

As my Legal Planet colleagues [Meredith Hankins](#) and [Ethan Elkind](#) have written, decreasing VMT by changing the way we think about urban development is a high priority, especially here in California. Amid last year’s slew of housing-related initiatives, Los Angeles took its own stab at a two-birds-one-stone approach to sustainable, affordable residential development, adopting the Transit-Oriented Communities (TOC) Program Guidelines, which went into effect in September 2017. With a year under its belt, how is the Program looking?

For starters, a bit of background on TOC: the TOC Program created new obligations and a new incentives system for residential projects located within a half-mile radius of a major transit stop—a rail station or the intersection of at least two bus routes with frequent service during peak commute times—which also meet certain affordable housing requirements. Developments that seek to take advantage of the TOC Program are required to provide a set percentage of Extremely Low Income (ELI) (defined as households earning 30% of Area Median Income, or AMI), Very Low Income (VLI) (defined as earning 50% AMI), and Lower Income (LI) (defined as earning 80% AMI) units based on their proximity to particular types of transit.

The TOC Guidelines establish four tiers of major transit stops; a project’s specific tier is determined based on the shortest distance between its lot and a qualified transit stop, as well as the type of stop the lot is proximate to. Base incentives—a density bonus, a floor area ratio (FAR) bonus, and relaxed parking requirements—are available by tier to projects that meet the percentage affordable housing requirements (calculated using the project’s base number of units) set by the TOC Guidelines:

Tier	Min. % On-Site Restricted Affordable Units	# of Dwelling Units	FAR	Residential Parking	Non-Residential Parking (for Mixed-Use projects)
1	8% ELI, 11% VLI, or 20% LI	50% unless RD Zone, then 35%	Greater of up to 40% increase or 2.75:1 in commercial zones	No more than 0.5 spaces/bedroom required	Up to 10% reduction in non-residential parking requirement

Tier	Min. % On-Site Restricted Affordable Units	# of Dwelling Units	FAR	Residential Parking	Non-Residential Parking (for Mixed-Use projects)
2	9% ELI, 12% VLI, or 21% LI	60% unless RD Zone, then 35%	Greater of up to 45% increase or 3.25:1 in commercial zones	No more than 0.5 spaces/bedroom or 1 space/residential unit required	Up to 20% reduction in non-residential parking requirement
3	10% ELI, 14% VLI, or 23% LI	70% unless RD Zone, then 40%	Greater of up to 50% increase or 3.75:1 in commercial zones	No more than 0.5 spaces/residential unit required	Up to 30% reduction in non-residential parking requirement
4	11% ELI, 15% VLI, or 25% LI	80% unless RD Zone, then 45%	Greater of up to 55% increase or 4.25:1 in commercial zones	No required parking for residential units	Up to 40% reduction in non-residential parking requirement

In addition to base incentives, at the discretion of the Planning Director, projects may be granted up to three additional incentives in return for meeting enhanced affordability requirements. But the base incentives alone are pretty significant. Consider two scenarios, each assuming one unit is permitted per every 400 square feet of lot space (per the Los Angeles Municipal Code), for projects located closest to transit, in Tier 4:

	Original Project	Using TOC Program Incentives
Residential Only	75 base units 3:1 FAR on a 30,000 sf lot with 25,000 sf buildable area, translating to 90,000 sf floor area	135 units (80% density bonus) 4.25:1 FAR, translating to 106,250 sf floor area No parking required

Mixed-Use in Commercial Zone	150 base units	270 units (80% density bonus)
	1.5:1 FAR on a 60,000 sf lot, translating to 90,000 sf of floor area	4:25:1 FAR, translating to 255,000 sf of floor area No parking required for residential component; 40% reduction in non-residential parking

As you can see, TOC incentives can mean big increases in density and FAR, especially for mixed-use projects, and are designed to reduce or eliminate what would otherwise be significant parking requirements. The goal, of course, is to incent developers to build more densely along Los Angeles' transit corridors, leading to a long-term reduction in VMT while providing at least some affordable housing in an attempt to offset displacement and alleviate the city's housing crisis. But over a year later, is TOC working?

Last month, Los Angeles' Planning Department released a [Housing Progress Report](#), tracking, among other things, the outcomes of the TOC Program. The City reports that nearly 250 projects have requested TOC incentives, which, if approved, would bring nearly 10,000 new housing units online, 2,000 of which would be affordable units. Of those 2,000 affordable units, 38% would be reserved for ELI households. According to the City's data, many of these projects are located in Central and West Los Angeles. Based on these numbers, TOC is certainly leading to the production of more transit-oriented development and affordable housing units; [Los Angeles Planning Director Vince Bertoni](#) has called the Program "very successful" and notes that TOC is the City's "highest generator of affordable housing"—even more so than California's statewide density bonus law.

But the Program's implementation hasn't been without pitfalls. TOC is constrained in meaningful ways: TOC incentives can't apply to a project that receives a density bonus under state law or through any local program that features a density bonus provision, including a zone change. But many properties located close to transit would require a zone change before mixed-use or residential projects could be developed. For example, a number of properties located within a half-mile radius of the Metro Expo Line are currently zoned for industrial uses, making them ineligible for the Program's bonuses. And the successor agency to Los Angeles' former Community Redevelopment Agency has asserted that density limits included in redevelopment plans for several neighborhoods [are not superseded by the TOC Program](#), meaning that developments in these areas may face more restrictive density requirements than TOC would otherwise allow.

And some community advocates are not sold on the Program, either. Residents in historic areas have [expressed concern](#) about the potential for developers to erect large projects that

they view as out-of-scale with the surrounding neighborhood, fear that pre-1978 rent stabilized apartments will be replaced with expensive units, and worries about under-parked buildings that won't be adequately served by Los Angeles' existing transit network. And even as applications to take advantage of TOC abound, ridership on Los Angeles' Metro system [has fallen](#); in 2017 it was at its lowest level in more than a decade.

As Meredith [reminds us](#), land use, housing, and transportation issues are hugely complex. But, at least so far, the TOC Program hasn't faced a legal challenge. And these first-year numbers suggest that TOC is leading to an increase in the number of transit-proximate affordable housing units in Los Angeles—even if the need remains great. Even as we continue to ask hard questions about sustainable housing policy, programs like TOC offer a glimpse of what meaningful attempts to site dense development near transit can look like, warts and all.