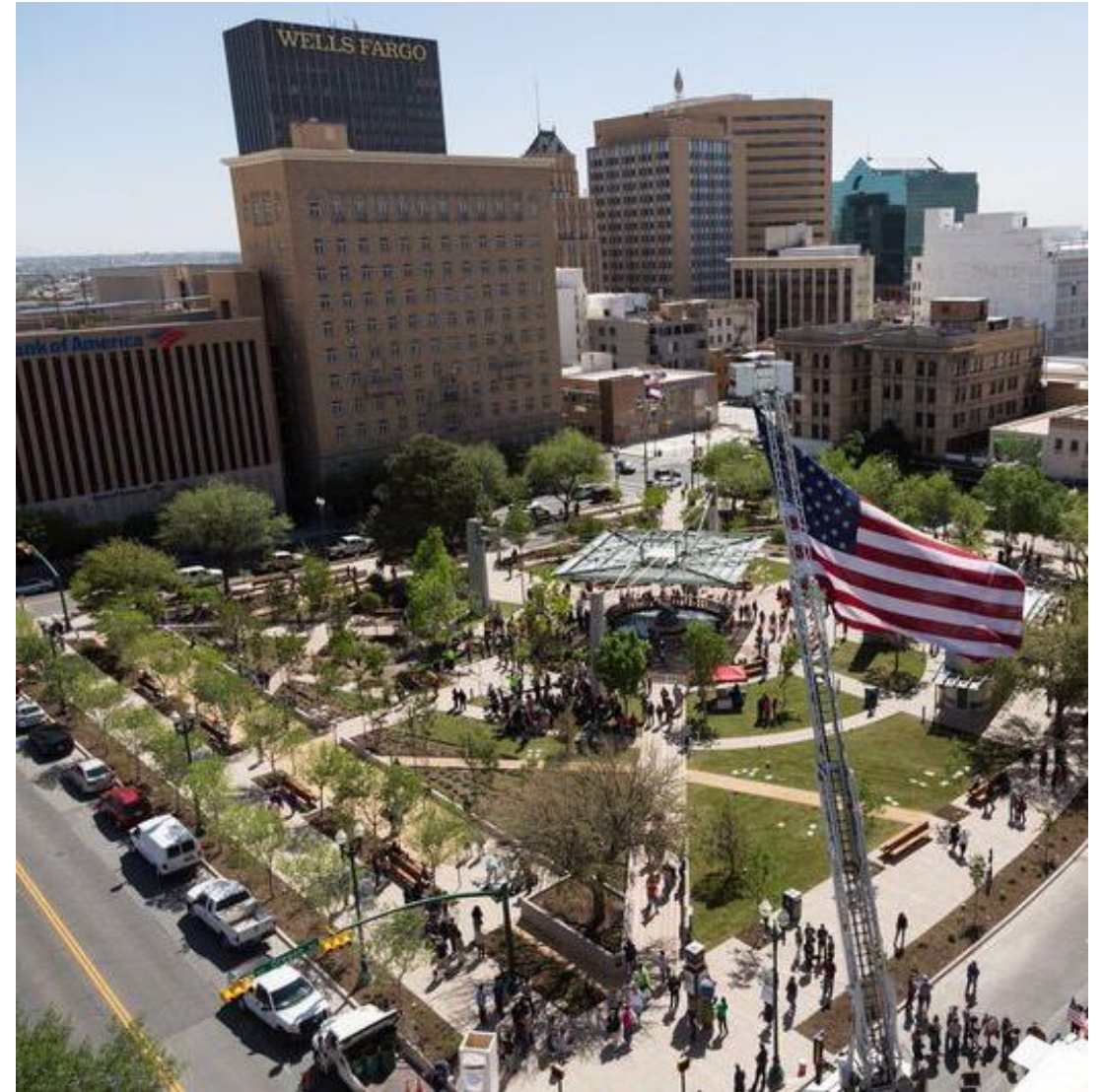


TOD POLICY

Density : Staff Recommendation

- If mixed-use, adjust to require a minimum of **20** units per acre.
- If residential only, require a minimum of **20** units per acre and a minimum of **5** units per development.

