

APPENDIX M

Affordable Housing and Displacement Risk



MEMORANDUM

To: Dennis Kearney and Ron Golem, VTA
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From: Strategic Economics

Date: March 15, 2019

Project: VTA's BART Phase II TOD Study

Subject: Strategies for Producing Affordable Housing and Mitigating Displacement Risk in the 28th Street Station Area

INTRODUCTION

The Santa Clara Valley Transportation Authority (VTA) is leading the development of a TOD Study to support the implementation of transit-oriented development (TOD) in VTA's planned BART Phase II Corridor extension. The study focuses on the 28th Street, Downtown San José and Santa Clara station areas. Diridon is the subject of a separate study.

This memorandum provides strategies and recommendations related to producing affordable housing and mitigating displacement risk in the future 28th Street station area and surrounding neighborhoods. These findings are based on previous work conducted by Strategic Economics, including a report entitled "Opportunities and Constraints for Producing Affordable Housing and Mitigating Displacement Risk", which was completed in November 2018.¹

The introduction includes an overview of the study's "three P's" framework (Protect, Preserve, Produce), and a description of the study area boundaries. Following the introduction, the first section of this memorandum highlights key issues specific to the 28th Street station, and the second section summarizes strategies and recommendations related to producing affordable housing and mitigating displacement risk.

Framework: Protect, Preserve, Produce

VTA's BART Phase II extension will provide high-quality transit connections to the region's major employment centers, and provide new opportunities for households to live and work near transit. This major new transit investment has the potential to provide benefits to low and moderate-income households in the station areas and surrounding neighborhoods. At the same time, however, new

¹ Opportunities and Constraints for Producing Affordable Housing and Mitigating Displacement Risk, prepared for the Santa Clara Valley Transportation Authority (VTA) for VTA's BART Phase II Corridor Study. November 1, 2018. http://vtaorgcontent.s3-us-west-1.amazonaws.com/Site_Content/VTA-B2-OpportunitiesConstraintsReport.pdf

transit investment and transit-oriented development (TOD) are often associated with increased market activity and rising housing values and rents, which can impact the affordability of these neighborhoods to existing households, especially low and moderate income residents.

In order to mitigate the risk of household displacement and to maximize the potential benefits of new transit for lower income households, it is critical that supportive strategies be put into place that address the following three principles:

- **Protect** tenants and homeowners that currently live in the station areas and surrounding neighborhoods;
- **Preserve** the affordability of existing housing in the station area and surrounding neighborhoods;
- **Produce** new affordable housing units to expand the availability of housing for lower income households in the station areas.

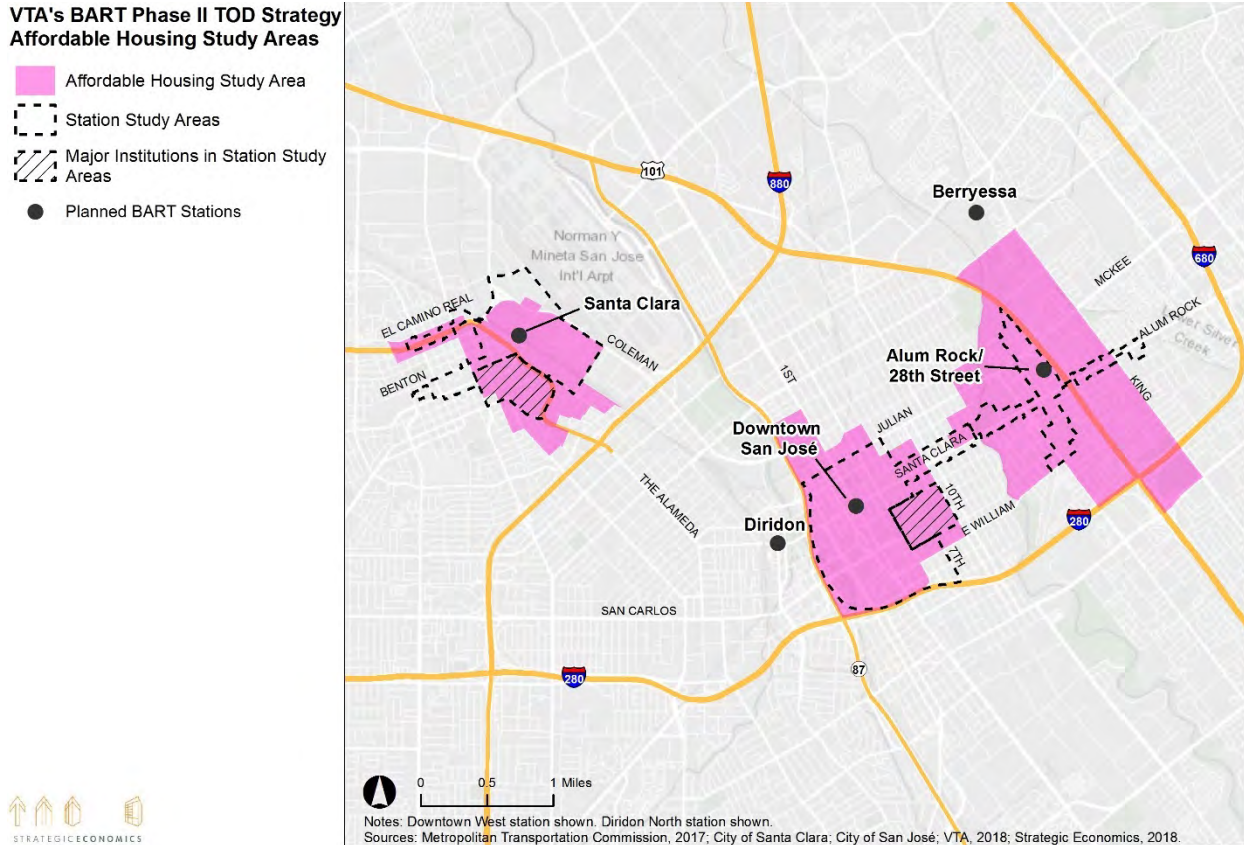
The recommended strategies presented in this memorandum report are organized along the three “P’s” outlined above.

Study Area Boundaries

Two main geographies are referenced in this memorandum, as shown in Figure 1 and explained below:

- The 28th Street affordable housing study area (referred to as “study area”) is an aggregation of the Census Block Groups located within approximately a half-mile radius from VTA’s future BART station. The study area is used to assess the potential risk of gentrification and displacement in the residential neighborhoods surrounding the station. Strategies and recommendation related to tenant and homeowner protection and to affordable housing preservation apply to the 28th Street study area.
- The 28th Street station area (referred to as “station area”) is the primary geography used throughout the broader VTA BART Phase II TOD Study. The station area includes the growth areas that the City of San José has designated within a half- to one-mile walkshed of VTA’s future station, as well as other major development opportunity sites. Strategies and recommendation related to affordable housing production apply primarily to the 28th Street station area.

FIGURE 1. VTA'S BART PHASE II TOD STRATEGY STATION AREAS AND AFFORDABLE HOUSING STUDY AREAS



KEY ISSUES IN THE 28TH STREET STATION AREA

Key issues related to Protection, Preservation, and Production for the 28th Street station and study areas are summarized below. These findings are abridged from the Opportunities and Constraints report, which includes more detailed data and analysis.²

There is a high risk of displacement of existing households, especially lower-income renter households. Findings from UC Berkeley’s Urban Displacement Project indicate that households in the 28th Street study area are at-risk of experiencing rising rents, evictions, and other negative consequences associated with gentrification and displacement pressures.³ Additional demographic analysis also determined that the study area’s population is characterized by many of the factors that are typically associated with vulnerability to displacement, including:

- Both renters and homeowners experience severe housing cost burden (paying more than 50 percent of income on housing costs).

² Opportunities and Constraints for Producing Affordable Housing and Mitigating Displacement Risk, prepared for the Santa Clara Valley Transportation Authority (VTA) for VTA’s BART Phase II Corridor Study. November 1, 2018. http://vtaorgcontent.s3-us-west-1.amazonaws.com/Site_Content/VTA-B2-OpportunitiesConstraintsReport.pdf

³ The Urban Displacement Project, Center for Community Innovation at the University of California at Berkeley. <http://www.urbandisplacement.org/>

- There is a concentration of low-income residents, with a quarter of households making less than \$25,000 annually, and an overall median household income is \$50,000.
- Communities of color are concentrated in the study area, predominantly Latino (66 percent) and Asian (18 percent).
- Most of the study area’s population has a low level of educational attainment, with only 17 percent of residents over the age of 25 having a bachelor’s degree or a higher level of education.
- Households in the area mostly consist of large families with children.
- Many of the renter households in the study area live in single-family homes, which are not covered by San José’s existing tenant protection ordinances (described in more detail below).

The housing stock in the 28th Street study area is at risk of losing affordability. The study area includes many rent-stabilized units, mobilehomes, naturally occurring affordable housing (NOAH) units, and historic homes that could be redeveloped and/or become unaffordable to lower income households. These different forms of at-risk affordable housing are described below and summarized in Figure 2 below:

FIGURE 2. AFFORDABLE HOUSING STOCK IN THE 28TH STREET STUDY AREA

Overview (a)	
Total Housing Units	6,581
Total Occupied Housing Units	6,437
Share of Renter-Occupied Units	60%
Share of Owner-Occupied Units	40%
Deed-Restricted Units (b)	
Existing Units, Expiring Before 2029	0
Existing Units, Unknown Expiration	237
Existing Units, No Risk of Expiration	202
Under Construction/Proposed	150
<i>Total Deed-Restricted Units</i>	<i>589</i>
Rent Stabilization (c)	
Rent-Stabilized Units (c)	992
Mobilehome Park Units (d)	427
Age of Housing Stock (a)	
Built After 2000	14%
Built 1980 - 2000	17%
Built 1970 - 1980	13%
Built 1950 - 1970	28%
Built 1950 or Before	27%
Naturally Occurring Affordable Housing (e)	
Total Multifamily Housing Units (CoStar)	1,759
NOAH Units	1,194
NOAH Units, as a percent of total	68%

(a) Based on U.S. Census ACS 2012-2016 5-year estimates.

(b) Based on data provided by the City of San José.

(c) Based on data provided by the City of San José. Note that some rent-stabilized units may also be counted as Naturally Occurring Affordable Housing units, as explained below.

(d) Units in the 28th Street Affordable Housing Study Area are distributed in five mobilehome parks: Hilton Mobile Park (62 units), Bella Rosa Mobilodge (64 units), Mobilehome Manor (81 units), Foothills Mobilodge (100 units), and Arbor Point (120 units).

(e) Based on CoStar data from Q1 2018. These units likely include rent-stabilized units.

Source: City of San José, 2018; CoStar, 2018; U.S. Census ACS 2012-2016 5-year estimates; Strategic Economics, 2018.

- The study area includes a large number of rent-stabilized units (nearly 1,000 units). Although San José’s rent stabilization ordinance limits the rate at which rents can be increased for a

given tenant, a state policy known as “vacancy decontrol” gives landlords full discretion to reset initial rents when a new tenancy begins.

- A large share of San José’s mobilehome units are concentrated in or outside the study area (five parks with 427 units in the study area, and two additional parks adjacent).
- 27 percent of the study area’s overall housing stock consists of pre-World War II units (built prior to 1950). These units are primarily small single-family homes. The presence of this kind of historic housing is often found to be a predictor of gentrification.
- In addition to these different types of units, the study area also includes privately-owned, non-subsidized multifamily properties that are rented at rates that are currently affordable to lower- and moderate income households. Often, the relative affordability of these units is due to the age and condition of the buildings; for this reason, this housing stock is referred to as naturally occurring affordable housing (NOAH). There are about 1,200 NOAH units in the study area, some of which may also be included in the count of rent stabilized units as well. If major reinvestment or rehabilitation of these properties occur, or if property values increase across the study area, these units may become unaffordable to existing lower- and moderate-income tenants.

Limited resources are available to help meet affordable housing production targets for the station area. The 28th station area includes several Urban Villages, and the City of San José has a goal of 25 percent affordable housing for Urban Villages, including a 15 percent set-aside for extremely low income households. Furthermore, VTA’s Joint Development policy requires a minimum of 20 percent affordable units at no more than 60 percent of AMI on individual VTA-owned sites, and a 35 percent goal across VTA’s joint development portfolio. Several challenges exist to meet these goals:

- San José’s local inclusionary policy requires 15 percent affordable units on-site. This policy alone will be insufficient to meet the 25 percent Urban Village goal.
- Development costs for affordable housing are rising, as are land costs more generally. Based on the analysis performed for VTA’s BART Phase II TOD Study, the station area could accommodate up to 7,827 new residential units by 2040. In order to meet the 25 percent goal, about 1,960 of the net new units in the station area would need to be affordable. Based on data from recently developed affordable housing projects in Santa Clara County, the local funding gap is estimated around \$173,000 per affordable unit. Meeting the station area’s affordability target would require a total of \$338 million in local funding. While some local resources from Santa Clara County and the City of San José help fill the gap, additional funding is needed to meet the full need.

Regulatory constraints present a challenge for affordable housing development in the 28th Street station area. According to affordable housing developers, the commercial requirements in Urban Villages impose an additional cost burden on residential development projects. The cost of building the commercial component of a mixed-use affordable project is rarely eligible for subsidy, and the commercial space also increases the project’s operating costs.

