L.A.'s Transit Oriented Communities Program Likely to Benefit from AB 1401

By Mott Smith, Michael Manville, and Anthony Dedousis

SUMMARY

1. **We explored whether eliminating parking requirements near transit, as proposed in AB 1401, would enhance or inhibit production of affordable units in mixed-income projects approved under the City of Los Angeles' Transit Oriented Communities (TOC) program.** We completed a comprehensive case-level analysis of nearly all of the 352 TOC projects approved and/or permitted from the program's inception in September, 2017 through the end of 2020.

2. **A first finding: TOC is an important program, but Mixed-income TOC projects could be producing more. They are responsible for just a small portion of the affordable housing produced in Los Angeles—only 12% in 2020.** All-affordable TOC projects accounted for about 43% of all affordable units approved in 2020.

3. **A key takeaway: TOC works because it offers *more density*, not less parking.** Extra density (meaning, how many additional units per acre are allowed under TOC versus the underlying zoning code) is the central value of TOC. The 254 discretionary mixed-use TOC projects surveyed in aggregate used 94% of the potential bonus density (i.e., permission to build more units than baseline zoning would allow) available under TOC. Developers left little density on the table.

4. **By contrast, the value of parking reductions to participation in TOC is questionable. Mixed-income TOC projects *regularly* left parking reductions on the table—these projects provided an average of 180% of the minimum parking TOC required.** This might seem surprising, but parking is an amenity that increases rents and adds value to buildings, and buildings where market rate units subsidize affordable units need to have market-rate units with high rents. Saying that parking relief is not an incentive to participate in TOC, however, is not the same as saying that parking relief is not *generally valuable*. TOC projects right now are big and expensive, so they provide some parking. Removing parking requirements entirely, as AB 1401 proposes, would help make many smaller and mixed use projects feasible, either within or outside the TOC program.

5. **Without relief from parking requirements, height limits, floor area ratio caps and minimum yard requirements, many projects could not use the bonus density offered under TOC**. As a result, the more flexibility developers have in parking, height, floor area and yard requirements the more likely it is they will be able to make full use of TOC's density incentive. We thus expect that eliminating transit-area parking requirements under AB 1401 is likely to have the same effect in Los Angeles that similar reforms appear to have had in San Diego—*i.e.*, increasing production of affordable, density bonus and market-rate units broadly.

6. **Our conclusion: we see no evidence that AB 1401 would undermine TOC. And we see some reason to believe it could provide TOC with a substantial boost, particularly among smaller (<=30 units) projects. AB 1401 would also enable much more missing middle development outside of the TOC program.** We reiterate the point we made in bullet 4, above: parking relief plays a particular role in the TOC program as it is currently constituted, and removing parking requirements would help and not hurt that role. Parking relief would also, *outside* TOC, deliver many well-documented benefits in both transportation and land use outcomes.

L.A.'s Transit Oriented Communities Program Likely to Benefit from AB 1401

By Mott Smith, Michael Manville, and Anthony Dedousis

AB 1401, the bill to end the outdated practice of off-street parking requirements near transit, has passed the Assembly by a wide margin. Now it heads to the Senate. A statewide coalition of housing advocates, chambers of commerce, environmentalists, transit supporters, urban policy experts, and the Los Angeles Times editorial board, among others, have cheered the bill as a crucial step in fighting global warming, increasing housing affordability and making neighborhoods more walkable and people-centered.

Still, some housing activists, primarily concerned about Los Angeles, worry the bill might weaken incentives to develop mixed-income housing—both under the State density bonus law and Los Angeles' Transit Oriented Communities (TOC) program. The State Density Bonus law and TOC are both well-regarded programs designed to incentivize and facilitate affordable housing development. Both allow developers who include a percentage of dedicated affordable units in their projects to build more total units than would otherwise be permitted. They also relax other zoning restrictions – height limits, floor area ratios, yard requirements and parking minimums – to make projects more feasible. The concern about AB 1401 is that if parking minimums are abolished near transit, an important carrot for developers might disappear. In other words, they fear that correcting the historical error of imposing parking minimums on all new housing might somehow perversely harm affordable housing incentives.

