

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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November 17, 2023

Adam Atamian, Community Development Director
City of San Clemente
910 Calle Negocio, Suite 100
San Clemente, CA 92672

Dear Adam Atamian:

RE: AB 2097 Transit Distance Criteria – Letter of Technical Assistance

This letter provides technical assistance regarding the application of Assembly Bill (AB) 2097 (Chapter 459, Statutes of 2022). The California Department of Housing and Community Development (HCD) received a technical assistance request from Kristine Michaels (Applicant), seeking clarification on how to measure the one-half mile distance to a major transit stop required under AB 2097. The letter is provided for the benefit of both the City of San Clemente (City) and the Applicant.

Summary of Request

HCD understands the Applicant submitted an application to the City for an accessory dwelling unit (ADU) conversion project at 240 W. Mariposa Avenue. The project proposes to convert an existing carport into an approximately 668.5 square-foot ADU. The City has approved a conceptual plan verifying that the project meets local zoning regulations and does not require additional off-street parking to be provided to serve the ADU. However, because the project is located in the Coastal Zone and the City does not have a fully certified Local Coastal Program (LCP) at this time, the project also requires a Coastal Development Permit (CDP) from the California Coastal Commission (Coastal Commission). HCD understands that the Applicant has submitted its CDP application, including the approved conceptual plan from the City, to the Coastal Commission for review. It appears that the Coastal Commission is exploring potential parking mitigation measures for the project including the removal of red curbed areas to create more on-street parking and/or an annual in lieu parking mitigation fee. However, the applicant desires to utilize the reduced minimum parking requirements under AB 2097 for residential development within one-half mile of a major transit stop.

AB 2097 is codified at Government Code Title 7, Division 1, Chapter 4, Article 2, Section 65863.2 and became effective January 1, 2023. This law limits the ability of a public agency to impose minimum automobile parking requirements for residential,

commercial, or other qualifying development projects within one-half mile of a major public transit stop. HCD has authority to enforce AB 2097 pursuant to Government Code section 65585, subdivision (j)(12).

The sole question posed by the requestor relates to the method of measurement used to determine whether a project site is located within one-half mile of a major transit stop, thus becoming eligible for the benefits of AB 2097. Specifically, the requester asks whether the one-half mile distance should be measured in a straight line from parcel edge to the transit stop or based on the walking distance from parcel edge to the transit stop. This letter provides technical assistance clarifying how to measure the one-half mile distance to a major transit stop for the purposes of AB 2097.

AB 2097 Transit Distance Criteria

Under AB 2097, “A public agency shall not impose or enforce any minimum automobile parking requirement on a residential, commercial, or other development project if the project is located within one-half mile of public transit.” (Gov. Code, § 65863.2, subd. (a).) Additionally, Government Code section 65863.2, subdivision (e)(5), defines “public transit” to mean a major transit stop as defined in Section 21155 of the Public Resources Code.

Major Transit Stop Definition in the Public Resources Code

Section 21155, subdivision (b), of the Public Resources Code states, “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.” Section 21064.3 defines a major transit stop as a site containing any of the following:

- (a) An existing rail or bus rapid transit station.
- (b) A ferry terminal served by either a bus or rail transit service.
- (c) The intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

Based on the above, the San Clemente Pier Station Train Stop would qualify as a major transit stop under Public Resources Code, Section 21064.3, subdivision (a), because it is an existing rail transit station served by the Metrolink rail system.

AB 2097 Path of Measurement

For the purposes of AB 2097, the one-half mile distance to a major transit stop should be measured in a straight, direct line from the nearest edge of the parcel containing the project site to any point on the parcel(s) that make up the property upon which a major

transit stop is located. Generally, measurements are to be taken in a straight, direct line from parcel edge to parcel edge unless otherwise specified in statute. This is in keeping with the “ordinary meaning” of how required distances are typically measured in state housing laws absent specific statutory instructions to the contrary. AB 2097 does not contain any language that indicates that the one-half mile distance should be measured based on walking distance. Additionally, the definitions of a major stop in Section 21155 and Section 21064.3 of the Public Resources Code do not reference walking distance. Had the Legislature intended for the one-half mile distance in AB 2097 to be based on walking distance, it could have included language to that effect as seen in other state housing laws such as ADU Law (Gov. Code, § 65852.2, subds. (c) and (d)) and Senate Bill 9 (Gov. Code, § 65852.21, subd. (c)(1)(A)¹).

This determination is consistent with other one-half mile distances to public transit employed elsewhere in state statutes that do not specify walking distance, such as AB 2162 (Gov. Code, § 65654²) and SB 35 (Gov. Code, § 65913.4, subd. (e)(1)(A)³). This determination also most closely aligns with AB 2097’s intent as outlined in Government Code section, 65863.2, subdivision (i), which states that “the imposition of mandatory parking minimums can increase the cost of housing, limit the number of available units, lead to an oversupply of parking spaces, and increased greenhouse gas emissions. Therefore, this section shall be interpreted in favor of the prohibition of the imposition of mandatory parking minimums as outlined in this section.”

¹ “A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code.” (Gov. Code, § 65852.2, subd. (c)(2)(D)(ii).)

“Where the accessory dwelling unit is located within one-half mile walking distance of public transit.” (Gov. Code, § 65852.2, subd. (d)(1)(A).)

“The parcel is located within one-half mile walking distance of either a high-quality transit corridor, as defined in subdivision (b) of Section 21155 of the Public Resources Code, or a major transit stop, as defined in Section 21064.3 of the Public Resources Code.” (Gov. Code, § 65852.21, subd. (c)(1)(A).)

² “If the supportive housing development is located within one-half mile of a public transit stop, the local government shall not impose any minimum parking requirements for the units occupied by supportive housing residents.” (Gov. Code § 65654.)

³ “The development is located within one-half mile of public transit.” (Gov. Code § 65913.4, subd. (e)(1)(A).)

Conclusion

For the purposes of AB 2097, the one-half mile distance to a major transit stop should be measured in a straight line from the nearest edge of the parcel containing the proposed project to any point on the parcel(s) that make up the property upon which a major transit stop is located. Using this method of measurement, the ADU conversion project proposed at 240 W. Mariposa Avenue is less than one-half mile from the San Clemente Pier Train Station and therefore meets this criterion under AB 2097. This technical assistance provides a consistent methodology for measuring distance and is more inclusive than other alternatives, thereby maximizing the housing production potential of AB 2097.

If you have questions or need additional information, please contact Deepeeka Dhaliwal, of our staff, at Deepeeka.Dhaliwal@hcd.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Housing Accountability Unit Chief