STRATEGIES AND RECOMMENDATIONS

This section describes seven strategies for protecting existing tenants and homeowners, preserving existing affordable housing units, and producing new affordable units in the 28th Street station and study areas. Under each strategy, specific recommendations are provided for improving or expanding

existing policies, or implementing new policies or programs. The majority of recommendations are targeted to the City of San José; some are for VTA and other public land owners.

These strategies are intended to complement the broader local and regional efforts that are already underway, such as San José's participation in PolicyLink's All-In Cities Initiative, San José's Diridon Station Area Advisory Group, and the regional CASA Compact, adopted by the Metropolitan Transportation Commission (MTC).

Strategies and recommendations are summarized in Figure 3 and described in detail in the body of the text.

FIGURE 3. STRATEGIES AND RECOMMENDATIONS FOR THE 28TH STREET STATION AND STUDY AREA

Protect Existing Tenants and Homeowners	<ol style="list-style-type: none"> 1. Ensure that existing tenants and homeowners can stay in place by expanding existing policies and resources <ol style="list-style-type: none"> 1.1. Expand tenant protections in the Apartment Rent Ordinance (ARO) and the Tenant Protection Ordinance (TPO) to single-family homes and duplexes 1.2. Increase targeted emergency rent assistance for at-risk households. 1.3. Increase legal services and outreach for tenants facing evictions. 1.4. Closely monitor evictions, rent increases, and foreclosures in the station area. 1.5. Improve protections for tenants of deed-restricted affordable housing. 1.6. Increase assistance to low-income homeowners. 2. Make it easier for low-income tenants to access affordable housing in the station area <ol style="list-style-type: none"> 2.1. Implement a source of income ordinance. 2.2. Consider establishing a new policy that would give displaced San José tenants a better chance of obtaining an affordable unit.
Preserve Existing Affordable Housing	<ol style="list-style-type: none"> 3. Implement more robust policies to preserve existing affordable housing in the study area <ol style="list-style-type: none"> 3.1. Continue to require unit replacement, or an equivalent alternative, when rent-stabilized units are demolished. 3.2. Explore additional protections for mobilehome parks. 3.3. Partner with funders and affordable housing developers to create a new acquisition and rehabilitation program for naturally occurring affordable housing (NOAH).
Produce New Affordable Housing	<ol style="list-style-type: none"> 4. Leverage public land for affordable housing production <ol style="list-style-type: none"> 4.1. Identify opportunities to offer VTA-owned land at a discounted rate for affordable housing development. 4.2. Explore further opportunities for affordable housing development on publicly-owned sites. 5. Increase local funding for deed-restricted affordable housing production <ol style="list-style-type: none"> 5.1. Support a citywide affordable housing bond measure. 5.2. Implement a commercial linkage fee. 5.3. Explore dedicating a portion of potential future tax increment financing (TIF) district revenues to affordable housing. 6. Pursue new partnerships and funding for affordable housing production <ol style="list-style-type: none"> 6.1. Pursue new state funding sources for affordable housing and TOD. 6.2. Monitor new private funding sources to help fill the funding gap. 7. Eliminate regulatory barriers to, and create incentives for, affordable housing production in the study area <ol style="list-style-type: none"> 7.1. Consider eliminating or significantly reducing the Urban Village commercial requirement for 100 percent deed-restricted affordable housing development. 7.2. Kickstart ADU development by streamlining the permitting process and providing additional financing options. 7.3. Explore policies to keep ADUs accessible to low- and moderate-income households.

Source: Strategic Economics, 2019.

Protect Existing Tenants and Homeowners

1. ENSURE THAT EXISTING TENANTS AND HOMEOWNERS CAN STAY IN PLACE BY EXPANDING EXISTING POLICIES AND RESOURCES

The City of San José has adopted and strengthened several anti-displacement policies over the years. Based on stakeholder interviews and a review of best practices, Strategic Economics identified gaps in some of these existing policies. The following recommendations are proposed:

- 1.1. Expand tenant protections in the Apartment Rent Ordinance (ARO) and the Tenant Protection Ordinance (TPO) to single-family homes and duplexes.** The City's existing ARO applies to rental properties with three or more units built prior to 1979, and limits annual rent increases for those properties to five percent per year. Landlords have full discretion to reset the initial rent when a new tenancy begins due to "vacancy decontrol" policies required by state law. Under the City's existing TPO, landlords may only terminate tenancies for 13 "just causes." For evictions that result from a landlord's decision, the landlord is required to provide relocation benefits. The ordinance also includes anti-retaliation protections for tenants and resources for dispute mediation. The TPO applies to all rental units in properties with three or more units. Neither the ARO nor the TPO apply to rental properties with fewer than three units. This excludes many of the vulnerable households in the 28th Street study area, given that many of its renter households live in single-family homes and duplexes.
- 1.2. Increase targeted emergency rent assistance for at-risk households.** Providing emergency, temporary rent assistance to low-income households that are facing eviction or homelessness can help prevent evictions stemming from non-payment of rent. Although the City does have some funds for tenant-based rental assistance for the formerly homeless, this type of assistance could be expanded. Increasing emergency rent assistance for at-risk households is one of the key recommendations in MTC's CASA Compact.⁴
- 1.3. Increase legal services and outreach for tenants facing evictions.** San José's TPO currently offers rental dispute mediation and arbitration services. Expanding these services to also include access to legal counsel at a free or reduced cost for households facing evictions could help prevent these evictions and create a fairer system for tenants. Furthermore, expanding outreach efforts is essential to increase tenants' awareness of their rights and resources.
- 1.4. Closely monitor evictions, rent increases, and foreclosures in the study area.** The City should continue its efforts to monitor these trends over time, especially in high-risk neighborhoods such as the 28th Street study area. The City already has the right tools in place to bolster these efforts, as described below:
 - The TPO requires landlords to submit a copy of eviction notices to the City, and the City has already begun tracking and publishing this data.⁵ Although an eviction notice does

⁴ See Compact Element #3: Rent Assistance and Access to Legal Counsel, from the CASA COMPACT: A 15-Year Emergency Policy Package to Confront the Housing Crisis in the San Francisco Bay Area, January 2019. https://mtc.ca.gov/sites/default/files/CASA_Compact.pdf

⁵ See City of San José Eviction Notice Dashboard, in collaboration with the Calvin College Center for Social Research, <https://public.tableau.com/profile/center.for.social.research#!/vizhome/EvictionNoticesintheCityofSanJose/Evictionnoticedashboard?publish=yes>

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not always imply that an eviction actually took place, it does indicate increased risk and vulnerability to eviction.

- For rent-stabilized units, the ARO allows the City to track rent increase violations.
- The City tracks foreclosures as part of its quarterly citywide housing market updates.⁶

1.5. Improve protections for tenants of deed-restricted affordable housing. Tenants of deed-restricted housing may be at risk of displacement if affordability restrictions are set too rigidly, given that households are often operating on a limited budget and cannot necessarily absorb rent increases. For example, a tenant whose income increases from 50 percent of AMI to 60 percent of AMI is typically required to pay higher rents, which could be a financial burden. To address this, annual rent increases could be capped or increased more gradually. Alternatively, property managers could allow tenants to stay in their existing unit even if their income increases past the unit's income limit, as long as their income is below 80 percent of AMI. These strategies could be negotiated with developers and property managers of affordable units and implemented through the terms of a project covenant, if this is within the discretion of the property owners and allowed under the regulations of the project's funding sources.

1.6. Increase assistance to low-income homeowners. Down-payment assistance for low-income homebuyers is available through a partnership with Housing Trust Silicon Valley, funded partly through Santa Clara County's Measure A. The City of San José could consider increasing resources and assistance for low-income homebuyers as well as low-income homeowners at-risk of foreclosure.

2. MAKE IT EASIER FOR LOW-INCOME TENANTS TO ACCESS AFFORDABLE HOUSING IN THE STUDY AREA

Although new transit has the potential to provide benefits to low and moderate-income households, eligible tenants may face challenges in finding or renting affordable units in the study area. The following recommendations build on the policies that are under consideration as part of San José's PolicyLink initiative.

2.1. Implement a source of income ordinance. As reported by City of San José staff, discrimination against recipients of federal Housing Choice Vouchers (HCV, more commonly known as Section 8 vouchers) is prevalent in San José. As a result, voucher recipients are often unable to find a suitable private rental apartment and may lose their voucher due to expiration rules. A source of income ordinance would prohibit discrimination based on source of income, including tenant subsidies such as HCVs. The Santa Clara County Board of Supervisors recently adopted an ordinance of this kind, which applies to the County's unincorporated areas.⁷

2.2. Consider establishing a policy that would give displaced San José tenants a better chance of obtaining an affordable unit. City of San José staff is exploring the implementation of new lottery preferences for deed-restricted housing, which would favor households that have been

⁶ City of San José, Housing Market Data, <http://www.sanjoseca.gov/index.aspx?NID=1283>

⁷ Mercury News, December 12, 2018, by Emily Deruy. San Jose moves toward ordinance limiting Section 8 discrimination, <https://www.mercurynews.com/2018/12/11/san-jose-moves-toward-ordinance-limiting-section-8-discrimination/>. See also, City of San José Memorandum, Tenant Source of Income Policy, March 1, 2018. <https://www.sanjoseca.gov/DocumentCenter/View/75502>
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displaced from their San José home or from gentrifying areas.⁸ The City of San Francisco implemented a similar anti-displacement preference for their affordable housing lottery in 2016.⁹

Preserve Existing Affordable Housing

3. IMPLEMENT MORE ROBUST POLICIES TO PRESERVE EXISTING AFFORDABLE HOUSING IN THE STUDY AREA

The City of San José has adopted and revised several policies focused on the preservation of existing affordable housing. Based on stakeholder interviews and a review of best practices, Strategic Economics identified gaps in existing policies. The following recommendations are proposed:

- 3.1. Continue to require unit replacement, or an equivalent alternative, when rent-stabilized units are demolished.** The Ellis Act ordinance implements protections for tenants evicted from rental properties covered by the ARO that are to be demolished or permanently withdrawn from the market. Protections include relocation assistance, as well as a “right to return” if units are returned to the rental market within ten years. In 2018, the Ellis Act ordinance was amended to also include replacement requirements of demolished ARO units. If rent-stabilized units are demolished in order to be redeveloped into new housing, either 50 percent of new units or the number of demolished rent-stabilized units must be re-controlled under the ARO, whichever is greater. In certain cases, the developer may choose to build 20 percent on-site deed-restricted affordable rental units instead of complying with the re-control requirements.¹⁰ The City should either continue to require unit replacement, or implement an equivalent alternative – such as the payment of a demolition fee – to ensure that the affordability of rent-stabilized units is preserved.
- 3.2. Explore additional protections for mobilehome parks.** Although protections and relocation assistance are available for tenants of converted mobilehome parks, existing city policies do not regulate the closure or conversion of mobilehome parks. The City of San José could explore adopting additional land use restrictions to limit the conditions under which a mobilehome park may be converted.
- 3.3. Partner with funders and affordable housing developers to create a new acquisition and rehabilitation program for naturally occurring affordable housing (NOAH).** The acquisition and rehabilitation of NOAH properties can be an effective and relatively low-cost strategy for preserving affordability in a neighborhood, especially in the case of larger multifamily buildings (e.g. usually 20 units or more). However, the City of San José does not currently have any formal policy that addresses this issue. The City could take a leadership role in identifying eligible, high-priority NOAH properties in the study area, and work with established affordable housing developers and funders to identify a dedicated funding or financing source. The recent collaboration between Kaiser Permanente, EBALDC, and the City of Oakland for the acquisition

⁸ City of San José Memorandum, Prioritization for Tenants of Affordable Housing, May 3, 2018. <https://www.sanjoseca.gov/DocumentCenter/View/77201>

⁹ City and County of San Francisco Mayor’s Office of Housing and Community Development, Lottery Preference Programs, <https://sfmohcd.org/lottery-preference-programs>

¹⁰ City of San José, Ellis Act Ordinance. <http://www.sanjoseca.gov/index.aspx?NID=5517>
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of a 41-unit apartment building in East Oakland provides a relevant precedent for how these partnerships can work.¹¹ MTC also recently dedicated \$10 million to the Bay Area Preservation Pilot (BAPP), a revolving loan fund to assist nonprofit developers with the acquisition and preservation of rental properties located near transit that are affordable to lower income households.¹²

Produce New Affordable Housing

4. LEVERAGE PUBLIC LAND FOR AFFORDABLE HOUSING PRODUCTION

Publicly-owned sites represent a unique opportunity to facilitate the production of affordable housing. Reserving public land for this purpose helps affordable housing developers acquire sites in desirable locations, which is especially important given rising land costs and mounting competition with market-rate developers for site acquisition in prime locations near transit. In addition, offering publicly-owned land at a below-market rate helps reduce development costs, and can increase a project's competitiveness for grants and tax credit programs.¹³

State and regional agencies are increasingly recognizing the importance of prioritizing affordable housing on vacant or surplus public lands.¹⁴ VTA's Joint Development (JD) policy includes ambitious affordable housing goals for land owned by the agency, and the City of San José has also donated or discounted land for recent affordable housing projects (e.g. Villas on the Park, Met South, etc.). The following recommendations are proposed to build on these existing efforts:

- 4.1. Identify opportunities to offer VTA-owned land at a discounted rate for affordable housing development to meet VTA's on-site affordability requirements for Joint Development sites.** VTA's JD policy requires that at least 20 percent of housing units on any given JD site be made affordable to households earning no more than 60 percent of AMI, and half of these units must be targeted to households earning 50 percent of AMI or less. VTA's policy also requires that 35 percent of units in its overall joint development portfolio be made affordable to lower income households. In most cases, reaching this level of affordability will require supplemental funding and financing, such as tax credits or other public sources. VTA has a joint development site in the 28th Street station area that could be an opportunity to create more affordable housing in the station area. As explained above, offering publicly-owned sites at a discounted value can greatly facilitate affordable housing production. The amount and type of write-down can be negotiated by VTA on a case-by-case basis, depending on the specific development proposal and other funding sources available.
- 4.2. Explore further opportunities for affordable housing development on sites owned by other public agencies.** In addition to VTA, the City of San José, the State of California, and other public

¹¹ City of Oakland News, January 15, 2019. Mayor Libby Schaaf & Kaiser Permanente Announce Three Initiatives to Improve Community Health, Tackle Housing Insecurity in Oakland. <https://www.oaklandca.gov/news/2019/mayor-libby-schaaf-kaiser-permanente-announce-three-initiatives-to-improve-community-health-tackle-housing-insecurity-in-oakland>

¹² Bay Area Metro: The Bay Link, March 2, 2018. Bay Area Preservation Pilot Fund. <https://blog.bayareametro.gov/tags-public/bay-area-preservation-pilot-fund>

¹³ MTC, Workforce and Affordable Housing Opportunities on Public Lands. <https://mtc.ca.gov/our-work/plans-projects/focused-growth-livable-communities/workforce-and-affordable-housing>

¹⁴ For example, see MTC/ABAG's analysis of vacant public lands for affordable housing, California's Surplus Land Act, and Governor Newsom's recent executive order on developing affordable housing on state-owned public land.