How realistic is this concern? No one disagrees that the State needs more housing and major parking reform, especially in its transit areas. But the state also needs subsidized units, so concerns about the parking reform's potential impact on TOC and other density bonus programs deserve investigation. To that end, we completed a comprehensive review of nearly all of the 352 approved and/or permitted TOC cases from the program's inception in September, 2017 through the end of 2020.[1]

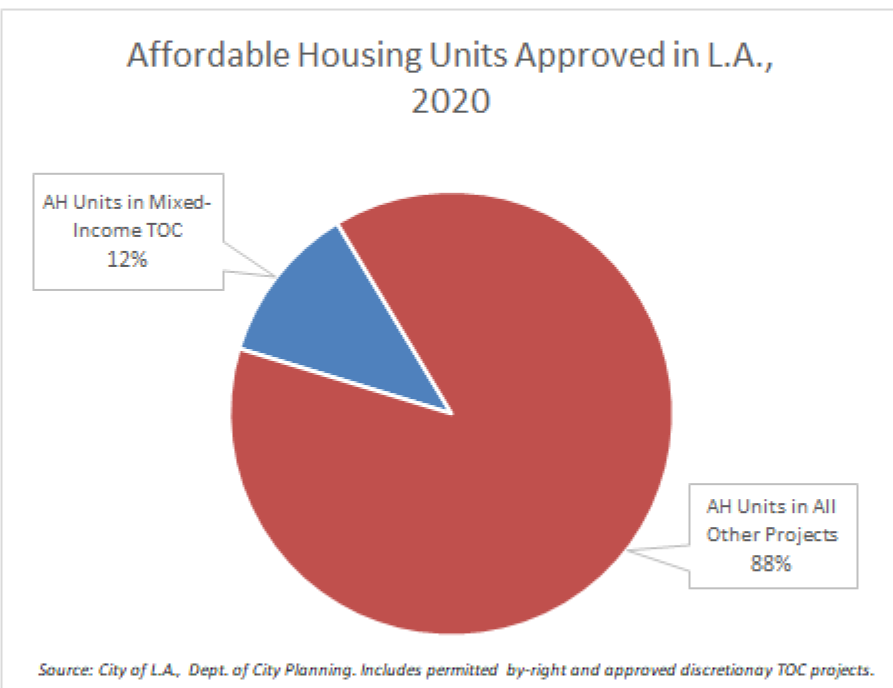
One broad point to keep in mind, for context: the density bonus law is longstanding, but market-rate developers haven't used it very much—although recent changes to the law may increase its productivity.

The fact that the law isn't heavily used, of course, doesn't mean parking reform can't affect it. In a previous post we described what happened after 2019, when San Diego implemented parking reform very similar to AB 1401. In short: San Diego abolished parking minimums for all housing projects near transit (de-linking parking from density bonus), and production of housing units skyrocketed across the board—affordable, mixed-income and market-rate housing, alike. Total housing production rose by about 24 percent citywide, in a year when housing production fell throughout the state. Density bonus production climbed by a factor of five. And **affordable production in density bonus projects rose by a**

[1] City of L.A. identified 352 TOC discretionary and by-right TOC projects from this time period. (The data we reviewed actually identified 354 cases, but two were duplicates of others.) Of these, nearly all had relatively complete case files the City's online Case Summary & Document system. Four had no documentation available online as at the time of this writing. In the end, our review included 291 discretionary TOC cases that have received final determinations (i.e., approval) from the City of Los Angeles, Department of City Planning as well as 56 by-right TOC cases for which building permits have been issued.

factor of six. Any concerns that comprehensive parking reform might have harmed density bonus could be put to bed.

Nevertheless, one could worry that San Diego is somehow unique. In this study, we take our analysis to Los Angeles, specifically its TOC program, which offers participating projects up to 80% bonus density (*i.e.,* additional units per acre) in its highest-tier areas and substantially reduces parking minimums and other zoning constraints versus the underlying standards. Some advocates have come out against AB 1401—not because they oppose parking reform, which they agree needs to happen—but because they worry that we need punishingly high parking minimums in our baseline zoning code in order to coax market-rate developers to participate in the TOC program. TOC, compared to State density bonus law, offers more generous density benefits and is being used by a growing number of developers. As is the case with density bonus, however, much more affordable housing could be coming from mixed-income projects than current incentives produce. Indeed, in L.A., as in California overall, most affordable units do not come from mixed-income developments. In 2020, **mixed-income TOC projects accounted for just 12% of the deed-restricted affordable housing units approved in the city**.[2] At the same time, TOC *is* an important source of affordable housing; it just doesn't come primarily from mixed-income projects. Units in 100 percent affordable TOC buildings were 43% of LA's affordable units approved in 2020. (The city's remaining affordable units came primarily from 100% affordable projects that didn't use TOC. A small share came from mixed-income density bonus projects).



