

TO: Kara Vuicich, Principal Planner, ABAG  
Carline Au, Senior Economic Development Analyst,  
East Bay Economic Development Alliance

FROM: Ricardo Noguera, Economic Development Manager

DATE: Monday, May 16, 2022

RE: TRANSIT-ORIENTED COMMUNITIES POLICY

Thank you for sharing the TOD policies being crafted jointly by the Metropolitan Transportation Commission, ("MTC") and Association of Bay Area Governments, ("ABAG"). I will be participating in Wednesday's policy discussion, but wanted to share my thoughts representing a "**Suburban Market**" which may have been overlooked when the policies were drafted.

The policies offer a great deal of incentivizing clustered developments near transit hubs in the inner bay area markets where public transit is available, such as BART, Caltrain and buses. However, with the continued growth of our population eastward to communities in Eastern Alameda and Contra Costa Counties to San Joaquin County, policies need to be included to help mitigate the traffic patterns caused by development, focused almost exclusively, surrounding the immediate San Francisco Bay.

I would encourage policymakers to consider the following as it may relate to incentivizing development in **Suburban Markets** along Highways 4 and 580 in particular.

**Recommended Policy Considerations for Suburban Markets along Highway 4 and 580**

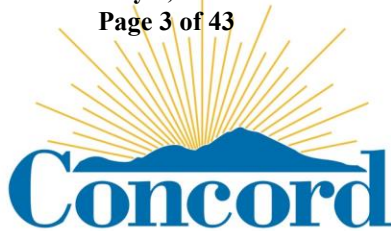
In suburban markets, incentivize economic development such as office/tech and mixed-use developments near freeways and key commercial nodes. This can be achieved by public agencies purchasing such sites and funding public infrastructure improvements and establishing long-term ground leases for private developers to build corporate offices, technology campuses, and mixed-use development projects. What does this achieve?

- A. **Decentralizes economic development across the Bay Area.** By developing near freeway off-ramps, as evidenced in San Mateo County at the intersection of Highway 92/Highway 101 (Salesforce and several other firms are located there), commuters from San Joaquin County and East Contra Costa County and Alameda County do not have to commute long distances each day and clog up our freeways. Many of these residents have moved east for more affordable housing. Bringing the jobs eastward will help to unclog our freeways.
- B. **Reduces traffic congestion along major highways such as Highway 4 and 580.** This is where more than 850,000 residents live and must commute daily to jobs in the East, South and Peninsula markets. Workers residing in Tracy, Stockton, Brentwood, Pittsburg, Antioch and Oakley must travel 3-4 hours per day either in a private vehicle or via public transit.
- C. **Mitigating Climate Change.** By incentivizing commercial development (tech and office) in these areas, there will be shorter commutes to work for more than 850,000 workers. The daily grind along Highway 580 and Highway 4 will be dramatically reduced with positive impacts on the release of air contaminants.
- D. **Benefits to the Family.** Reducing daily commutes from 3-4 hours to 1-2 hours per day will improve the quality of life for both the commuter and their family. More time to spend on homework and more time to spend with the family. This time is priceless!

Ways in which MTC/ABAG can help mitigate this is by helping local governments in East Contra Costa County and Alameda County to purchase key properties and install public infrastructure as incentives to recruit technology, corporate offices and mixed-use developments within a ½ mile radius from Highways 4 and 580.

Thank you for the opportunity to share my thoughts on TOD Communities Policy.

Cc: Tim Ogden, City Manager  
Darin Gale, Assistant City Manager  
Josh Ewen, Senior Management Analyst



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**City Council**

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Valerie J. Barone, City Manager

May 26, 2022

Metropolitan Transportation Commission  
Association of Bay Area Governments  
ABAG Executive Board  
Bay Area Metro Center  
375 Beale Street, Suite 700  
San Francisco, CA 94105-2066  
Email: [info@bayareametro.gov](mailto:info@bayareametro.gov)

**Subject: Comments on MTC's Draft Transit-Oriented Communities Policy**

Dear Ms. Vuicich,

The City of Concord appreciates the continued dialogue and collaborative process between MTC/ABAG and local jurisdictions, particularly in the East Bay, in order to refine MTC's *Transit Oriented Communities (TOC) Policy* (Draft TOC Policy). The City values the additional engagement to solicit input from the impacted jurisdictions as well as the opportunity to provide MTC/ABAG with Concord's feedback, experiences, and questions in trying to clarify the application and implementation of the proposed policies. This collaborative process can result in finding agreeable solutions to address the Statewide housing crisis, with a special focus on affordable housing.