*Note: EP Municipal Code defines "Apartment Building" as "a building or part of a building containing **five** or more attached dwelling units." (Section 20.02.074)*





TOD POLICY
AMENDMENT

Part 2

Intent

**To protect older structures along
Streetcar Corridor.**

TOD POLICY

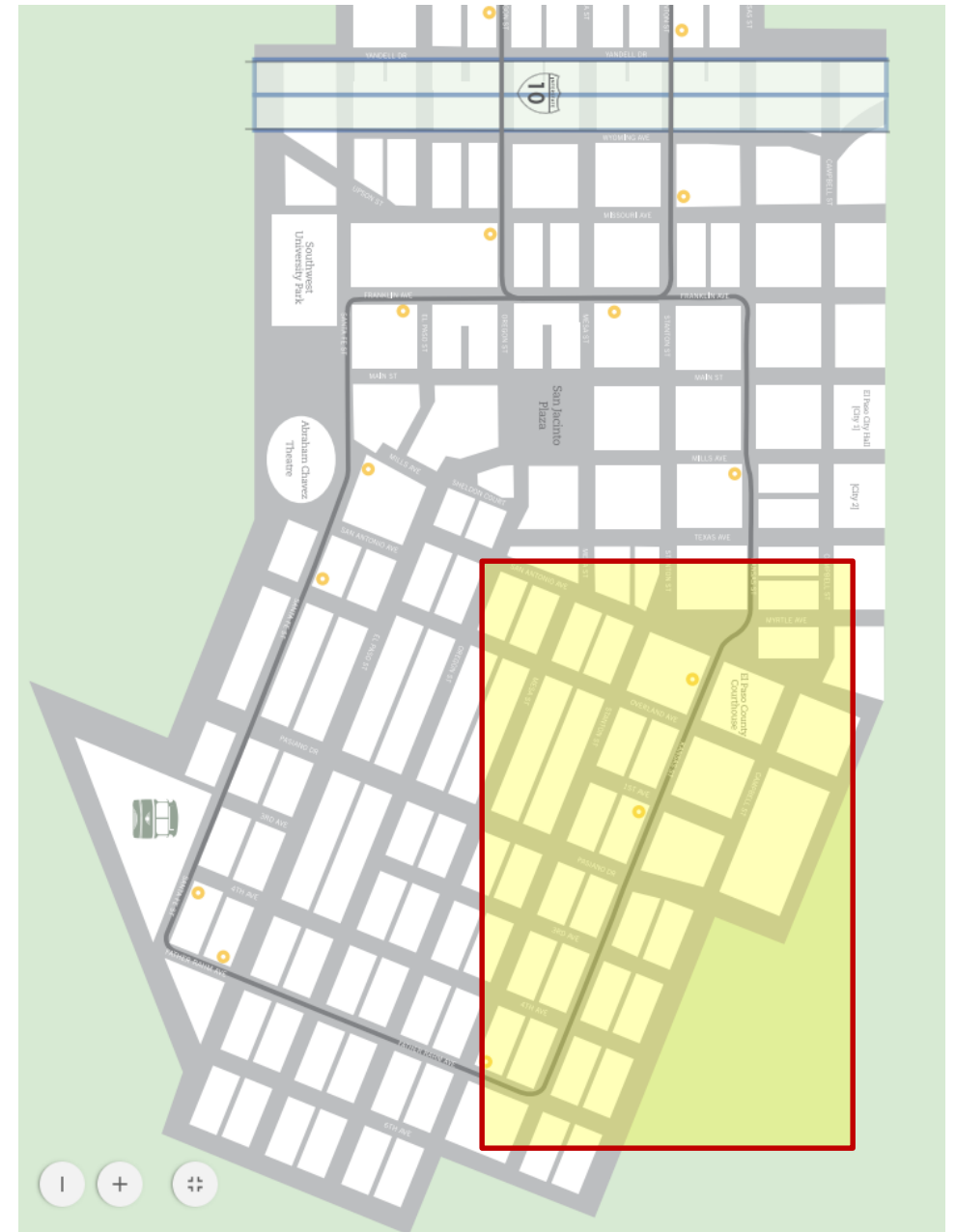
Staff Recommendation City Heritage Section

Purpose & Intent

There is an identified need to preserve older facilities in the Segundo Barrio within the Transit-Oriented Development target area,

Many buildings may not have a formal historical designation but still retain historic/cultural value.

City incentives should not be used to facilitate the demolition of these identified properties.