[2] Total number of deed-restricted affordable units approved was 4,862. This number includes discretionary TOC projects approved, by-right TOC projects permitted and affordable units in projects entitled through other pathways. Data provided by City of Los Angeles, Department of City Planning

That figure comes from only one year of data. So in this paper, we set out to evaluate the concern by analyzing over three years of detailed data from L.A.'s TOC program. In the end, **we found no evidence that parking reform would hurt TOC participation**. Our key findings:

1. **The key incentive value of TOC is permission to build extra units[3], not reduced parking requirements**.

2. **Parking is an amenity that drives higher rents. Thus there isn't "value" to capture from allowing less of it.** (A more sensible policy would be to capture value from higher-rent projects that provide excess parking spaces.)

3. **Still, TOC developers needed zoning *flexibility*, including reductions in parking requirements, to get value from the density made available under TOC**. Again, it is *additional units* that drive value under TOC, and rigid zoning constraints make it less likely developers can optimize that value.

4. **AB 1401 would also make it feasible to develop smaller "missing middle" projects that currently don't pencil under TOC.**

The key value of TOC is the bonus density – not the reduced parking.

Developers value the ability to build extra units more than the option to build less parking. We can see this in two data points: how much of the potential TOC density developers actually used, and how much more parking they provided than TOC required. The results are striking.

Market-rate developers effectively maximized their unit counts in TOC, entitling projects that in aggregate used **93.6% of the maximum number of units the program would allow**.[4] By contrast, developers of all-affordable projects, who are constrained by limited subsidy dollars, only used 67.2% of available density.

At the same time, market-rate developers did not pursue the maximum parking concessions available. Quite to the contrary, approved mixed-income TOC projects provided **significantly *more* parking than required—nearly 180%** of the minimum required under the program.[5]

The fact that market-rate developers maximized density is not hard to believe. Additional apartments and condos mean higher revenues. In mixed-income projects where demand and market rents are high enough, those incremental revenues help subsidize the low-income rents in the buildings and increase project profits. Of course, mixed-income projects don't always "pencil" (meaning, it's not always

---

[3] *I.e.,* permission to build extra market-rate units and collect more rents.
[4] 2017-2020 discretionary TOC projects
[5] Importantly, however, developers did build less parking than would have been required without TOC. The typical developer built less than the local parking minimum, but more than the TOC minimum.

profitable to build extra units, some of which must be income-restricted). But where they do pencil (with parking), it's often the case that bigger is better.

Parking is an amenity that drives higher rents. Less parking means less value.

The fact that developers didn't maximize parking reductions might come as a surprise to some. Parking is notoriously expensive[6], so it's easy to assume that the less parking you build, the higher your profits will be. But that turns out not to be true, generally speaking. **Parking is an amenity that drives higher rents**—just like larger kitchens, extra bedrooms or balconies.[7]

So less parking means lower rents and less valuable buildings. That is why, even in cities that have eliminated residential parking requirements in broad areas—Minneapolis, Portland, Seattle, and San Diego, to name a few–high-rent buildings still offer abundant parking.

L.A.'s mixed-income TOC projects are no different. Most need the market-topping rents from higher-income tenants to cover the costs of their affordable housing obligations. To attract these higher-income tenants, TOC projects[8] have offered plenty of parking–almost 180% of the minimum required under the program.

Taken together, these findings confirm that **TOC's primary value to market-rate developers comes from bonus units.** And while flexibility in parking certainly plays a role (because it allows developers to right-size their garages and minimizes the risk that late-stage "plan check corrections"[9] will hurt project economics) most TOC developers treated parking as a valuable amenity, not something they can eliminate without paying a price—and again, high market-rate rents are important when the development needs to carry below-market-rate units for 55 years.

TOC developers need flexibility in zoning standards, including parking requirements, to make use of the available density.

---

[6] Over $24,000 a space for structured parking in Los Angeles.