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agencies also own land in the station area.¹⁵ Public agencies that own land in the station area should determine whether any of their parcels are subject to California's Surplus Land Act, which ties affordable housing requirements to surplus land.

5. INCREASE LOCAL FUNDING FOR DEED-RESTRICTED AFFORDABLE HOUSING PRODUCTION

Local funding (which includes city or county sources, and other public or private land donations) is an essential component of affordable housing funding, as it represents the missing gap needed to make projects work beyond what can be more easily obtained from federal and state sources, tax credits, and permanent financing. As explained previously, the local funding gap needed to meet the 28th Street station area's affordability target is approximately \$338 million.

Various city and county sources exist to help meet this gap, including Santa Clara County's Measure A, San José's Low and Moderate Income Housing Fund, and funds from San José's Inclusionary Housing Ordinance, although it should be noted that these sources are not restricted to the station areas. Furthermore, two deed-restricted affordable housing projects are currently in the pipeline in the 28th Street station area. A small number of on-site affordable units may also be built through San José's inclusionary housing program. While the City of San José's inclusionary housing policy favors the development of affordable units on-site, it is anticipated that many developers will choose to pay in-lieu fees rather than building units on-site.

Even with these pipeline projects and existing funding sources, there will remain a local funding gap to meet the station area's affordability targets. The following recommendations are proposed to raise more local revenues for affordable housing production:

- 5.1. **Support a citywide affordable housing bond measure.** In recent years, cities across the Bay Area have approved a local housing bond measures, such as San Francisco's Proposition A (2015), Oakland's Measure KK (2016), and Berkeley's Measure O & P (2018). San José's Measure V, which was intended to fund homelessness prevention and new affordable housing production at various income levels, was defeated in November 2018, but a future bond measure could fill an important local funding gap.
- 5.2. **Implement a commercial linkage fee.** A commercial linkage fee is an impact fee charged on new commercial development (office, retail, industrial, hotel, etc.), where the revenues go toward affordable housing development. While a commercial linkage fee would likely be implemented citywide, some of the revenues generated could be directed to affordable housing projects in the study area. Most of San Jose's neighboring cities (Sunnyvale, Santa Clara, Cupertino, Mountain View, Palo Alto) have commercial linkage fees in place. In December 2018, San José's City Council voted to conduct a Nexus Study and Feasibility Study for a potential commercial linkage fee.¹⁶

¹⁵ MTC's Viable Public Land for Workforce Housing online database identifies two parcels in the station area. The first is a 0.5-acre site owned by the State of California, located on the eastern edge of Highway 101, along Alum Rock Ave. The second is a 1.5-acre parking lot owned by the City of San José, on S King Road between Alum Rock Ave and E San Antonio St. Furthermore, previous work conducted by Strategic Economics for the City of San José (Assessing the Potential Development Impact of BART Silicon Valley Phase II, July 2016) identified several other publicly-owned parcels; however, most of these parcels are already being utilized by schools, parks, and libraries, or do not appear suitable on their own for development (e.g. the railroad right-of-way).

¹⁶ Silicon Valley @ Home. San José: Council to Study Commercial Linkage Fees (December 2018). <https://siliconvalleyathome.org/san-jose-council-to-study-commercial-linkage-fees/>

- 5.3. Explore dedicating a portion of potential future tax increment financing (TIF) district revenues to affordable housing.** Tax increment financing (TIF) is a mechanism that captures incremental increases in tax revenues generated in a specific district, in order to pay for improvements in that district. TIF districts, such as an Enhanced Infrastructure Financing District (EIFD), are being considered as part of VTA's BART Phase II TOD Strategy. If a TIF district is implemented in the station area, the City of San José should explore the appropriate share of revenues to set aside for affordable housing.

6. PURSUE NEW PARTNERSHIPS AND FUNDING FOR AFFORDABLE HOUSING PRODUCTION

In addition to the local funding sources mentioned above, federal, state, and private funding sources are also required to fund affordable housing. In the last two years, new state funding sources and private philanthropic opportunities have emerged. The following recommendations are proposed:

- 6.1. Pursue new state funding sources for affordable housing and TOD.** New state funding sources for affordable housing production are starting to come online, following Governor Brown's 2017 housing package. These funding sources, administered by the Department of Housing and Community Development (HCD), are awarded via the following programs:
- The No Place Like Home Program, which dedicates nearly \$2 billion in bond proceeds for the development of permanent supportive housing, targeted to assist persons with mental illness and persons experiencing homelessness.¹⁷
 - The Multifamily Housing Program (MHP), which provides deferred long-term loans for construction, rehabilitation, and acquisition-rehabilitation of permanent and transitional affordable rental housing.
 - Infill Infrastructure Grants (IIG), which were formerly funded by Prop 1C in 2006. This program provides gap funding to the infrastructure improvements required for transit-oriented development and infill development.
 - CalHome Program, which provide grants to local agencies and developers to develop ownership housing and provide other housing assistance to low-income homeowners.
 - SB 2 (Building Homes and Jobs Act) imposed a new real estate recording fee of \$75 on selected real estate transactions. SB 2 funding will be dedicated to local governments for various eligible uses, including: planning and technical assistance to streamline housing development, development or preservation of affordable housing, and assistance for persons experiencing or at-risk of homelessness (rapid rehousing, emergency shelters, rental assistance, etc.)¹⁸

¹⁷ California Housing and Community Development Department. No Place Like Home, <http://www.hcd.ca.gov/grants-funding/active-funding/nplh.shtml>

¹⁸ Revenues from SB 2 will be collected starting on January 1, 2018. In the first year, 50 percent of SB 2 funds will go towards statewide homelessness programs, namely the Housing for a Healthy California Program and the California Emergency Solutions and Housing Program (CESH), both administered by HCD; the other 50 percent will go to local jurisdictions for planning and technical assistance. In the second year and beyond, 70 percent of SB 2 funds will be allocated to local jurisdictions, with a mix of competitive and non-competitive allocations. These funds can be used for a variety of eligible uses, including the development or preservation of affordable housing and provision of (footnote continued)

In the current legislative session, numerous other bills seeking to incentivize affordable housing production have been proposed. Several bills propose new or expanded state funding sources, such as the state Low-Income Housing Tax Credit program.

- 6.2. Monitor new private funding sources to help fill the funding gap.** For example, the Partnership for the Bay Area’s Future is a new philanthropic initiative that was announced in early 2019.¹⁹ This coalition of funders, which includes Facebook, Genentech, the Chan Zuckerberg Foundation, and the San Francisco Foundation, aims to raise \$540 million for affordable housing in the region: \$500 million will be for community development projects, and \$40 million will be awarded to jurisdictions with affordable housing plans. Details regarding how to access these funds are not yet publicly available.

7. ELIMINATE REGULATORY BARRIERS TO, AND CREATE INCENTIVES FOR, AFFORDABLE HOUSING PRODUCTION IN THE STUDY AREA

The City of San José’s existing policies regarding Urban Villages and ADUs could be amended to facilitate the production of affordable units. Based on stakeholder interviews and a review of best practices, the following recommendations are proposed:

- 7.1. Consider eliminating or significantly reducing the Urban Village commercial requirement for 100 percent deed-restricted affordable housing development.** As part of the General Plan Four-Review in 2016, San José exempted 100 percent affordable housing projects from certain Urban Village regulations. However, the Urban Village commercial requirements have not been relaxed for 100 percent affordable housing projects. This requirement creates additional capital and operating costs that cannot usually covered by traditional funding sources for affordable housing. The City of San José should remove or significantly reduce the commercial requirement during the next General Plan Four-Year Review.
- 7.2. Kickstart ADU development by streamlining the permitting process and providing additional financing options.** Over the last few years, the City of San José has adopted various updates to ease the requirements for the development of accessory dwelling units (ADUs).²⁰ However, some barriers still exist, including a lengthy permitting process, fees, and lack of access to capital for low- or moderate income homeowners.²¹ The City of San José could explore lowering fees, streamlining ADU approvals, developing partnerships with the Silicon Valley Housing Trust on their new loan program,²² or developing its own loan program in order to reduce these various barriers. As ADU development is encouraged, it will be important to monitor and

services and housing for the homeless. The remaining 30 percent will go to farmworker housing, CalHFA Missing Middle housing, and other incentives to streamline housing development. For more detail, see the California Housing and Community Development Department, California’s 2017 Housing Package Frequently Asked Questions, Updated July 2018 (<http://www.hcd.ca.gov/policy-research/housing-package/cahp-faq.shtml#sb2>), and HCD’s Framing Paper for Public Comment: Permanent Local Housing Allocation (PLHA) Senate Bill 2 Local Government Allocation Funds, January 2019 (www.hcd.ca.gov/policy-research/docs/PLHA-framing-paper.docx)

¹⁹ Partnership for the Bay’s Future. <https://www.baysfuture.org/>

²⁰ In 2017, the City amended its ADU ordinance to comply with state law, including, among other provisions, exempting ADUs located within a half-mile of public transit from parking minimums. In 2018, the City adopted further changes to loosen requirements related to minimum lot size, allowable ADU square footage, number of stories and number of bedrooms.

²¹ Jumpstarting the Market for Accessory Dwelling Units: Lessons Learned from Portland, Seattle And Vancouver, by Karen Chapple, Jake Wegmann, Farzad Mashhood, and Rebecca Coleman (2017). http://temercenter.berkeley.edu/uploads/ADU_report_4.18.pdf

²² Housing Trust Silicon Valley, a non-profit housing organization, recently launched a pilot program called “Small Homes, Big Impact” to support homeowners seeking to build ADUs in Santa Clara and San Mateo Counties. The program currently offers free educational workshops led by local ADU practitioners. A financial assistance program is also under development, which will include planning grants and construction loans. Although this is not a city program, it would likely apply to San José applicants.

(footnote continued)

implement transportation alternatives (including the future BART service, but also pedestrian, bicycle, and bus alternatives), in order to mitigate negative impacts on on-street parking in surrounding neighborhoods.

- 7.3. Explore policies to keep ADUs accessible to low- and moderate-income households.** While reducing zoning and financing barriers is a first important goal, the City of San José may also consider policies aimed at keeping ADUs accessible to lower income households. For example, some jurisdictions have implemented or are considering restrictions on certain short-term rentals.²³ Another example is to provide incentives to homeowners that choose to rent their ADU to lower-income households. The City of Santa Cruz, for instance, provides fee waivers (and in past years, low-interest loans) for homeowners who agree to rent their second units only to low- or very low-income households. Funding for the program is provided by a Sustainable Communities Grant from the California Pollution Control Financing Authority.

²³ See MTC's Casa Compact, Compact Element #4: Remove Regulatory Barriers to ADUs.



MEMORANDUM

To: Dennis Kearney and Ron Golem, VTA
Dennis Dornan and Geeti Silwal, Perkins + Will

From: Strategic Economics

Date: March 15, 2019

Project: VTA's BART Phase II TOD Study

Subject: Strategies for Producing Affordable Housing and Mitigating Displacement Risk in the Downtown San José Station Area

INTRODUCTION

The Santa Clara Valley Transportation Authority (VTA) is leading the development of a TOD Study to support the implementation of transit-oriented development (TOD) in VTA's planned BART Phase II Corridor extension. The study focuses on the Alum Rock/28th Street, Downtown San José and Santa Clara station areas. Diridon is the subject of a separate study.