On March 18, 2022, the City provided a comment letter on the Draft TOC Policy and it appears a number of the comments have been addressed in the latest revision. However, the City continues to believe the following aspects of the Draft TOC Policy require additional attention in order to reflect the geographic and economic realities of those areas outside of the core San Francisco, Oakland, San Jose metropolitan areas in order to be able to continue to promote activity and interest in suburban areas:

- The Draft TOC Policy relies on PBA's *2050 Forecasting and Modeling Report*, which addresses capacity and growth over time; however, the minimum density/intensity levels are still not supported by a fiscal analysis to ensure they are feasible. A one-size fits all approach is still being proposed with respect to the full one-half mile around the PDA/TRA, when densities/intensities should be examined on a graduated scale.
- The economies of station locations vary drastically throughout the region and deeper degrees of affordability such as the prescribed 15% for inclusionary housing could make projects infeasible. Will ABAG/MTC be dedicating funds for deeper levels of affordability than currently sustainable by the economics of communities?
- No parking minimums are still a major concern in suburban communities. From a policy perspective it is more appropriate to have no parking minimums in urban areas. For communities that do not have adequate transit infrastructure, it is not a viable option. Parking should be evaluated on a PDA/TRA case-by-case basis and other programs should be considered (shared parking, in lieu fees, etc.) to allow for flexibility of implementation, rather than a strict no parking minimum policy.


- The timing still does not align with the preparation of jurisdictions' Housing Elements; therefore, a rezoning program will not garner credit for cities from HCD nor will it incentive jurisdictions to make these changes outside of the Housing Element's implementation.

The City continues to believe that the identified goals may lead to unintended consequences and decrease the region's ability to achieve the goals outlined in Plan Bay Area 2050. The City continues to have concerns that the draft TOC policies appear to require a significant investment of resources by local jurisdictions which may result in the jurisdictions being unable or willing to comply, due to a lack of staff resources.

The City has been working over the last year on the City's Draft Housing Element Update (Draft HEU), which will be released this week, in order to meet the needs of Concord residents, the State and balance those needs with the ability to provide economically viable and sustainable policies that achieve the desired result of achieving streamlined housing for a wide range of households. The link to the Draft HEU can be found here: <https://concordhousingelement.org/>

Thank you once again for the opportunity to review and provide feedback on the Draft TOC Policy and for your responses to our earlier letter. The City of Concord lauds ABAG/MTC for listening to jurisdictions and on the revisions made to the Draft TOC Policy to date. Please let us know if our staff can be of any additional technical assistance. You may contact Joan Ryan, Community Reuse Area Planner at [joan.ryan@cityofconcord.org](mailto:joan.ryan@cityofconcord.org) with any additional questions.

Sincerely,



Valerie Barone  
City Manager

cc: Kara Vuicich, AICP, Principal Planner; [kvuicich@bayareametro.gov](mailto:kvuicich@bayareametro.gov)  
John Hoang, Director of Planning, CCTA; [jhoang@ccta.net](mailto:jhoang@ccta.net) ;  
Guy Bjerke, Director of Economic Development and Base Reuse  
Kevin Marstall, CED Director  
Mindy Gentry, Planning Manager  
Bruce, Davis, Acting City Engineer  
Joan Ryan, Community Reuse Area Planner  
Concord Mayor and City Councilmembers



## MEMO

May 31, 2022

To: Kara Vuicich, Principal Planner/ Analyst, Metropolitan Transportation Commission

From: Enterprise Community Partners & Transform, in consultation with TOC Community Stakeholder Group

### **Subject: Recommendations for Transit-Oriented Communities Policy - Updated Draft**

We would like to extend our gratitude to MTC staff and the consultant team for their efforts to date on the transit-oriented communities (TOC) policy. Our organizations have closely followed the TOC policy development. Overall, we remain deeply impressed by the quality and sincerity of staff's engagement and are pleased with the general direction of the draft policy; we believe the changes and additions since January continue to demonstrate a commitment to maximizing the policies goals of housing affordability, ridership, mode-shift, and creating safe, livable communities. The following are our three priority recommendations in response to the most recent draft of the policy, with additional details below.