[7] A 2017 nationwide study found apartments with parking included rent for about $1,700 per year more than apartments without parking. If we assume that, nationwide, the average cost of a structured parking space is $21,500, then the net capitalized value (after considering costs) of each parking space in a project is about $6,000. This means that, in round numbers, each parking space adds about $6,000 net value to the average apartment in the U.S. (assuming $1,700 incremental rent per year at a 4.5% discount rate for 30 years). Obviously some spaces will cost more than others, but the takeaway here is that when developers build apartments with parking they also charge more for those units. See also this post on the subject.

[8] Parking data were available for discretionary TOC projects only.

[9] A plan check correction is a later-stage alteration to a development proposal. Usually these changes are small, but small is relative: on a small parcel, even a little change can be consequential. Suppose planners or engineers tell a developer operating under a two spaces per unit parking requirement that the current proposal for a parking deck won't work: the proposal says the deck can hold 20 spaces, but the city's plan checkers think it can only hold 16. That small change can mean the building is allowed two fewer units, per standard zoning provisions. In a ten unit building, that's 20 percent of the revenue. When a change like that happens after land has been purchased and financing put in place, it can cause outsized economic challenges, and even jeopardize a project. Removing parking requirements eliminates the risk small changes to parking design could result in fewer units.

At this point, it may be helpful to explore why, if onsite parking drives higher rents, eliminating parking requirements is helpful, even for TOC projects? Answering this question doesn't just resolve that puzzle, but also helps us understand how density bonus laws actually work.

To start: L.A.'s TOC imposes different parking requirements on projects based on (a) whether they are 100% affordable versus mixed-income and (b) which geographic "tier" they fall into, as determined by their distance from a qualified transit stop. For 100% affordable projects, TOC requires zero parking spaces per unit. For mixed-income projects, requirements range from 0.5 spaces per *bedroom* (Tier 1) to zero spaces per unit (Tier 4). That said, the typical TOC project falls into "Tier 3," which requires 0.5 spaces per *unit*. Importantly, mixed-use projects in TOC still must provide the same number of commercial parking spaces as required in the underlying zone—if a building has ground floor retail, for example, even in TOC it must still provide full parking for that retail.

So TOC does require, in many cases, substantially less parking than L.A.'s baseline zoning. But even these lower parking minimums—like restrictions on height, FAR and yards–can still prevent developers from building-out a site to its designated density. As such, it's not unusual for a site to be eligible for a certain density (*i.e.*, a certain number of units per acre) that can't be feasibly achieved without increasing the allowable height, reducing mandatory yards or waiving some required parking. In these instances, even though there is a formal density restriction in place, we say that the parking (or the yard requirement) has become the true, or "binding" constraint on how much gets built. [10]

A development regime where the allowable density can't actually be turned into built density is a regime that will undermine efforts to trade density for affordable housing. Why would a developer agree to extra units that a parking requirement will prevent them from building? The original density bonus law, passed in 1979, recognized this problem, by allowing developers not just to claim extra density in return for building subsidized units, but also to selectively claim relief from regulations on height, FAR, yards and parking requirements.

[10] These constraints needn't be intentional or malicious. Sometimes they arise simply because zoning codes try to accomplish so many different goals. Here's an example : A city has a goal of "increasing housing supply," so it zones a series of infill sites for multifamily housing. One typical site is 7,500 SF infill site (50 feet wide by 150 feet deep) and is zoned for 18 apartment units. But the city also wants to "minimize shadows", and does so by limiting building heights everywhere to two stories. In addition, it wants to "enhance walkability" and thus requires buildings to provide at least 40 foot stretches of ground-floor retail. It wants to "minimize parking spillover impacts" and requires every project to provide two onsite spaces per unit. These are all standard city planning objectives, and typical approaches. And separately, they all sound fine. But together, they add up to a big impediment to the overarching goal of getting more housing. How could a single project maximize its contribution to housing supply, build all the required parking, (and never mind the ground floor retail) and stay within a two-story height limit? It can't.

If the average unit (and associated common area like hallways) is about 1,000 SF, then 18 units need at least 18,000 SF of building area. On a 7,500 SF lot with no yards or parking, you'd need at least a partial third story just to fit that. If you have to build two parking spaces per unit, at 400 SF per space (including drive aisles, etc.), those 18 units will require 7,200 SF of parking – one full level of garage. Stacking our housing above that parking, we're now at four stories—double the height limit. If we also have to comply with the ground-floor retail requirement, we'll have to build even more parking (since most zoning codes require at least two spaces per thousand square feet of commercial), and to avoid an even taller building we'll have to move most of the parking underground, likely more than doubling our costs.