TOD POLICY

Staff Recommendation City Heritage Section

Selected Area & Property Characteristics

Location of Zone

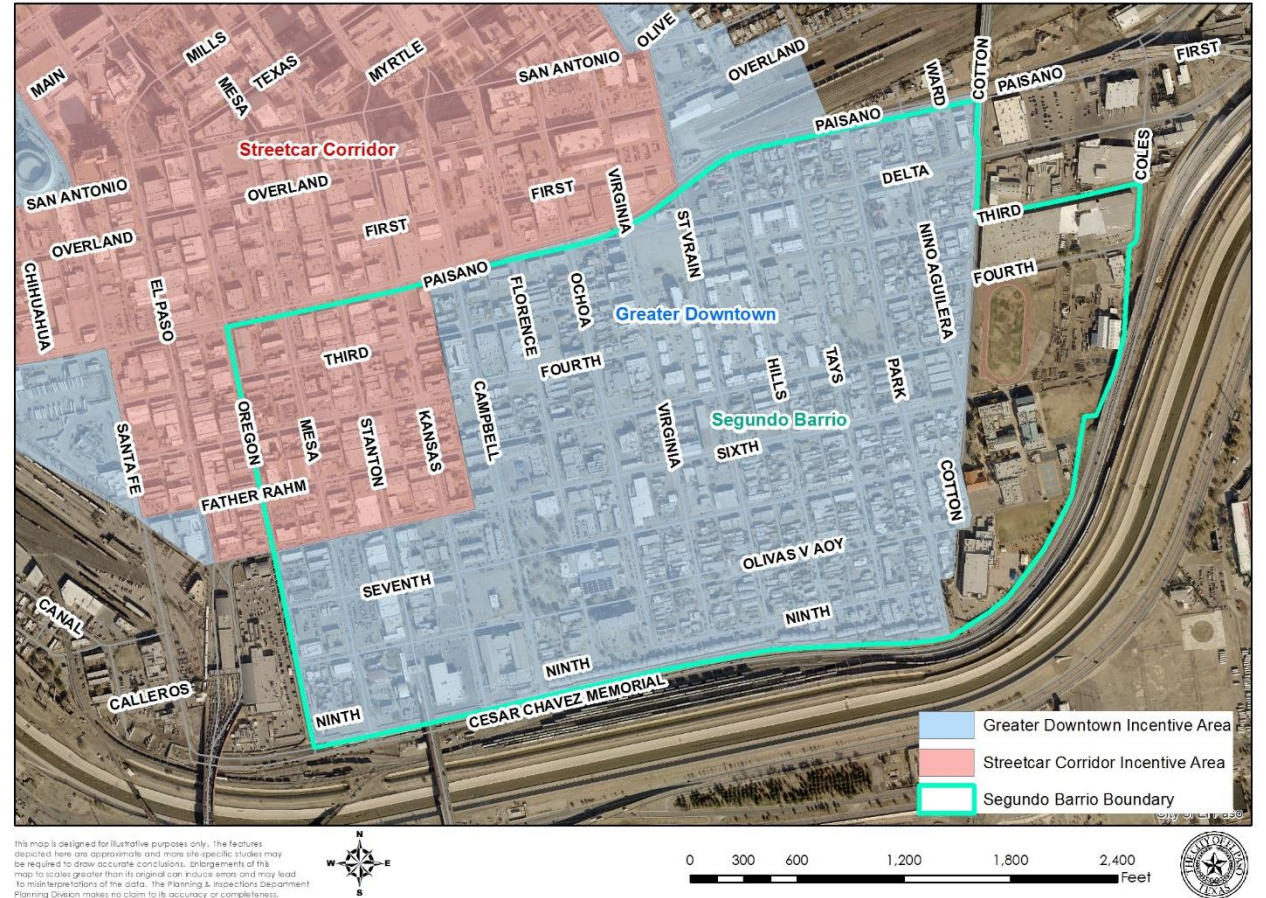
- Area within both the Segundo Barrio and the TOD Greater Downtown target geography. *(Teal Outline)*