This memorandum provides strategies and recommendations related to producing affordable housing and mitigating displacement risk in the Downtown San José station area and surrounding neighborhoods. These findings are based on previous work conducted by Strategic Economics, including a report entitled "Opportunities and Constraints for Producing Affordable Housing and Mitigating Displacement Risk", which was completed in November 2018.¹

The introduction includes an overview of the study's "three P's" framework (Protect, Preserve, Produce), and a description of the study area boundaries. Following the introduction, the first section of this memorandum highlights key issues specific to the Downtown San José station, and the second section summarizes strategies and recommendations related to producing affordable housing and mitigating displacement risk.

Framework: Protect, Preserve, Produce

VTA's BART Phase II extension will provide high-quality transit connections to the region's major employment centers, and provide new opportunities for households to live and work near transit. This major new transit investment has the potential to provide benefits to low and moderate-income households in the station areas and surrounding neighborhoods. At the same time, however, new

¹ Opportunities and Constraints for Producing Affordable Housing and Mitigating Displacement Risk, prepared for the Santa Clara Valley Transportation Authority (VTA) for VTA's BART Phase II Corridor Study. November 1, 2018. http://vtaorgcontent.s3-us-west-1.amazonaws.com/Site_Content/VTA-B2-OpportunitiesConstraintsReport.pdf

transit investment and transit-oriented development (TOD) are often associated with increased market activity and rising housing values and rents, which can impact the affordability of these neighborhoods to existing households, especially low and moderate income residents.

In order to mitigate the risk of household displacement and to maximize the potential benefits of new transit for lower income households, it is critical that supportive strategies be put into place that address the following three principles:

- **Protect** tenants and homeowners that currently live in the station areas and surrounding neighborhoods;
- **Preserve** the affordability of existing housing in the station area and surrounding neighborhoods;
- **Produce** new affordable housing units to expand the availability of housing for lower income households in the station areas.

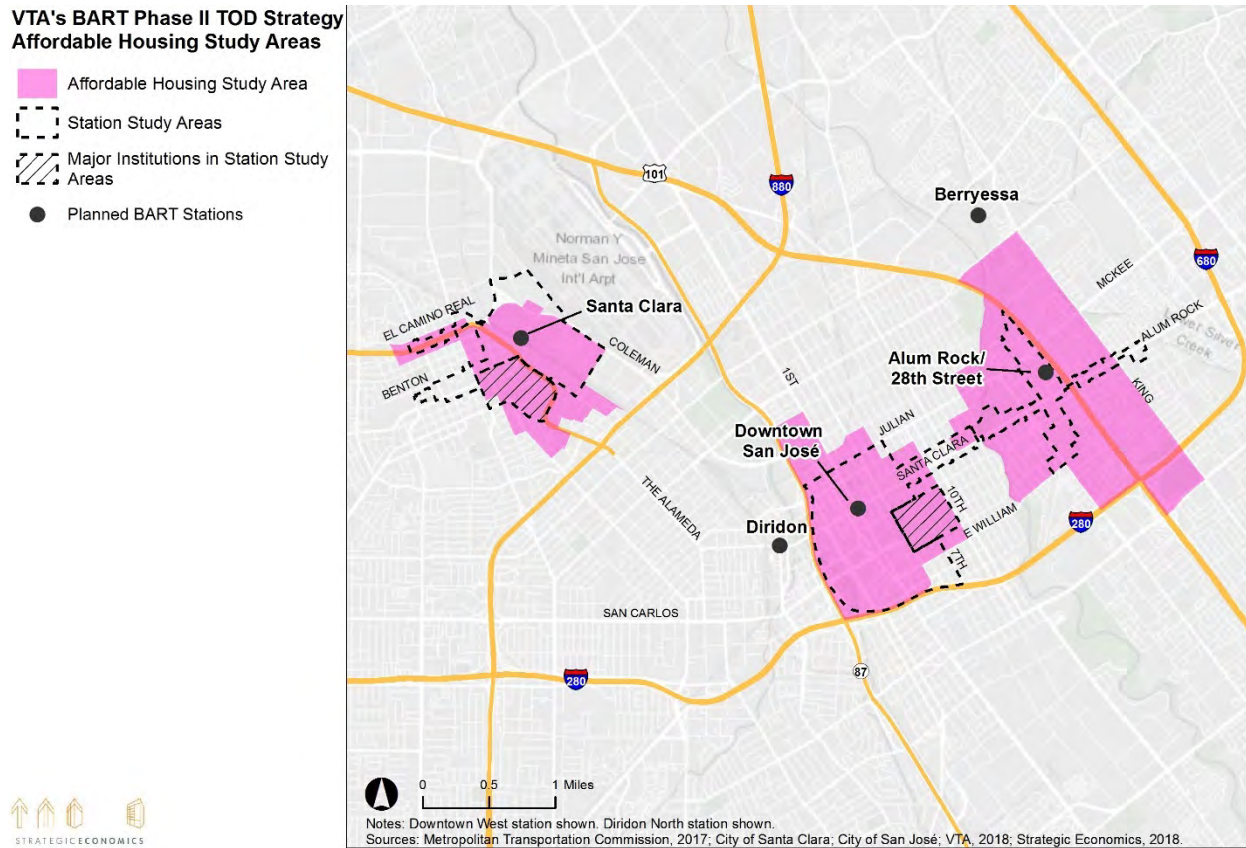
The recommended strategies presented in this memorandum report are organized along the three “P’s” outlined above.

Study Area Boundaries

Two main geographies are referenced in this memorandum, as shown in Figure 1 and explained below:

- The Downtown San José affordable housing study area (referred to as “study area”) is an aggregation of the Census Block Groups located within approximately a half-mile radius from VTA’s future BART station. The study area is used to assess the potential risk of gentrification and displacement in the residential neighborhoods surrounding the station. Strategies and recommendation related to tenant and homeowner protection and to affordable housing preservation apply to the Downtown San José study area.
- The Downtown San José station area (referred to as “station area”) is the primary geography used throughout the broader VTA BART Phase II TOD Study. The station area includes the growth areas that the City of San José has designated within a half- to one-mile walkshed of VTA’s future station, as well as other major development opportunity sites. Strategies and recommendation related to affordable housing production apply primarily to the Downtown San José station area.

FIGURE 1. VTA'S BART PHASE II TOD STRATEGY AFFORDABLE HOUSING STUDY AREAS



KEY ISSUES IN THE DOWNTOWN SAN JOSÉ STATION AREA

Key issues related to Protection, Preservation, and Production for the Downtown San José station and study areas are summarized below. These findings are abridged from the Opportunities and Constraints report, which includes more detailed data and analysis.²

Gentrification and displacement are already underway in Downtown San José. Findings from UC Berkeley’s Urban Displacement Project indicate that gentrification and displacement are ongoing in the Downtown San José study area.³ Additional demographic analysis determined that the study area includes a mixed and transitioning population, and many households remain vulnerable to displacement. In particular:

- The study area is a majority renter area, with over 80 percent renter-occupied units. A quarter of renters are severely cost-burdened.

² Opportunities and Constraints for Producing Affordable Housing and Mitigating Displacement Risk, prepared for the Santa Clara Valley Transportation Authority (VTA) for VTA’s BART Phase II Corridor Study. November 1, 2018. http://vtaorgcontent.s3-us-west-1.amazonaws.com/Site_Content/VTA-B2-OpportunitiesConstraintsReport.pdf

³ The Urban Displacement Project, Center for Community Innovation at the University of California at Berkeley. <http://www.urbandisplacement.org/>

- The study area has a bifurcated income distribution. On the one hand, a quarter of households make less than \$25,000, which likely does not include the homeless population living in Downtown San José. On the other hand, about 20 percent of households make over \$150,000; this group likely encompasses Downtown’s large number of highly-educated residents and young, 1- to 2-person households.

The housing stock of the Downtown San José study area is at risk of losing affordability. The study area includes expiring deed-restricted units, rent-stabilized units, naturally occurring affordable housing (NOAH), and historic homes that could be redeveloped and/or become unaffordable to lower income households. These different forms of at-risk affordable housing are described below and summarized in Figure 2:

FIGURE 2. AFFORDABLE HOUSING STOCK IN THE DOWNTOWN SAN JOSÉ STUDY AREA

Overview (a)	
Total Housing Units	7,087
Total Occupied Housing Units	6,509
Share of Renter-Occupied Units	82%
Share of Owner-Occupied Units	18%
Deed-Restricted Units (b)	
Existing Units, Expiring Before 2029	256
Existing Units, Unknown Expiration	387
Existing Units, No Risk of Expiration	330
Under Construction/Proposed	288
<i>Total Deed-Restricted Units</i>	<i>1,261</i>
Rent Stabilization (c)	
Rent-Stabilized Units (c)	2,900
Mobilehome Park Units	0
Age of Housing Stock (a)	
Built After 2000	32%
Built 1980 - 2000	20%
Built 1970 - 1980	9%
Built 1950 - 1970	12%
Built 1950 or Before	27%
Naturally Occurring Affordable Housing (d)	
Total Multifamily Housing Units (CoStar)	5,354
NOAH Units	2,282
<i>NOAH Units, as a percent of total</i>	<i>43%</i>

(a) Based on U.S. Census ACS 2012-2016 5-year estimates.

(b) Based on data provided by the City of San José.

(c) Based on data provided by the City of San José. Note that some rent-stabilized units may also be counted as Naturally Occurring Affordable Housing units, as explained below.

(d) Based on CoStar data from Q1 2018. These units likely include rent-stabilized units.

Source: City of San José, 2018 CoStar, 2018; U.S. Census ACS 2012-2016 5-year estimates; Strategic Economics, 2018.

- Several existing affordable projects, accounting for 256 deed-restricted units, have deed restrictions that are expiring in the next 10 years. These units may be at risk of conversion to market rate if the terms of the deed restriction are not renewed.
- There are 2,900 rent stabilized units within the study area. Although San José’s rent stabilization ordinance limits the rate at which rents can be increased for a given tenant, a state policy known as “vacancy decontrol” gives landlord full discretion to reset initial rents when a new tenancy begins.

- 27 percent of the study area’s overall housing stock consists of pre-World War II units (built prior to 1950). This includes single-family homes (e.g. the Hensley district) as well as smaller multifamily buildings. The presence of historic single-family housing is often found to be a predictor of gentrification.
- In addition to these different types of units, the study area also includes privately-owned, non-subsidized multifamily properties that are rented at rates that are currently affordable to lower- and moderate income households. Often, the relative affordability of these units is due to the age and condition of the buildings; for this reason, this housing stock is referred to as naturally occurring affordable housing (NOAH). There are about 2,280 NOAH units in the study area, some of which may be included in the count of rent stabilized units as well. If major reinvestment or rehabilitation of these properties occur, or if property values increase across the study area, these units may become unaffordable to existing lower- and moderate-income tenants.

Limited resources are available to help meet affordable housing production targets for the station area. The Downtown Strategy 2000 Environmental Impact Report (EIR) sets a goal of 20 percent affordable housing for Downtown San José.⁴ VTA’s Joint Development policy also requires a minimum of 20 percent affordable units at no more than 60 percent of AMI on individual VTA-owned sites, and a 35 percent goal across VTA’s joint development portfolio. Several challenges exist to meet these goals:

- San José’s local inclusionary policy requires 15 percent affordable units on-site. This policy alone will be insufficient to meet the 20 percent goal stated in the EIR.
- Development costs for affordable housing are rising, as are land costs more generally. Based on the analysis performed for VTA’s BART Phase II TOD Study, the station area could accommodate up to 16,000 new residential units by 2040. In order to meet the 20 percent goal, about 3,200 of the net new units in the station area would need to be affordable. Based on data from recently developed affordable housing projects in Santa Clara County, the local funding gap is estimated around \$173,000 per affordable unit. Meeting the station area’s affordability target would require a total of \$552 million in local funding. While some local resources from Santa Clara County and the City of San José help fill the gap, additional funding is needed to meet the full need.

STRATEGIES AND RECOMMENDATIONS

This section describes six strategies for protecting existing tenants and homeowners, preserving existing affordable housing units, and producing new affordable units in the Downtown San José station and study areas. Under each strategy, specific recommendations are provided for improving or expanding existing policies, or implementing new policies or programs. The majority of recommendations are targeted to the City of San José; some are for VTA and other public land owners.

These strategies are intended to complement the broader local and regional efforts that are already underway, such as San José’s participation in PolicyLink’s All-In Cities Initiative, San José’s Diridon Station Area Advisory Group, and the regional CASA Compact, adopted by the Metropolitan Transportation Commission (MTC).

⁴ The EIR states that 20 percent of new residential development should be affordable to households of various income levels.

Strategies and recommendations are summarized in Figure 3 and described in detail in the body of the text.