Today it isn't uncommon to look at this law and assume that all the incentives (parking, height, density) are equally valuable to developers, and that cities regularly trade all of them for affordable housing. But the evidence suggests something different: that the parking reductions (and other non-density provisions) are *not* objects of trade in their own right, but provisions ensuring that developers, when they trade for extra density, will not be deprived of that density through backdoor limits. The parking reduction, in other words, is not an *additional* trade, but a supplementary transaction that *ensures* the main trade—ensures that the extra units the developer bargained for can actually be built.

This idea—that the non-density components in development incentive programs are there primarily to make sure the bargained-for density actually gets used—is more explicitly evident in the state's Housing Accountability Act (HAA), which came just three years after California's density bonus law. The HAA tried to limit local governments' ability to use zoning regulations to render market-rate or affordable housing projects infeasible—typically by imposing unrealistic zoning standards. An amendment to the HAA in 2017 made clear that this was the program's original goal, and further suggested that the goal remained elusive:

> *The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.*

If what we are saying is correct, then parking requirements erode, and do not strengthen, the value of density bonus programs, including TOC. When housing demand is high, developers want more density, and that's what they trade for. But those trades are worth less when other regulations—like parking requirements—prevent them from being fully realized.

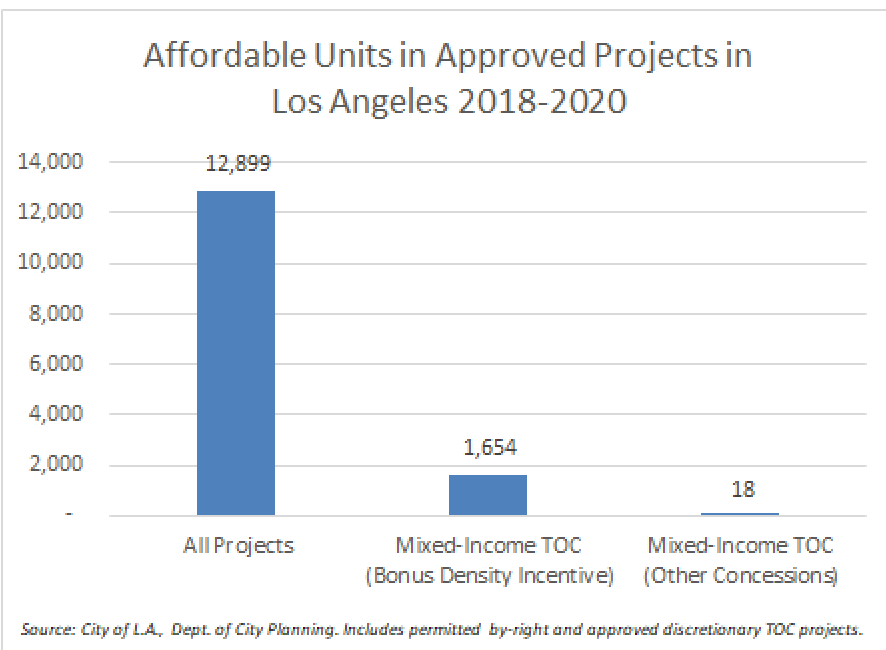
Parking reductions, along with relaxed height, yard and floor-area restrictions, help these density incentives work by giving developers a larger "zoning envelope" to make room for that density in their projects. By way of analogy, you might think of bonus units as fresh fruit for sale at a farmer's market and the zoning envelope as a shopping bag. There's little point in buying fruit you can't carry, even if you value it. A bigger bag is valuable, but not because you like bags. It's valuable because it lets you get more of what you want.

Here's what all this reasoning builds to: If *reducing* parking requirements increases the zoning envelope and strengthens density bonus programs, then *eliminating* parking requirements—as AB 1401 would—should strengthen those programs even more. This is essentially what happened in San Diego in 2019: completely removing parking requirements jumpstarted affordable development. The concern that removing parking requirements would "give away" units to developers is understandable but misguided—deregulating parking doesn't change the underlying density limits, or the bonus calculations under density bonus law or TOC. It just lets developers use the density they have. It's not a bigger fruit allowance, but a bigger shopping bag. With that bigger bag, we should expect developers in Los Angeles to increase their participation in TOC.

