

THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: November 5, 2008 REPORT NO: 08-161
ATTENTION: Council President and City Council
Agenda of November 10, 2008
SUBJECT: San Diego Regional Enterprise Zone Application
REFERENCE:

REQUESTED ACTION:

Authorize Staff to submit required documents to the State Housing and Community Development Dept. requesting modification of the boundaries of the San Diego Regional Enterprise Zone application area prior to final designation.

STAFF RECOMMENDATION: Approve action as requested.

SUMMARY:

BACKGROUND

The City of San Diego previously received approval for two Enterprise Zone ("EZ") designations, the Metro EZ (1986) and the South Bay EZ (1992). The Metro Enterprise Zone expired on October 14, 2006, and the South Bay Enterprise Zone expired on January 27, 2007. On August 15, 2006, the City Council approved a resolution (R-301845) authorizing submission of an application to the California Housing and Community Development Department (HCD) for a regional EZ designation, the San Diego Regional Enterprise Zone (SDREZ), for the cities of San Diego, Chula Vista and National City ("SDREZ Partners"). The process for EZ designation is competitive and based on economic need (distressed communities, lack of private investment, job creation needs, high unemployment, and/or poverty) and must include realistic and ambitious EZ program marketing and job development strategies and a solid implementation plan. Council certified the Final Environmental Impact Report, No. 134663, and approved a resolution (R-304082, adopted September 10, 2008) authorizing staff to submit documentation to establish a targeted employment area (TEA) to the State Housing and Community Development Dept. (HCD).

DISCUSSION

The legislative intent of EZ program under the Enterprise Zone Act (Cal. Gov't Code section 7070 et seq.) is to "stimulate business and industrial growth in the depressed areas of the State...". Cal. Gov't Code § 7071. The other purposes are to establish a "...program to help attract business and industry to the state, to help retain and expand existing state business and industry, and to create increased job opportunities for all Californians". *Id.* Essentially, EZ's are competitively designated based upon distress criteria (primarily poverty and unemployment levels) and the local government's capacity to carry out economic development programs. Local jurisdictions must provide additional local incentives throughout the 15-year designation, i.e. permit expediting, fee waivers and/or reductions.

Businesses located within the SDREZ may receive individual or corporate state tax incentives/credits to reduce a company's state tax liability dollar per dollar. Any unused tax credits may be carried forward to reduce future tax year's liabilities. Earlier this month the Governor signed AB 1452 and SBX1 28. Both of these bills will have an impact on businesses state-wide including EZ businesses. The bills combined temporarily suspend the Net Operating Loss provision, includes a 50% credit usage limitation and allows for the transfer of unused tax credits but limited to tax generated in the same zone. Staff is working with HCD, the Franchise Tax Board, and the California Association of Enterprise Zones to determine the impacts of these to Senate and Assembly Bills to SDREZ businesses.

The purpose of the Targeted Employment Area ("TEA") is to encourage businesses in an EZ to hire eligible residents from these geographic areas. The business incentive is the availability of a tax credit for hiring residents who reside in a TEA. Attachment C identifies the TEA boundaries for the SDREZ approved by Council on September 8, 2008 (R-304080).

In order to meet the economic challenges and changes of local EZ jurisdictions from the time an application is submitted and final designation is awarded as well as through the fifteen year designation of the zone, there are two mechanisms available to make changes to zone boundaries. The first method is via a one-time boundary modification and the second is through an expansion. The Action before the Council is to authorize staff to submit a request to HCD for a boundary modification to the SDREZ application area approved by the governing bodies of the SDREZ Partners in August 2006.

Boundary Modification

Prior to obtaining final designation of a conditional EZ designation, HCD will accept one boundary modification request per zone to areas if those areas meet certain conditions. This allows zones to modify conditionally approved application areas and include new areas not in the original application. Boundary modifications that comply with the following circumstances may be administratively approved by HCD:

- 1) An area was previously in an expired EZ and the benefits of the program are still needed in order to complete revitalization efforts; or
- 2) The census tract /blocks comply with HCD's eligibility criteria for designation; and

- 3) The area does not exceed 5% of the EZ application area; and
- 4) Areas for consideration must be contiguous; and
- 5) Areas meet the City's stated EZ strategic plan as submitted in the original application; and
- 6) The boundary modification is approved by resolution by the jurisdictions' governing bodies.

The designation date for boundary modification is the same as the conditionally approved EZ. Therefore, businesses may take advantage of EZ incentives retroactive to the date of designation. For the SDREZ the designation date is October 15, 2006.