FIGURE 3. STRATEGIES AND RECOMMENDATIONS FOR THE DOWNTOWN SAN JOSÉ STATION AND STUDY AREA

Protect Existing Tenants and Homeowners	<ol style="list-style-type: none"> 1. Ensure that existing tenants and homeowners can stay in place by expanding existing policies and resources <ol style="list-style-type: none"> 1.1. Increase targeted emergency rent assistance for at-risk households. 1.2. Increase legal services and outreach for tenants facing evictions. 1.3. Closely monitor evictions, rent increases, and foreclosures in the study area. 1.4. Improve protections for tenants of deed-restricted affordable housing. 1.5. Increase assistance to low-income homeowners. 2. Make it easier for low-income tenants to access affordable housing in the study area <ol style="list-style-type: none"> 2.1. Implement a source of income ordinance. 2.2. Consider establishing a new policy that would give displaced San José tenants a better chance of obtaining an affordable unit.
Preserve Existing Affordable Housing	<ol style="list-style-type: none"> 3. Implement more robust policies to preserve existing affordable housing in the study area <ol style="list-style-type: none"> 3.1. Continue to require unit replacement, or an equivalent alternative, when rent-stabilized units are demolished. 3.2. Continue to track and preserve expiring deed-restricted units. 3.3. Partner with funders and affordable housing developers to create a new acquisition and rehabilitation program for naturally occurring affordable housing (NOAH).
Produce New Affordable Housing	<ol style="list-style-type: none"> 4. Leverage public land for affordable housing production <ol style="list-style-type: none"> 4.1. Identify opportunities to offer VTA-owned land at a discounted rate for affordable housing development. 4.2. Explore further opportunities for affordable housing development on publicly-owned sites. 5. Increase local funding for deed-restricted affordable housing production <ol style="list-style-type: none"> 5.1. Support a citywide affordable housing bond measure. 5.2. Implement a commercial linkage fee. 5.3. Explore dedicating a portion of potential future tax increment financing (TIF) district revenues to affordable housing. 6. Pursue new partnerships and funding for affordable housing production <ol style="list-style-type: none"> 6.1. Pursue new state funding sources for affordable housing and TOD. 6.2. Monitor new private funding sources to help fill the funding gap.

Source: Strategic Economics, 2019.

Protect Existing Tenants and Homeowners

1. ENSURE THAT EXISTING TENANTS AND HOMEOWNERS CAN STAY IN PLACE BY EXPANDING EXISTING POLICIES AND RESOURCES

The City of San José has adopted and strengthened several anti-displacement policies over the years. Based on stakeholder interviews and a review of best practices, Strategic Economics identified gaps in some of these existing policies. The following recommendations are proposed:

- 1.1. Increase targeted emergency rent assistance for at-risk households.** Providing emergency, temporary rent assistance to low-income households that are facing eviction or homelessness can help prevent evictions stemming from non-payment of rent. Although the City does have some funds for tenant-based rental assistance for the formerly homeless, this type of assistance could be expanded. This has also been recommended in MTC's CASA Compact.⁵
- 1.2. Increase legal services and outreach for tenants facing evictions.** San José's TPO currently offers rental dispute mediation and arbitration services. Expanding these services to also include access to legal counsel at a free or reduced cost for households facing evictions could help prevent these evictions and create a fairer system for tenants. Furthermore, expanding outreach efforts is essential to increase tenants' awareness of their rights and resources.
- 1.3. Closely monitor evictions, rent increases, and foreclosures in the study area.** The City should continue its efforts to monitor these patterns over time, especially in high-risk neighborhoods such as Downtown San José. The City already has the right tools in place to bolster these efforts, as described below:
 - Under the Tenant Protection Ordinance (TPO), which applies to all rental units in properties with three or more units, landlords may only terminate tenancies for 13 "just causes". For evictions that result from a landlord's decision, the landlord is required to provide relocation benefits. The ordinance also includes anti-retaliation protections for tenants and resources for dispute mediation. The TPO requires landlords to submit a copy of eviction notices to the City, and the City has already begun tracking and publishing this data.⁶ Although an eviction notice does not always imply that an eviction actually took place, it does indicate increased risk and vulnerability to eviction.
 - The Apartment Rent Ordinance (ARO), which applies to rental properties with three or more units built prior to 1979, limits annual rent increases to five percent per year. Landlords have full discretion to reset the rent when a new tenancy begins due to "vacancy decontrol" policies required by state law. The ARO allows the City to track rent increase violations for rent-stabilized units.
 - The City tracks foreclosures as part of its quarterly citywide housing market updates.⁷

⁵ See Compact Element #3: Rent Assistance and Access to Legal Counsel, from the CASA COMPACT: A 15-Year Emergency Policy Package to Confront the Housing Crisis in the San Francisco Bay Area, January 2019. https://mtc.ca.gov/sites/default/files/CASA_Compact.pdf

⁶ See City of San José Eviction Notice Dashboard, in collaboration with the Calvin College Center for Social Research, <https://public.tableau.com/profile/center.for.social.research#!/vizhome/EvictionNoticesintheCityofSanJose/Evictionnoticedashboard?publish=yes>

⁷ City of San José, Housing Market Data, <http://www.sanjoseca.gov/index.aspx?NID=1283>

- 1.4. **Improve protections for tenants of deed-restricted affordable housing.** Tenants of deed-restricted housing may be at risk of displacement if affordability restrictions are set too rigidly, given that households are often operating on a limited budget and cannot necessarily absorb rent increases. For example, a tenant whose income increases from 50 percent of AMI to 60 percent of AMI is typically required to pay higher rents, which could be a financial burden. To address this, annual rent increases could be capped or increased more gradually. Alternatively, property managers could allow tenants to stay in their existing unit even if their income increases past the unit's income limit, as long as their income is below 80 percent of AMI. These strategies could be negotiated with developers and property managers of affordable units and implemented through the terms of a project covenant, if this is within the discretion of the property owners and allowed under the regulations of the project's funding sources.
- 1.5. **Increase assistance to low-income homeowners.** Down-payment assistance for low-income homebuyers is available through a partnership with Housing Trust Silicon Valley, funded partly through Santa Clara County's Measure A. The City of San José could consider increasing resources and assistance for low-income homebuyers as well as low-income homeowners at-risk of foreclosure.

2. MAKE IT EASIER FOR LOW-INCOME TENANTS TO ACCESS AFFORDABLE HOUSING IN THE STUDY AREA

Although new transit has the potential to provide benefits to low and moderate-income households, eligible tenants may face challenges in finding or renting affordable units in the study area. The following recommendations build on the policies that are under consideration as part of San José's PolicyLink initiative.

- 2.1. **Implement a source of income ordinance.** As reported by City of San José staff, discrimination against recipients of federal Housing Choice Vouchers (HCV, more commonly known as Section 8 vouchers) is prevalent in San José. As a result, voucher recipients are often unable to find a suitable private rental apartment and may lose their voucher due to expiration rules. A source of income ordinance would prohibit discrimination based on source of income, including tenant subsidies such as HCVs. The Santa Clara County Board of Supervisors recently adopted an ordinance of this kind, which applies to the County's unincorporated areas.⁸
- 2.2. **Consider establishing a policy that would give displaced San José tenants a better chance of obtaining an affordable unit.** City of San José staff is exploring the implementation of new lottery preferences for deed-restricted housing, which would favor households that have been displaced from their San José home or from gentrifying areas.⁹ The City of San Francisco implemented a similar anti-displacement preference for their affordable housing lottery in 2016.¹⁰

⁸ Mercury News, December 12, 2018, by Emily Deruy. San Jose moves toward ordinance limiting Section 8 discrimination, <https://www.mercurynews.com/2018/12/11/san-jose-moves-toward-ordinance-limiting-section-8-discrimination/>. See also, City of San José Memorandum, Tenant Source of Income Policy, March 1, 2018. <https://www.sanjoseca.gov/DocumentCenter/View/75502>

⁹ City of San José Memorandum, Prioritization for Tenants of Affordable Housing, May 3, 2018. <https://www.sanjoseca.gov/DocumentCenter/View/77201>

¹⁰ City and County of San Francisco Mayor's Office of Housing and Community Development, Lottery Preference Programs, <https://sfmohcd.org/lottery-preference-programs>

Preserve Existing Affordable Housing

3. IMPLEMENT MORE ROBUST POLICIES TO PRESERVE EXISTING AFFORDABLE HOUSING IN THE STUDY AREA

The City of San José has adopted and revised several policies focused on the preservation of existing affordable housing. Based on stakeholder interviews and a review of best practices, Strategic Economics identified gaps in existing policies. The following recommendations are proposed:

- 3.1. Continue to require unit replacement, or an equivalent alternative, when rent-stabilized units are demolished.** The Ellis Act ordinance implements protections for tenants evicted from rental properties covered by the ARO that are to be demolished or permanently withdrawn from the market. Protections include relocation assistance, as well as a “right to return” if units are returned to the rental market within ten years. In 2018, the Ellis Act ordinance was amended to also include replacement requirements of demolished ARO units. If rent-stabilized units are demolished in order to be redeveloped into new housing, either 50 percent of new units or the number of demolished rent-stabilized units must be re-controlled under the ARO, whichever is greater. In certain cases, the developer may choose to build 20 percent on-site deed-restricted affordable rental units instead of complying with the re-control requirements.¹¹ The City should continue to either require unit replacement, or implement an equivalent alternative – such as the payment of a demolition fee – to ensure that the affordability of rent-stabilized units is preserved.
- 3.2. Continue to track and preserve expiring deed-restricted units.** The City of San José produces quarterly reports to track affordable housing projects that are at-risk of being converted to market rate housing, or otherwise lost to the affordable housing stock, and uses available funding to refurbish aging development and extend the terms of affordability. One of the projects that is in the city’s pipeline in the 2018-2019 period is located in the Downtown study area (YWCA Third Street). This program will be important to maintain for the Downtown San José study area.
- 3.3. Partner with funders and affordable housing developers to create a new acquisition and rehabilitation program for naturally occurring affordable housing (NOAH).** The acquisition and rehabilitation of NOAH properties can be an effective and relatively low-cost strategy for preserving affordability in a neighborhood, especially in the case of larger multifamily buildings (e.g. usually 20 units or more). However, the City of San José does not currently have any formal policy that addresses this issue. The City could take a leadership role in identifying eligible, high-priority NOAH properties in the study area, and work with established affordable housing developers and funders to identify a dedicated funding or financing source. The recent collaboration between Kaiser Permanente, EBALDC, and the City of Oakland for the acquisition of a 41-unit apartment building in East Oakland provides a relevant precedent for how these partnerships can work.¹² MTC also recently dedicated \$10 million to the Bay Area Preservation Pilot (BAPP), a revolving loan fund to assist nonprofit developers with the acquisition and

¹¹ City of San José, Ellis Act Ordinance. <http://www.sanjoseca.gov/index.aspx?NID=5517>

¹² City of Oakland News, January 15, 2019. Mayor Libby Schaaf & Kaiser Permanente Announce Three Initiatives to Improve Community Health, Tackle Housing Insecurity in Oakland. <https://www.oaklandca.gov/news/2019/mayor-libby-schaaf-kaiser-permanente-announce-three-initiatives-to-improve-community-health-tackle-housing-insecurity-in-oakland>
(footnote continued)

preservation of rental properties located near transit that are affordable to lower income households.¹³

Produce New Affordable Housing

4. LEVERAGE PUBLIC LAND FOR AFFORDABLE HOUSING PRODUCTION

Publicly-owned sites represent a unique opportunity to facilitate the production of affordable housing. Reserving public land for this purpose helps affordable housing developers acquire sites in desirable locations, which is especially important given rising land costs and mounting competition with market-rate developers for site acquisition in prime locations near transit. In addition, offering publicly-owned land at a below-market rate helps reduce development costs, and can increase a project's competitiveness for grants and tax credit programs.¹⁴

State and regional agencies are increasingly recognizing the importance of prioritizing affordable housing on vacant or surplus public lands.¹⁵ VTA's Joint Development (JD) policy includes ambitious affordable housing goals for land owned by the agency, and the City of San José has also donated or discounted land for recent affordable housing projects (e.g. Villas on the Park, Met South, etc.). The following recommendations are proposed to build on these existing efforts:

4.1. Identify opportunities to offer VTA-owned land at a discounted rate for affordable housing development to meet VTA's on-site affordability requirements for Joint Development sites. VTA's JD policy requires that at least 20 percent of housing units on any given JD site be made affordable to households earning no more than 60 percent of AMI, and half of these units must be targeted to households earning 50 percent of AMI or less. VTA's policy also requires that 35 percent of units in its overall joint development portfolio be made affordable to lower income households. In most cases, reaching this level of affordability will require supplemental funding and financing, such as tax credits or other public sources.. The primary publicly-owned opportunity site in the Downtown San José station area is VTA's JD site (the VTA Block). As explained above, offering publicly-owned sites at a discounted value can greatly facilitate affordable housing production. The amount and type of write-down can be negotiated by VTA on a case-by-case basis, depending on the specific development proposal and other funding sources available.

4.2. Explore further opportunities for affordable housing development on sites owned by other public agencies. In addition to VTA, the City of San José and other public agencies also own land in the station area.¹⁶ Public agencies that own land in the station area should determine whether any of their parcels are subject to California's Surplus Land Act, which ties affordable housing requirements to surplus land. Also of note, the former San José Hospital Site, on East Santa Clara Street from 14th to 17th Street, is another major opportunity site co-owned by Santa

¹³ Bay Area Metro: The Bay Link, March 2, 2018. Bay Area Preservation Pilot Fund. <https://blog.bayareametro.gov/tags-public/bay-area-preservation-pilot-fund>

¹⁴ MTC, Workforce and Affordable Housing Opportunities on Public Lands. <https://mtc.ca.gov/our-work/plans-projects/focused-growth-livable-communities/workforce-and-affordable-housing>

¹⁵ For example, see MTC/ABAG's analysis of vacant public lands for affordable housing, California's Surplus Land Act, and Governor Newsom's recent executive order on developing affordable housing on state-owned public land.