Some may argue, of course, that parking reductions are important in their own right, rather than as a "shopping bag" that lets them carry the density they value. Recall that existing state law, however—in the form of the HAA—suggests otherwise. Further, we showed above that market-rate TOC developers effectively maxed out density but rarely maxed out reductions in parking, which is also consistent with parking reductions primarily existing to support boosts in density.

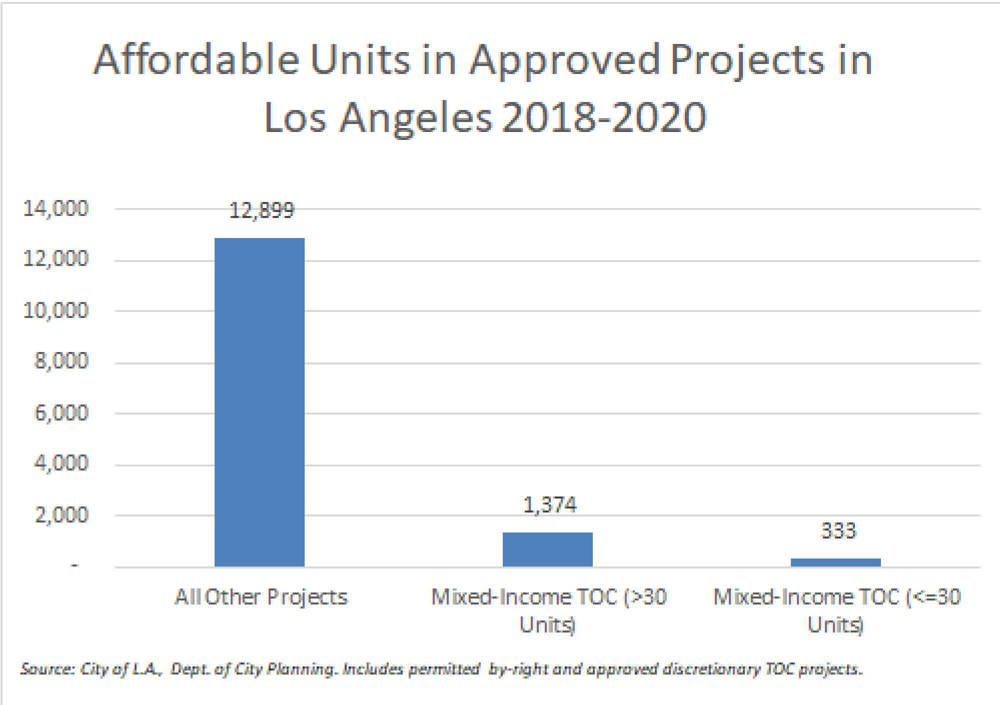
But here is a final test: If our explanation for this phenomenon is correct, we should also see, in reviewing the TOC, that few developers did the opposite: ask for a parking reduction but *not* a density boost. Our comprehensive review of TOC case documents shows that is in fact the case. The prospect of relaxed zoning standards, without additional density, didn't incentivize significant numbers of affordable units in mixed-income projects. Over the more than three years TOC has been in effect, a period during which the City of L.A. approved almost 13,000 deed-restricted affordable units, **we found only 8 mixed-income TOC projects, representing just 18 deed-restricted units, (0.35% of the affordable housing produced during that time) that primarily sought relief from height, FAR and/or parking standards rather than additional density.**

What was going on in these cases? We don't know for sure, but it's likely that the developers didn't need more density than the baseline zoning offered, but *did* need deviations from one or more of the underlying zoning standards to build to that baseline density. The TOC probably offered a better path to solving this problem than more conventional alternatives like variances, conditional use permits or zone change processes. The important point is that these instances are exceedingly rare: TOC developers are motivated primarily by more density.