At the City Council hearing on September 8, 2008, Council directed staff to do an analysis of specific areas to determine qualification for EZ status per the aforementioned conditions for a one-time boundary modification and requested that the City submit a boundary modification request if additional areas qualified for inclusion in the boundary modification. Per City Council direction as well as input from various stakeholders, staff has identified several areas complying with HCD's boundary modification requirements. These areas are identified in Attachment A. Attachment B provides information on eligibility and acreage for each area. Resolutions from the SDREZ's municipal partners must also be obtained and included in the request to HCD for the boundary modification.

Zone Expansion

Zone expansions are permissible per California Government Code Section 7074. Expansions can be requested at any time during the fifteen year designation but not until after final EZ designation is received. Zone expansions are based on the following criteria:

- 1) Each of the adjacent jurisdictions' governing bodies approves the expansion by adoption of an ordinance or resolution; and
- 2) Land included within the proposed expansion is zoned for industrial or commercial use; and
- 3) Basic infrastructure, including, but not limited to gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion; and
- 4) The expansion does not exceed the permitted 15 percent of its size on the date of original designation; and
- 5) The proposed expansion is contiguous however a noncontiguous area may be acceptable if HCD finds that:
 - a. The noncontiguous area is needed to implement the EZ's economic development strategy; and
 - b. The excluded areas between the proposed new boundaries would not, based on the EZ's economic development strategy, also benefit from the expansion.

In contrast to the one-time boundary modification, expansions are not retroactive to the effective date of the zone but are effective the date HCD approves the expansion request.

EZ Benefits for Areas Not Within the Designated EZ Boundaries

- 1) Employees, regardless of residency, employed by an EZ company may qualify for the EZ Personal Income Tax Credit depending on household income.
- 2) EZ companies can apply for an EZ Hiring Credit Voucher for each employee residing in the Targeted Employment Areas (TEA). Council authorized staff (R-304082) to submit documentation to establish a new TEA encompassing census tracts with a population of at least 51% earning less than the county's median wage. The boundaries of the TEA must be revised within 180 days of updated U.S. census data becoming available to reflect the new census data.
- 3) Properties zoned commercial or industrial meeting the City's stated EZ strategic plan as submitted in the original application and meeting other criteria cited above may be included through the EZ expansion process at anytime during the 15 year designation.

CONCLUSION

The official designation of the SDREZ by the State HCD will allow a significant economic and employment incentive program to continue in the cities of San Diego, Chula Vista and National City. The SDREZ offers a special opportunity to the region to continue to implement economic development and job creation program incentives in areas with significantly high levels of low and moderate income residents. Because San Diego's economy is regional in nature, continuing the collaborative relations with other local cities and the state to offer business incentives increases the San Diego region's ability to compete with other regions, create new jobs and increase investment in our county. Modifying the SDREZ boundaries to include areas previously in the expired EZ gives San Diego a medium to continue to be competitive with other major metropolitan areas in the state by offering business incentives to assist existing employers and attract new ones to the region.

The next step in this process is for the municipal "SDREZ Partners" to approve by resolution the boundary modification as shown in Attachment A. Upon receiving the three city resolutions, staff will submit the request and documentation to HCD for approval.

Additionally, the SDREZ Partnership has begun the process to identify commercial and industrial properties to seek an expansion of the SDREZ within six months of obtaining final designation status. Once the expansion areas are identified, the SDREZ Partnership shall seek approval by adoption of an ordinance or resolution from its respective governing bodies.

FISCAL CONSIDERATIONS:

There will be ongoing staff time required to administer the SDREZ during the designation period. However, this action has no additional administrative or fiscal impact to the existing SDREZ program.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On August 8, 2006, City Council authorized the Mayor or his designee to execute and submit the required documentation to HCD for review and approval of a new EZ designation via resolution R-301845. City Council certified the Environmental Impact Report (EIR), No. 134663, and authorized the Mayor to submit documents to establish a Targeted Employment Area (TEA) on September 8, 2008 via resolution R-304082, adopted September 10, 2008.

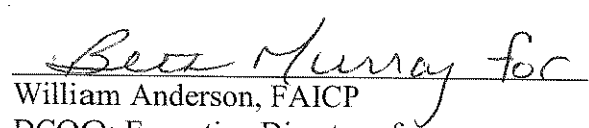
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

See Report to City Council #06-112.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

There are no key stakeholders. Projected impacts for the SDREZ are new private investments and the creation and retention of jobs in the San Diego region.


Lydia Moreno
Originating Department


William Anderson, FAICP
DCOO: Executive Director of
City Planning and Development

ATTACHMENTS:

Attachment A	SDREZ Boundary Modification Map
Attachment B	SDREZ Boundary Modification – Data
Attachment C	Targeted Employment Area (TEA) Map