¹⁶ MTC, Workforce and Affordable Housing Opportunities on Public Lands. <https://mtc.ca.gov/our-work/plans-projects/focused-growth-livable-communities/workforce-and-affordable-housing>
(footnote continued)

Clara County and the Santa Clara County Housing Authority. A master plan is currently underway for the site, and preliminary drafts include housing at various levels of affordability.¹⁷

5. INCREASE LOCAL FUNDING FOR DEED-RESTRICTED AFFORDABLE HOUSING PRODUCTION

Local funding (which includes city or county sources, and other public or private land donations) is an essential component of affordable housing funding, as it represents the missing gap needed to make projects work beyond what can be more easily obtained from federal and state sources, tax credits, and permanent financing. As explained previously, the local funding gap needed to meet the Downtown San José station area's affordability target is approximately \$552 million.

Various city and county sources exist to help meet this gap, including Santa Clara County's Measure A, San José's Low and Moderate Income Housing Fund, and funds from San José's Inclusionary Housing Ordinance, although it should be noted that these sources are not restricted to the station areas. Furthermore, there are several deed-restricted affordable housing projects in the Downtown San José station area's pipeline. A small number of on-site affordable units may also be built through San José's inclusionary housing program. While the City of San José's inclusionary housing policy favors the development of affordable units on-site, it is anticipated that many developers will choose to pay in-lieu fees rather than building units on-site.

Even with these pipeline projects and existing funding sources, there will remain a local funding gap to meet the station area's affordability targets. The following recommendations are proposed to raise more local revenues for affordable housing production:

- 5.1. **Support a citywide affordable housing bond measure.** In recent years, cities across the Bay Area have approved a local housing bond measures, such as San Francisco's Proposition A (2015), Oakland's Measure KK (2016), and Berkeley's Measure O & P (2018). San José's Measure V, which was intended to fund homelessness prevention and new affordable housing production at various income levels, was defeated in November 2018, but this funding source, if approved in a future election, could fill an important local funding gap.
- 5.2. **Implement a commercial linkage fee.** A commercial linkage fee is an impact fee charged on new commercial development (office, retail, industrial, hotel, etc.) where the revenues go toward affordable housing development. While a commercial linkage fee would likely be implemented citywide, some of the revenues generated could be directed to affordable housing projects in the study area. Most of San José's neighboring cities (Sunnyvale, Santa Clara, Cupertino, Mountain View, Palo Alto) have commercial linkage fees in place. In December 2018, San José's City Council voted to conduct a Nexus study and Feasibility study for a potential commercial linkage fee.¹⁸
- 5.3. **Explore dedicating a portion of potential future tax increment financing (TIF) district revenues to affordable housing.** Tax increment financing (TIF) is a mechanism that captures incremental increases in tax revenues generated in a specific district, in order to pay for improvements in that district. TIF districts, such as Enhanced Infrastructure Financing Districts (EIFDs), are being considered as part of VTA's BART Phase II TOD Strategy. If a TIF district is implemented

¹⁷ County of Santa Clara, East Santa Clara Street Master Plan: <https://www.sccgov.org/sites/faf/capital-projects/escs/Pages/home.aspx>

¹⁸ Silicon Valley @ Home. San José: Council to Study Commercial Linkage Fees (December 2018). <https://siliconvalleyathome.org/san-jose-council-to-study-commercial-linkage-fees/>

in the station area, the City of San José should explore the appropriate share of revenues to set aside for affordable housing.

6. PURSUE NEW PARTNERSHIPS AND FUNDING FOR AFFORDABLE HOUSING PRODUCTION

In addition to local funding sources mentioned above, federal, state, and private funding sources are also required to fund affordable housing. In the last two years, new state funding sources and private philanthropic opportunities have emerged. The following recommendations are proposed:

6.1. Pursue new state funding sources for affordable housing and TOD. New state funding sources for affordable housing production are starting to come online, following Governor Brown's 2017 housing package. These funding sources, administered by the Department of Housing and Community Development (HCD), are awarded via the following programs:

- The No Place Like Home Program, which dedicates nearly \$2 billion in bond proceeds for the development of permanent supportive housing, targeted to assist persons with mental illness and persons experiencing homelessness.¹⁹
- The Multifamily Housing Program (MHP), which provides deferred long-term loans for construction, rehabilitation, and acquisition-rehabilitation of permanent and transitional affordable rental housing.
- Infill Infrastructure Grants (IIG), which were formerly funded by Prop 1C in 2006. This program provides gap funding to the infrastructure improvements required for transit-oriented development and infill development.
- CalHome Program, which provide grants to local agencies and developers to develop ownership housing and provide other housing assistance to low-income homeowners.
- SB 2 (Building Homes and Jobs Act) imposed a new real estate recording fee of \$75 on selected real estate transactions. SB 2 funding will be dedicated to local governments for various eligible uses, including: planning and technical assistance to streamline housing development, development or preservation of affordable housing, and assistance for persons experiencing or at-risk of homelessness (rapid rehousing, emergency shelters, rental assistance, etc.)²⁰

¹⁹ California Housing and Community Development Department. No Place Like Home, <http://www.hcd.ca.gov/grants-funding/active-funding/nplh.shtml>

²⁰ Revenues from SB 2 will be collected starting on January 1, 2018. In the first year, 50 percent of SB 2 funds will go towards statewide homelessness programs, namely the Housing for a Healthy California Program and the California Emergency Solutions and Housing Program (CESH), both administered by HCD; the other 50 percent will go to local jurisdictions for planning and technical assistance. In the second year and beyond, 70 percent of SB 2 funds will be allocated to local jurisdictions, with a mix of competitive and non-competitive allocations. These funds can be used for a variety of eligible uses, including the development or preservation of affordable housing and provision of services and housing for the homeless. The remaining 30 percent will go to farmworker housing, CalHFA Missing Middle housing, and other incentives to streamline housing development. For more detail, see the California Housing and Community Development Department, California's 2017 Housing Package Frequently Asked Questions, Updated July 2018 (<http://www.hcd.ca.gov/policy-research/housing-package/cahp-faq.shtml#sb2>), and HCD's Framing Paper for Public Comment: Permanent Local Housing Allocation (PLHA) Senate Bill 2 Local Government Allocation Funds, January 2019 (www.hcd.ca.gov/policy-research/docs/PLHA-framing-paper.docx) (footnote continued)

In the current legislative session, numerous other bills seeking to incentivize affordable housing production have been proposed. Several bills propose new or expanded state funding sources, such as the state Low-Income Housing Tax Credit program.

- 6.2. **Monitor new private funding sources to help fill the funding gap.** For example, the Partnership for the Bay Area's Future is a new philanthropic initiative that was announced in early 2019.²¹ This coalition of funders, which includes Facebook, Genentech, the Chan Zuckerberg Foundation, and the San Francisco Foundation, aims to raise \$540 million for affordable housing in the region: \$500 million will be for community development projects, and \$40 million will be awarded to jurisdictions with affordable housing plans. Details regarding how to access these funds are not yet publicly available.

²¹ Partnership for the Bay's Future. <https://www.baysfuture.org/>



MEMORANDUM

To: Dennis Kearney and Ron Golem, VTA
Dennis Dornan and Geeti Silwal, Perkins + Will

From: Strategic Economics

Date: March 15, 2019

Project: VTA's BART Phase II TOD Study

Subject: Strategies for Producing Affordable Housing and Mitigating Displacement Risk in the Santa Clara Station Area

INTRODUCTION

The Santa Clara Valley Transportation Authority (VTA) is leading the development of a TOD Study to support the implementation of transit-oriented development (TOD) in VTA's planned BART Phase II Corridor extension. The study focuses on the Alum Rock/28th Street, Downtown San José and Santa Clara station areas. Diridon is the subject of a separate study.

This memorandum provides strategies and recommendations related to producing affordable housing and mitigating displacement risk in the Santa Clara station area and surrounding neighborhoods. These findings are based on previous work conducted by Strategic Economics, including a report entitled "Opportunities and Constraints for Producing Affordable Housing and Mitigating Displacement Risk", which was completed in November 2018.¹ Because existing residents and future residential development are both located primarily in the City of Santa Clara's portion of the station area, analyses and recommendations in this memorandum are focused primarily on the City of Santa Clara.

The introduction includes an overview of the study's "three P's" framework (Protect, Preserve, Produce), and a description of the study area boundaries. Following the introduction, the first section of this memorandum highlights key issues specific to the Santa Clara station, and the second section summarizes strategies and recommendations related to producing affordable housing and mitigating displacement risk.

Framework: Protect, Preserve, Produce

VTA's BART Phase II extension will provide high-quality transit connections to the region's major employment centers, and provide new opportunities for households to live and work near transit. This

¹ Opportunities and Constraints for Producing Affordable Housing and Mitigating Displacement Risk, prepared for the Santa Clara Valley Transportation Authority (VTA) for VTA's BART Phase II Corridor Study. November 1, 2018. http://vtaorgcontent.s3-us-west-1.amazonaws.com/Site_Content/VTA-B2-OpportunitiesConstraintsReport.pdf

major new transit investment has the potential to provide benefits to low and moderate-income households in the station areas and surrounding neighborhoods. At the same time, however, new transit investment and transit-oriented development (TOD) are often associated with increased market activity and rising housing values and rents, which can impact the affordability of these neighborhoods to existing households, especially low and moderate income residents.

In order to mitigate the risk of household displacement and to maximize the potential benefits of new transit for lower income households, it is critical that supportive strategies be put into place that address the following three principles:

- **Protect** tenants and homeowners that currently live in the station areas and surrounding neighborhoods;
- **Preserve** the affordability of existing housing in the station area and surrounding neighborhoods;
- **Produce** new affordable housing units to expand the availability of housing for lower income households in the station areas.

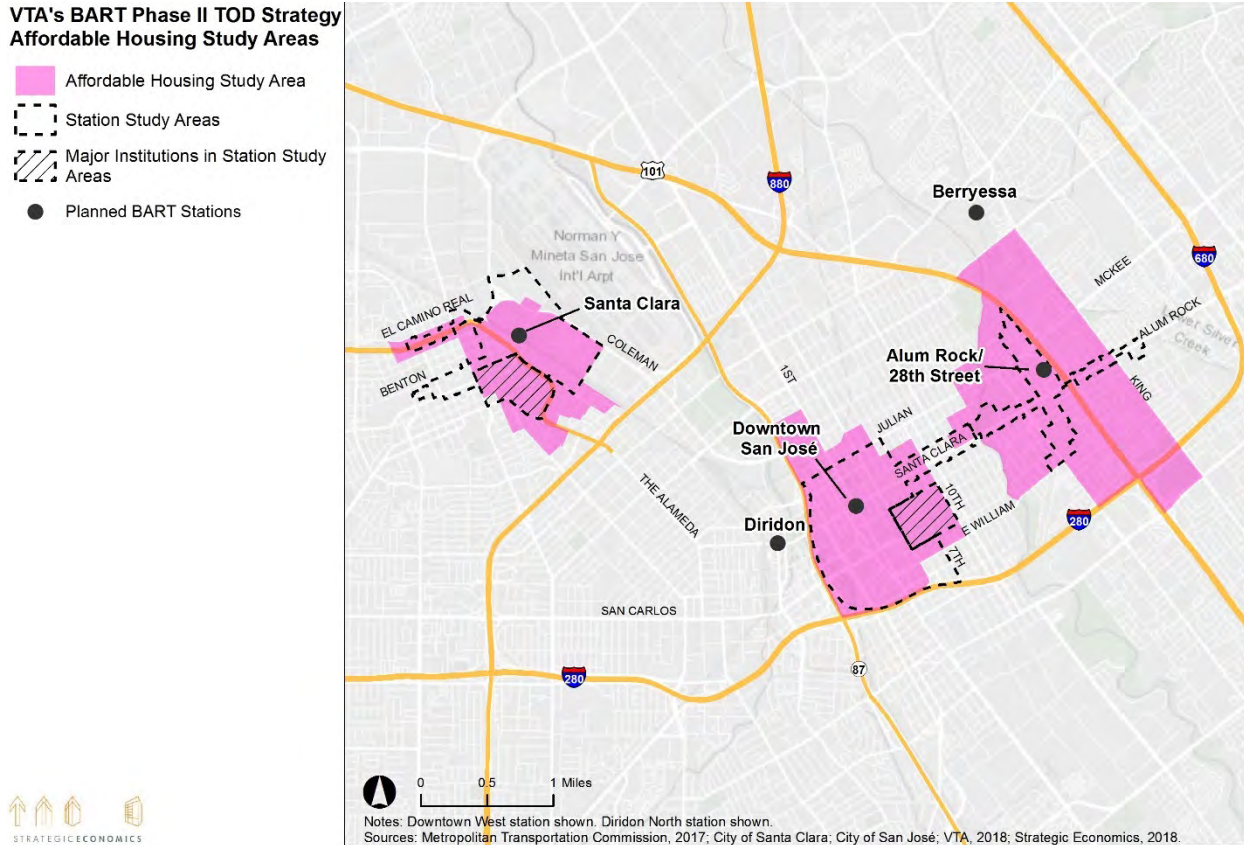
The recommended strategies presented in this memorandum report are organized along the three “P’s” outlined above.