<u>**Unlocking smaller projects and the "missing middle."**</u>

Another striking finding from our comprehensive review of TOC cases relates to project size: **Projects larger than 30 units produced four times the number of affordable units as smaller projects did.**



This is consistent with our other findings. TOC relaxes but does not eliminate parking requirements for mixed-income projects. And mixed income projects—again—will often need to charge market-topping rents in their market rate units, since those units need to subsidize the affordable housing in the project. Combined, these factors mean that most mixed-income TOC projects still need to build at least one level of garage. That garage is a large fixed cost, especially compared to the cost of smaller projects without parking structures. Larger projects are more capable of absorbing baseline costs; it's easier for a big building to finance and service the payments for a parking deck. As a result, bigger buildings provide the bulk of market-rate and affordable units among mixed-income TOC projects. And since these larger projects tend to provide *much more* parking than even TOC requires, it isn't obvious that AB 1401 would change these projects much at all.

For smaller projects, however, (*i.e.,* those with 30 units and less) it is likely that AB 1401 will make TOC much more attractive, especially for mixed-use projects whose commercial components generally must still provide at least two spaces per 1,000 square feet. It is also likely it will make smaller-scale "missing middle" projects outside of TOC more feasible in areas that don't have market rents high enough to subsidize affordable units even with TOC incentives.

It is not a great leap to conclude that AB 1401 will likely improve production both inside and outside of TOC. AB 1401 will probably not change the big projects that right now do the heavy-lifting in TOC's mixed-income production. But it will allow smaller projects to take full advantage of TOC and get in the mixed-income game. Outside of TOC, it will allow more small and mid-sized projects to pencil, by providing flexibility in the provision of parking.

Will making zoning more functional outside TOC might make the TOC less attractive? San Diego suggests otherwise, and provides evidence that density bonus programs like TOC aren't zero-sum with respect to the broader market. Again, after San Diego eliminated parking requirements for all residential projects in transit areas in 2019, *all* housing production increased, with density bonus production of affordable units, in particular, showing the greatest gains—6X.

Conclusion

AB 1401 would eliminate parking requirements near transit in California, thereby undoing one of the most harmful and longest-running errors in California urban policy.

Some observers have understandably worried that eliminating this error might have the unintended consequence of reducing affordable housing production in L.A.'s Transit Oriented Communities program. We studied that possibility with a comprehensive review of more than three years of case data from L.A.'s TOC program. We found no evidence to suggest this would happen. Specifically, we find little evidence that reduced parking requirements were a significant incentive for developers to participate in TOC. On the contrary, mixed-income TOC projects are providing 180% of the minimum parking required under TOC.

Our main takeaway is that developers participate in the TOC program primarily to access additional density—*i.e.*, permission to build extra market-rate units and collect higher rents than would otherwise be allowed. Parking reductions are valuable because they allow developers to make use of that extra density and reduce plan check risk; but parking reductions are generally not valuable in their own right, because parking is an amenity that drives higher rents. In general, the less density is constrained by standards other than formal unit count limits—*i.e.*, broadly applied height maximums, floor-area ratio caps, and minimum yard and parking requirements—the more valuable density bonus becomes, and the better used it will be. As such our evidence suggests that comprehensive elimination of parking requirements will remove a significant barrier to the full realization of density in the TOC program, which could very well *increase* developer participation and affordable unit production in mixed-income projects.

Eliminating parking requirements in transit areas for non-TOC projects will also increase the feasibility of "missing middle" housing at smaller scales (30 units and below), a key State policy objective under the Housing Accountability Act. Missing middle housing is very different (and much less common) than the sort of project being developed under TOC. TOC projects, by virtue of their parking requirements and their inclusionary requirements, tend to be big and tend to shoot for the top of the apartment market. Eliminating parking requirements will make it easier to develop smaller, cheaper projects as well.

Our findings related to the L.A. TOC program are consistent with our findings regarding San Diego's Transit Priority Area parking standards program. In neither situation do we see developers using parking as a decisive factor in their participation in mixed-income housing incentive programs. We continue to see no evidence that removing parking requirements would undermine affordable production, and some evidence that it would help.

Mott Smith is Chairman of the Council of Infill Builders, Adjunct Professor of Real Estate Development in the USC Price School of Public Policy and CEO/Co-Founder of Amped Kitchens. Michael Manville is Associate Professor of Urban Planning at the UCLA Luskin School of Public Affairs. Anthony Dedousis is Director of Policy and Research at Abundant Housing LA.

Special thanks to Amanda Ryan and Livesey Pack of SPUR and graduate students Sevag Sassounian (Cal Poly Pomona) and Connor Howe (USC) for their tireless research assistance.