Number of Properties

- 448

Building Age

- Built Before 1950

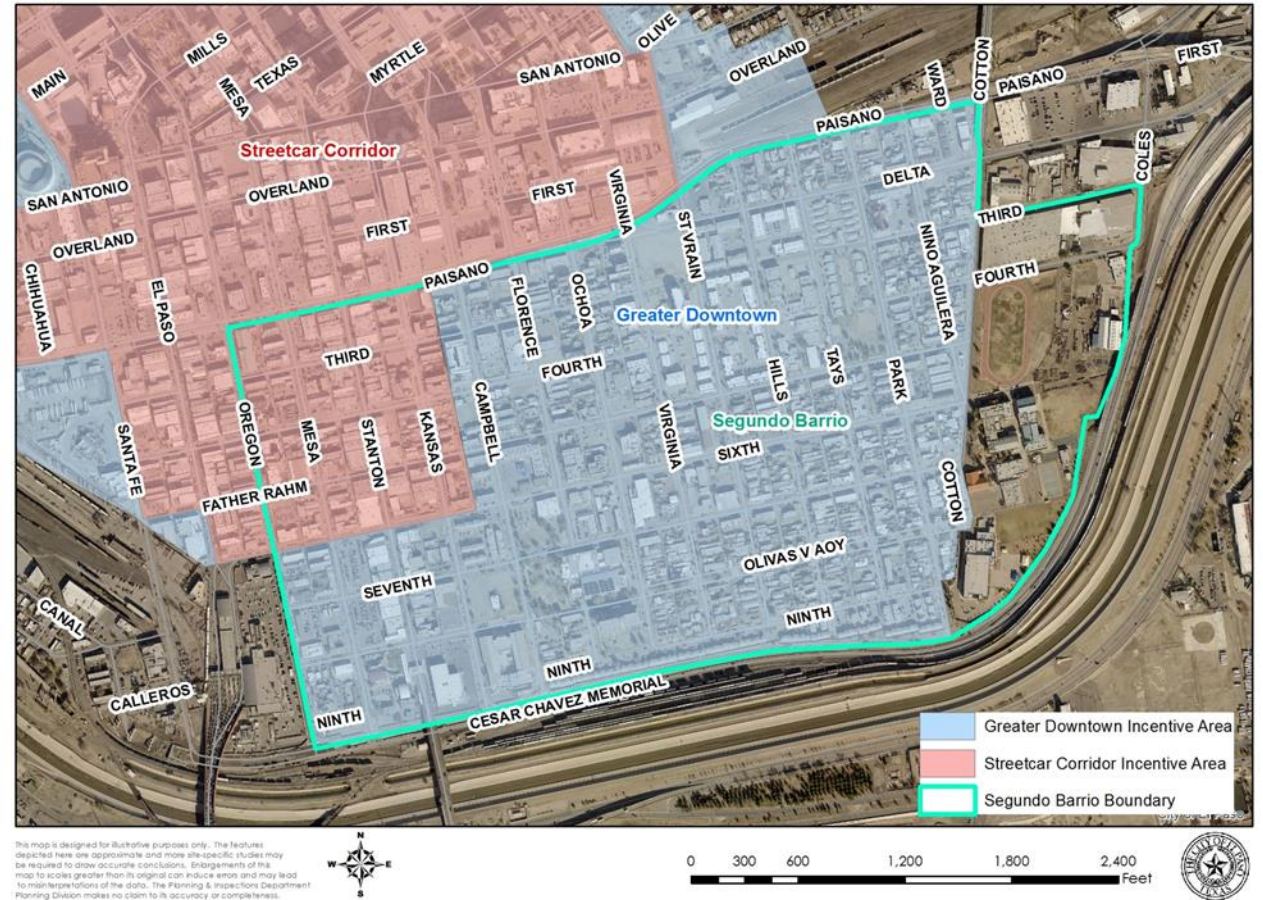
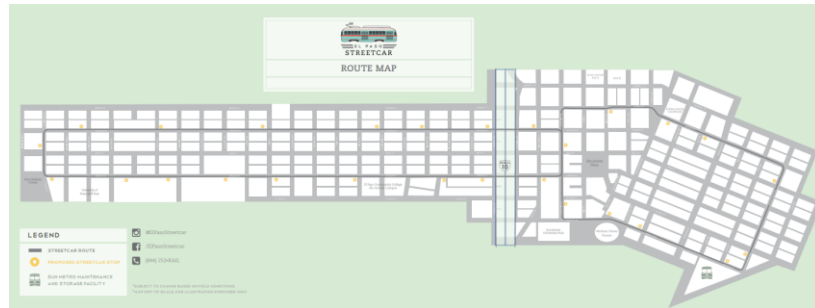


TOD POLICY

Staff Recommendation

City Heritage Section

Include provision stating that applications proposing to demolish existing buildings within Identified “City Heritage Section” will not be eligible to receive TOD incentives.



STAFF RECOMMENDATIONS



Update mixed-use definition with adjusted incentive tiers



Adjust density requirements to 20 units/acre



Include provision discouraging demolition of identified Streetcar Corridor City Heritage properties

THANK YOU

Jessica Herrera

Director, Economic and International Development

City 3 – 801 Texas 2nd floor



HERRERAJL@
ELPASOTEXAS.GOV



915-212-1624



ELPASOTEXAS.GOV/
ECONOMIC-DEVELOPMENT