Study Area Boundaries

Two main geographies are referenced in this memorandum, as shown in Figure 1 and explained below:

- The Santa Clara affordable housing study area (referred to as “study area”) is an aggregation of the Census Block Groups located within approximately a half-mile radius from VTA’s future BART station. The study area is used to assess the potential risk of gentrification and displacement in the residential neighborhoods surrounding the station. Strategies and recommendation related to tenant and homeowner protection and to affordable housing preservation apply to the Santa Clara study area.
- The Santa Clara station area (referred to as “station area”) is the primary geography used throughout the broader TOD Study. The station area includes the growth areas that the Cities of San José and Santa Clara have designated within a half- to one-mile walkshed of VTA’s future station, as well as other major development opportunity sites. Strategies and recommendation related to affordable housing production apply to the Santa Clara station area.

FIGURE 1. VTA'S BART PHASE II TOD STRATEGY AFFORDABLE HOUSING STUDY AREAS



KEY FINDINGS FOR THE SANTA CLARA STATION AREA

Key findings related to Protection, Preservation, and Production for the Santa Clara station and study areas are summarized below. These findings are abridged from the Opportunities and Constraints report, which includes more detailed data and analysis.²

Demographic and household characteristics in the Santa Clara study area suggests low vulnerability to displacement.³ While some individual households may be at-risk of displacement, the demographic analysis determined that the study area presents very few characteristics associated with vulnerability to displacement:

- The study area has a small population and about half the residents are University students. Although some renters appear severely cost-burdened, income and housing cost-burden data are difficult to interpret because some students receive supplemental financial support from their parents.

² Opportunities and Constraints for Producing Affordable Housing and Mitigating Displacement Risk, prepared for the Santa Clara Valley Transportation Authority (VTA) for VTA's BART Phase II Corridor Study. November 1, 2018. http://vtaorgcontent.s3-us-west-1.amazonaws.com/Site_Content/VTA-B2-OpportunitiesConstraintsReport.pdf

³ The UC Berkeley Urban Displacement Project typology does not analyze gentrification and displacement trends for census tracts that have more than 50 percent college students. This criterion applies to most of the census tracts located in the Santa Clara station area, so findings from the Urban Displacement Project are not relevant for this station. The Urban Displacement Project, Center for Community Innovation at the University of California at Berkeley. <http://www.urbandisplacement.org/>

- About one third of households are high-income homeowners.
- More than two thirds of residents over the age of 25 have a Bachelor’s degree or higher.

The housing stock in the Santa Clara study area is not at high risk of losing affordability, with the exception of one deed-restricted housing project expiring in 2023. The presence of different forms of at-risk affordable housing in the study area is described below and summarized in Figure 2:

FIGURE 2. AFFORDABLE HOUSING STOCK IN THE SANTA CLARA STUDY AREA

Overview (a)	
Total Housing Units	1,614
Total Occupied Housing Units	1,492
Share of Renter-Occupied Units	65%
Share of Owner-Occupied Units	35%
Deed-Restricted Units (b)	
Existing Units, Expiring Before 2029	20
Existing Units, Unknown Expiration	81
Existing Units, No Risk of Expiration	72
Under Construction/Proposed	0
<i>Total Deed-Restricted Units</i>	<i>173</i>
Rent Stabilization	
Rent-Stabilized Units (c)	0
Mobilehome Park Units	0
Age of Housing Stock (a)	
Built After 2000	47%
Built 1980 - 2000	15%
Built 1970 - 1980	6%
Built 1950 - 1970	5%
Built 1950 or Before	26%
Naturally Occurring Affordable Housing (e)	
Total Multifamily Housing Units (CoStar)	623
NOAH Units	221
NOAH Units, as a percent of total	35%

(a) Based on U.S. Census ACS 2012-2016 5-year estimates.

(b) Based on data provided by the City of Santa Clara.

(c) The City of Santa Clara does not have a rent stabilization ordinance, and there are no rent-stabilized units on the San José side of the study area.

(d) Based on CoStar data from Q1 2018.

Source: City of Santa Clara, 2018; CoStar, 2018; U.S. Census ACS 2012-2016 5-year estimates; Strategic Economics, 2018.

- The study area includes one 20-unit deed-restricted affordable housing project expiring in 2023.⁴ These units may be at risk of conversion to market rate if the terms of the deed restriction are not renewed.
- The study area does not include rent-stabilized units⁵ or mobilehome parks.
- Although a quarter of units in the study area date to the pre-World War II era, the study area’s context suggests that there is relatively low risk of displacing households from these residences (i.e. there is a high share of high income homeowners.)
- In addition to these different types of units, the study area also includes privately-owned, non-subsidized multifamily properties that are rented at rates that are currently affordable to lower- and moderate income households. Often, the relative affordability of these units is due to the

⁴ Based on data provided by the City of Santa Clara, the Runaway Youth Shelter is a 20-unit project located at 3490 The Alameda.

⁵ The City of Santa Clara does not have a rent stabilization ordinance, and there are no rent-stabilized units on the San José side of the study area.

age and condition of the buildings; for this reason, this housing stock is referred to as naturally occurring affordable housing (NOAH). There are only about 200 NOAH units in the study area. If major reinvestment or rehabilitation of these properties occur, or if property values increase across the study area, these units may become unaffordable to existing lower- and moderate-income tenants.

Limited resources are available to meet affordable housing production targets for the station area.

The City of Santa Clara's recently adopted an inclusionary housing ordinance that requires new residential development to set aside least 15 percent of the units at prices or rents that are affordable to lower income households.⁶ VTA's Joint Development policy requires a minimum of 20 percent affordable units at no more than 60 percent of AMI on VTA-owned sites. Santa Clara University has also expressed a need for more affordable workforce housing, especially for non-teaching staff. Several challenges exist to meet these goals:

- Only one new affordable housing project has been added to the station area's inventory since 2011 (Presidio El Camino), and there are currently no affordable housing projects in the station area's pipeline. However, some publicly-owned sites are under negotiation; these are discussed in the Strategies and Recommendations section.
- Development costs for affordable housing are rising, as are land costs more generally. Based on the analysis performed for VTA's BART Phase II TOD Study, the station area could accommodate up to 8,626 new residential units by 2040. In order to meet the 15 percent goal, about 1,300 of the net new units in the station area would need to be affordable. Based on data from recently developed affordable housing projects in Santa Clara County, the local funding gap is estimated around \$173,000 per affordable unit. Meeting the station area's affordability target would require a total of \$223 million in local funding. While some local resources from Santa Clara County and the City of Santa Clara help fill the gap, additional funding is needed to meet the full need.
- There is a need for workforce housing, including for Santa Clara University staff, but funding sources dedicated to moderate income housing are limited.

STRATEGIES AND RECOMMENDATIONS

This section describes seven strategies for protecting existing tenants and homeowners, preserving existing affordable housing units, and producing new affordable units in the Santa Clara station and study areas. Under each strategy, specific recommendations are provided for improving or expanding existing policies, or implementing new policies or programs. The majority of recommendations are targeted to the City of Santa Clara, given that both existing and planned residential populations are primarily located in the City of Santa Clara's portion of the station area. Some recommendations are also targeted to VTA and other public land owners.

In general, strategies and recommendations for the Santa Clara station area are focused more on affordable housing production than on tenant protection and affordable housing preservation, given that the data does not indicate a strong risk of gentrification, displacement, or loss of affordable units.

⁶ The City of Santa Clara requires all rental and for-sale residential projects with ten or more units to provide at least 15 percent of the units at prices or rents that are affordable to lower income households. The average affordability target is 100 percent of area median income (AMI) for for-sale and rental projects. The City Council can authorize developers to provide a lower percentage of affordable units if the units are restricted to extremely low, very low, or low-income households through a Development Agreement.

These strategies are intended to complement and fit into the broader efforts that are already underway, including the regional CASA Compact, adopted by the Metropolitan Transportation Commission (MTC). Strategies and recommendations are summarized in Figure 3 and described in more detail in the body of the text.

FIGURE 3. STRATEGIES AND RECOMMENDATIONS FOR THE ALUM ROCK/28TH STREET STATION AND STUDY AREA

Protect Existing Tenants and Homeowners	<ol style="list-style-type: none"> 1. Strengthen existing tenant protections <ol style="list-style-type: none"> 1.1. Expand the City’s existing tenant services and protections. 1.2. Improve protections for tenants of deed-restricted affordable housing 1.3. Implement tenant protections in the case of conversions of deed-restricted to market-rate housing. 2. Make it easier for low-income tenants to access affordable housing in the study area <ol style="list-style-type: none"> 2.1. Implement a source of income ordinance.
Preserve Existing Affordable Housing	<ol style="list-style-type: none"> 3. Strengthen existing affordable housing preservation policies <ol style="list-style-type: none"> 3.1. Continue to track and preserve at-risk units. 3.2. Explore partnerships with funders and affordable housing developers for the acquisition and rehabilitation of naturally occurring affordable housing (NOAH)
Produce New Affordable Housing	<ol style="list-style-type: none"> 4. Leverage public land for affordable housing production <ol style="list-style-type: none"> 4.1. Identify opportunities to offer VTA-owned land at a discounted rate for affordable housing development. 4.2. Explore further opportunities for affordable housing development on publicly-owned sites. 5. Increase local funding for deed-restricted affordable housing production <ol style="list-style-type: none"> 5.1. Explore dedicating a portion of potential future tax increment financing (TIF) district revenues to affordable housing. 6. Pursue new partnerships and funding for affordable housing production <ol style="list-style-type: none"> 6.1. Pursue new state funding sources for affordable housing and TOD. 6.2. Monitor new private funding sources to help fill the funding gap. 6.3. Explore a partnership with Santa Clara University to pursue workforce housing development. 7. Encourage the development of ADUs <ol style="list-style-type: none"> 7.1. Kickstart ADU development by streamlining the permitting process and providing additional financing options. 7.2. Explore policies to keep ADUs accessible to low- and moderate-income households.

Source: Strategic Economics, 2019.

Protect Existing Tenants and Homeowners

1. STRENGTHEN EXISTING TENANT PROTECTIONS

The City of Santa Clara has a limited number of tenant protections. Based on feedback from city staff, a review of best practices, and the study area's overall context, the following recommendations are proposed:

- 1.1. Expand the City's existing tenant services and protections.** The City of Santa Clara has a handful of tenant protection programs in place, including: the Community Ownership Conversion Tenant Protections, which provides benefits to renters living in apartment units that are converted to condominiums; landlord-tenant dispute resolution services, provided by Project Sentinel; and some limited tenant-based rental assistance. The City should consider strengthening these programs, especially landlord-tenant dispute resolution and rental assistance services. Providing legal services at free or reduced charges to households facing evictions can significantly help prevent evictions, and temporary emergency rent assistance to low-income households that are facing eviction or homelessness can help prevent evictions stemming from non-payment of rent.
- 1.2. Improve protections for tenants of deed-restricted affordable housing.** Tenants of deed-restricted housing may be at risk of displacement if affordability restrictions are set too rigidly, given that households are often operating on a limited budget and cannot necessarily absorb rent increases. For example, a tenant whose income increases from 50 percent of AMI to 60 percent of AMI is typically required to pay higher rents, which could be a financial burden. To address this, annual rent increases could be capped or increased more gradually. Alternatively, property managers could allow tenants to stay in their existing unit even if their income increases past the unit's income limit, as long as their income is below 80 percent of AMI. In These strategies could be negotiated with developers and property managers of affordable units and implemented through the terms of a project covenant, if this is within the discretion of the property owners and allowed under the regulations of the project's funding sources.
- 1.3. Implement tenant protections in the case of conversions of deed-restricted to market-rate housing.** Although the City of Santa Clara has a policy to preserve expiring deed-restricted units, tenant protections should be mandatory if the conversion cannot be avoided. Right-of-first-refusal or relocation assistance for current tenants could be implemented as minimum requirements for projects receiving City funding.

2. MAKE IT EASIER FOR LOW-INCOME TENANTS TO ACCESS AFFORDABLE HOUSING IN THE STUDY AREA

Although new transit has the potential to provide benefits to low- and moderate-income households, eligible tenants may face challenges in finding or renting affordable units in the study area. Therefore, the following recommendation is proposed:

- 2.1. Implement a source of income ordinance.** Discrimination against recipients of federal Housing Choice Vouchers (HCV, more commonly known as Section 8 vouchers), is prevalent in Santa Clara County. As a result, voucher recipients are often unable to find a suitable private rental apartment and may lose their voucher due to expiration rules. A source of income ordinance would prohibit discrimination based on source of income, including tenant subsidies such as

HCVs. The Santa Clara County Board of Supervisors recently adopted an ordinance of this kind, which applies to the County's unincorporated areas.⁷

Preserve Existing Affordable Housing

3. STRENGTHEN EXISTING AFFORDABLE HOUSING PRESERVATION POLICIES

The City of Santa Clara has a limited number of affordable housing preservation policies in place. Based on feedback from city staff and the study area's overall context, the following recommendations are proposed:

- 3.1. **Continue to track and preserve at-risk units.** The City of Santa Clara currently tracks expiring deed-restricted units and works with public and non-profit housing developers to preserve all assisted multi-family housing units at-risk of being converted to market-rate housing. This program will be important to maintain for the study area.
- 3.2. **Explore partnerships with funders and affordable housing developers for the acquisition and rehabilitation of naturally occurring affordable housing (NOAH).** The acquisition and rehabilitation of NOAH properties can be an effective and relatively low-cost strategy for preserving affordability in a neighborhood, especially in the case of larger multifamily buildings (e.g. usually 20 units or more). However, the City of Santa Clara does not currently have any formal policy that addresses this issue. The City could take a leadership role in identifying eligible, high-priority NOAH properties in the study area, and work with established affordable housing developers and funders to identify a dedicated funding or financing source. The recent collaboration between Kaiser Permanente, EBALDC, and the City of Oakland for the acquisition of a 41-unit apartment building in East Oakland provides a relevant precedent for how these partnerships can work.⁸ MTC also recently dedicated \$10 million to the Bay Area Preservation Pilot (BAPP), a revolving loan fund to assist nonprofit developers with the acquisition and preservation of rental properties located near transit that are affordable to lower income households.⁹

Produce New Affordable Housing

4. LEVERAGE PUBLIC LAND FOR AFFORDABLE HOUSING PRODUCTION

Publicly-owned sites represent a unique opportunity to facilitate the production of affordable housing. Reserving public land for this purpose helps affordable housing developers acquire sites in desirable locations, which is especially important given rising land costs and mounting competition with market-rate developers for site acquisition in prime locations near transit. In addition, offering publicly-owned

⁷ Mercury News, December 12, 2018, by Emily Deruy. San Jose moves toward ordinance limiting Section 8 discrimination, <https://www.mercurynews.com/2018/12/11/san-jose-moves-toward-ordinance-limiting-section-8-discrimination/>. See also, City of San José Memorandum, Tenant Source of Income Policy, March 1, 2018. <https://www.sanjoseca.gov/DocumentCenter/View/75502>

⁸ City of Oakland News, January 15, 2019. Mayor Libby Schaaf & Kaiser Permanente Announce Three Initiatives to Improve Community Health, Tackle Housing Insecurity in Oakland. <https://www.oaklandca.gov/news/2019/mayor-libby-schaaf-kaiser-permanente-announce-three-initiatives-to-improve-community-health-tackle-housing-insecurity-in-oakland>

⁹ Bay Area Metro: The Bay Link, March 2, 2018. Bay Area Preservation Pilot Fund. <https://blog.bayareametro.gov/tags-public/bay-area-preservation-pilot-fund>
(footnote continued)

land at a below-market rate helps reduce development costs, and can increase a project's competitiveness for grants and tax credit programs.¹⁰

State and regional agencies are increasingly recognizing the importance of prioritizing affordable housing on vacant or surplus public lands.¹¹ VTA's Joint Development (JD) policy includes ambitious affordable housing goals for land owned by the agency. The following recommendations are proposed to build on these existing efforts:

- 4.1. Identify opportunities to offer VTA-owned land at a discounted rate for affordable housing development to meet VTA's on-site affordability requirements for Joint Development sites.** VTA's JD policy requires that at least 20 percent of housing units on any given JD site be made affordable to households earning no more than 60 percent of AMI, and half of these units must be targeted to households earning 50 percent of AMI or less. VTA's policy also requires that 35 percent of units in its overall joint development portfolio be made affordable to lower income households. In most cases, reaching this level of affordability will require supplemental funding and financing, such as tax credits or other public sources. Within the station area, VTA owns a JD site and co-owns the Caltrain Parking Lot site with the City of Santa Clara. As explained above, offering publicly-owned sites at a discounted value facilitates affordable housing production in several ways. The amount and type of write-down can be negotiated by VTA on a case-by-case basis, depending on the specific development proposal and other funding sources available.
- 4.2. Explore further opportunities for affordable housing development on publicly-owned sites.** The City of Santa Clara owns a site on El Camino Real, for which a Request for Proposals is anticipated to be released later in 2019. Staff anticipates that the site will be developed as 100 percent affordable housing. As mentioned in Recommendation 4.1, the City of Santa Clara also co-owns a parcel with VTA (the Caltrain Parking Lot site). Negotiations are still ongoing, but are likely to result in a mix of student housing and deed-restricted affordable housing. In both cases, the City should identify opportunities to offer city-owned land at a discounted rate in order to facilitate affordable housing development. To the extent that there are other publicly-owned sites in the station area, public agencies should determine whether they are subject to California's Surplus Land Act, which ties affordable housing requirements to surplus land.

5. INCREASE LOCAL FUNDING FOR DEED-RESTRICTED AFFORDABLE HOUSING PRODUCTION

Local funding (which includes city or county sources, and other public or private land donations) is an essential component of affordable housing funding, as it represents the missing gap needed to make projects work beyond what can be more easily obtained from federal and state sources, tax credits, and permanent financing. As explained previously, the local funding gap needed to meet the Santa Clara station area's affordability target is approximately \$223 million.

Various city and county sources exist to help meet this gap, including Santa Clara County's Measure A, as well as the City of Santa Clara's commercial linkage fee and inclusionary housing in-lieu fees,

¹⁰ MTC, Workforce and Affordable Housing Opportunities on Public Lands. <https://mtc.ca.gov/our-work/plans-projects/focused-growth-livable-communities/workforce-and-affordable-housing>

¹¹ For example, see MTC/ABAG's analysis of vacant public lands for affordable housing, California's Surplus Land Act, and Governor Newsom's recent executive order on developing affordable housing on state-owned public land.
(footnote continued)

although it should be noted that these sources are not restricted to the station areas.¹² Furthermore, a number of on-site affordable units may be built through Santa Clara's inclusionary housing program.

Even with these existing funding sources, there will remain a local funding gap to meet the station area's affordability targets. The following recommendations are proposed to raise more local revenues for affordable housing production:

5.1. Explore dedicating a portion of potential future tax increment financing (TIF) district revenues to affordable housing. Tax increment financing (TIF) is a mechanism that captures incremental increases in tax revenues generated in a specific district, in order to pay for improvements in that district. TIF districts, such as Enhanced Infrastructure Financing Districts (EIFDs), are being considered as part of VTA's BART Phase II TOD Strategy. If a TIF district is implemented in the station area, the City of Santa Clara should explore the appropriate share of revenues to set aside for affordable housing.

6. PURSUE NEW PARTNERSHIPS AND FUNDING FOR AFFORDABLE HOUSING PRODUCTION

In addition to the local funding sources mentioned above, federal, state, and private funding sources are also required to fund affordable housing. In the last two years, new state funding sources and private philanthropic opportunities have emerged. Other local partnerships may also be possible. The following recommendations are proposed:

6.1. Pursue new state funding sources for affordable housing and TOD. New state funding sources for affordable housing production are starting to come online, following Governor Brown's 2017 housing package. These funding sources, administered by the Department of Housing and Community Development (HCD), are awarded via the following programs:

- The No Place Like Home Program, which dedicates nearly \$2 billion in bond proceeds for the development of permanent supportive housing, targeted to assist persons with mental illness and persons experiencing homelessness.¹³
- The Multifamily Housing Program (MHP), which provides deferred long-term loans for construction, rehabilitation, and acquisition-rehabilitation of permanent and transitional affordable rental housing.
- Infill Infrastructure Grants (IIG), which were formerly funded by Prop 1C in 2006. This program provides gap funding to the infrastructure improvements required for transit-oriented development and infill development.
- CalHome Program, which provide grants to local agencies and developers to develop ownership housing and provide other housing assistance to low-income homeowners.

¹² According to staff, the City of Santa Clara has about \$20 million in matching funds dedicated to affordable housing. This funding originates from in-lieu fees paid to comply with the local inclusionary housing ordinance, and from the newly adopted commercial linkage fee. As linkage fees being to be collected in coming years, this revenue source is expected to grow.

¹³ California Housing and Community Development Department. No Place Like Home, <http://www.hcd.ca.gov/grants-funding/active-funding/nplh.shtml>
(footnote continued)

- SB 2 (Building Homes and Jobs Act) imposed a new real estate recording fee of \$75 on selected real estate transactions. SB 2 funding will be dedicated to local governments for various eligible uses, including: planning and technical assistance to streamline housing development, development or preservation of affordable housing, and assistance for persons experiencing or at-risk of homelessness (rapid rehousing, emergency shelters, rental assistance, etc.)¹⁴

In the current legislative session, numerous other bills seeking to incentivize affordable housing production have been proposed. Several bills propose new or expanded state funding sources, such as the state Low-Income Housing Tax Credit program.

6.2. Monitor new private funding sources to help fill the funding gap. For example, the Partnership for the Bay Area's Future is a new philanthropic initiative that was announced in early 2019.¹⁵ This coalition of funders, which includes Facebook, Genentech, the Chan Zuckerberg Foundation, and the San Francisco Foundation, aims to raise \$540 million for affordable housing in the region: \$500 million will be for community development projects, and \$40 million will be awarded to jurisdictions with affordable housing plans. Details regarding how to access these funds are not yet publicly available.

6.3. Explore a partnership with Santa Clara University to pursue workforce housing development. Given the University's prominent role in this station area, a collaboration between the City and the University could be an effective way to facilitate the development of moderate income housing targeted to University staff.

7. ENCOURAGE THE DEVELOPMENT OF ADUs

The City of Santa Clara's existing policies regarding ADUs could be amended to facilitate the production of affordable units. Based on stakeholder interviews and a review of best practices, the following recommendations are proposed:

7.1. Kickstart ADU development by streamlining the permitting process and providing additional financing options. In 2017, the City of Santa Clara adopted an ordinance to ease the requirements for the development of accessory dwelling units (ADUs).¹⁶ However, some barriers still exist, including a lengthy permitting process, fees, and lack of access to capital for low- or moderate income homeowners.¹⁷ The City of Santa Clara could explore lowering fees, reducing parking requirements, streamlining ADU approvals, developing partnerships

¹⁴ Revenues from SB 2 will be collected starting on January 1, 2018. In the first year, 50 percent of SB 2 funds will go towards statewide homelessness programs, namely the Housing for a Healthy California Program and the California Emergency Solutions and Housing Program (CESH), both administered by HCD; the other 50 percent will go to local jurisdictions for planning and technical assistance. In the second year and beyond, 70 percent of SB 2 funds will be allocated to local jurisdictions, with a mix of competitive and non-competitive allocations. These funds can be used for a variety of eligible uses, including the development or preservation of affordable housing and provision of services and housing for the homeless. The remaining 30 percent will go to farmworker housing, CalHFA Missing Middle housing, and other incentives to streamline housing development. For more detail, see the California Housing and Community Development Department, California's 2017 Housing Package Frequently Asked Questions, Updated July 2018 (<http://www.hcd.ca.gov/policy-research/housing-package/cahp-faq.shtml#sb2>), and HCD's Framing Paper for Public Comment: Permanent Local Housing Allocation (PLHA) Senate Bill 2 Local Government Allocation Funds, January 2019 (www.hcd.ca.gov/policy-research/docs/PLHA-framing-paper.docx)

¹⁵ Partnership for the Bay's Future. <https://www.baysfuture.org/>

¹⁶ In 2017, the City of Santa Clara adopted the Accessory Unit Zoning Ordinance Update. Under the new ordinance, ADUs are permitted by right in certain zoning districts. No additional parking is required for ADUs, but existing required parking spaces that are demolished to develop an ADU must be replaced with two spaces for every one demolished.

¹⁷ Jumpstarting the Market for Accessory Dwelling Units: Lessons Learned from Portland, Seattle And Vancouver, by Karen Chapple, Jake Wegmann, Farzad Mashhood, and Rebecca Coleman (2017). http://termercenter.berkeley.edu/uploads/ADU_report_4.18.pdf (footnote continued)

with the Silicon Valley Housing Trust on their new loan program,¹⁸ or developing its own loan program. As ADU development is encouraged, it will be important to monitor and implement transportation alternatives (including the future BART service, but also pedestrian, bicycle, and bus alternatives), so as to mitigate negative impacts on on-street parking in surrounding neighborhoods.

- 7.2. Explore policies to keep ADUs accessible to low- and moderate-income households.** While reducing zoning and financing barriers is a first important goal, the City of Santa Clara may also consider policies aimed at keeping ADUs accessible to lower income households. For example, some jurisdictions have implemented or are considering restrictions on certain short-term rentals.¹⁹ Another example is to provide incentives to homeowners that chose to rent their ADU to lower-income households. The City of Santa Cruz, for instance, provides fee waivers (and in past years, low-interest loans) for homeowners who agree to rent their second units only to low- or very low-income households. Funding for the program is provided by a Sustainable Communities Grant from the California Pollution Control Financing Authority.

¹⁸ Housing Trust Silicon Valley, a non-profit housing organization, recently launched a pilot program called “Small Homes, Big Impact” to support homeowners seeking to build ADUs in Santa Clara and San Mateo Counties. The program currently offers free educational workshops led by local ADU practitioners. A financial assistance program is also under development, which will include planning grants and construction loans. Although this is not a city program, it would likely apply to Santa Clara applicants.

¹⁹ See MTC’s Casa Compact, Compact Element #4: Remove Regulatory Barriers to ADUs.