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- 1. Refine the affordable housing and anti-displacement policy menus to reflect best practices and ensure impact at scale, as outlined below;**
  - 2. Consistent with the January draft policy, the TOC policy should apply to the entire transit-rich area (TRA) surrounding fixed-guideway transit, rather than limited to the locally-selected priority development area (PDA) in order to reach our Plan Bay Area 2050 goals and further the region's obligation to affirmatively further fair housing; and**
  - 3. Set a clear threshold for transit expansion projects for which these funds would be conditioned upon TOC policy compliance and clarify the breadth of additional discretionary funding and endorsements that would be applicable for the new TOC policy**
- 

### **1. Refine the affordable housing and anti-displacement policy menus to reflect best practices and ensure impact at scale**

We are impressed by the additional detail and strength of the affordable housing and anti-displacement provisions of the policy in this most recent draft, including the additions of ministerial approval for affordable housing and right to counsel.<sup>1</sup> These policy goals are central to Plan Bay Area 2050. Many important specifics and additional tools have been added since the January proposal, but some "menu items" are lower impact policies and therefore allow jurisdictions to satisfy the requirement without meaningfully delivering on the affordable housing and anti-displacement goals outlined in PBA 2050 – and at scale. There are also areas where further refinement is necessary to ensure policy effectiveness. To address these issues, we recommend the following changes:

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<sup>1</sup> Tenant right to counsel has been shown to decrease the rate of evictions and eviction filings. In New York City, where it was first implemented, 84% of tenants facing eviction were able to remain in their homes. In the first six months of San Francisco's program, two-thirds of tenants who received full scope representation avoided eviction and eviction filings decreased by 10% (Chapple, 2021).

- To ensure impact at scale, we recommend that jurisdictions be required to meet three of the policy options in each menu, given that the lists are now significantly longer.
- In order to prevent direct displacement, no net loss and right to return for demolished homes (specifically ensoncing current state law without a sunset date) should be a baseline requirement for all locations and not presented as an option within a menu. These policies present no cost to the local jurisdiction and can make a meaningful difference in preventing direct displacement.
- Funding to Support Preservation Capacity should be incorporated under Funding to Preserve Unsubsidized Affordable Housing,<sup>2</sup> further strengthening the effectiveness of that policy option, rather than serving as a stand-alone policy, given that this funding alone will not preserve any affordable homes. Local and statewide funding examples have typically included set-asides for technical assistance and capacity building, and combining these two options will more meaningfully incentivize local jurisdictions to build capacity building into ongoing revenue sources.
- Incorporate the following language in the description for Inclusionary Zoning: “...unless the jurisdiction can demonstrate that 15% this is not feasible, based on a financial feasibility analysis.” This could help assuage concerns around the policy inhibiting housing development in certain parts of the region.
- The policy Public/Community Land Trusts is much more narrow and will not have the same impact at scale as the other production policies. We recommend that the land banking aspect of this policy be incorporated into the Public Land for Affordable Housing policy, and that the Community Land Trust policy be reserved for the preservation menu of options, or incorporated into one of the existing preservation policies already on the menu.
- Combine SRO Preservation and Condominium Conversion Restrictions into one policy option, since SRO preservation is, in effect, a sub-strategy of condominium conversion restrictions and it would be best practice for a jurisdiction to pass a comprehensive policy that speaks to both.
- Mobile Home Rent Stabilization should be incorporated into the broader Rent Stabilization Policy, since it is, in effect, a sub-strategy of rent stabilization and it would be best practice for a jurisdiction to pass a comprehensive policy that speaks to both.
- Tenant Relocation Assistance should be incorporated under Just Cause Eviction since robust examples of Just Cause Eviction ordinances typically include provisions for tenant relocation assistance. In doing so, it further strengthens the Just Cause Eviction option and ensures its impact.<sup>3</sup>
- MTC should clarify whether a potential regional bond measure through BAHFA could satisfy the Affordable Housing Funding option for production and/or preservation, specifically for cities that receive direct allocations of a BAHFA ballot measure, by statute.
- Jurisdictions should not receive credit for adopting 3 P’s policies that do not fit their local housing landscape. For example, if a jurisdiction does not have any mobile homes, the mobile homes policies should not be applicable.
- The TOC Policy should allow for MTC to revisit the set of policies as the state housing landscape changes. We greatly appreciate staff’s continued engagement on this aspect of the policy and look forward to continuing to work with staff to finalize and refine based on policy best practices.

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<sup>2</sup> The preservation of unsubsidized affordable housing has been found to have a high potential to prevent displacement, doing so shortly after implementation. Furthermore, this strategy is effective regardless of housing market strength (Chapple, 2021). This type of preservation can be completed in a matter of months, is less likely to face local opposition, and tend to be cost effective. Per-unit development costs are typically 50-70% of new affordable housing construction (Yelen, 2020).

<sup>3</sup> Just Cause protections have been found to have a high impact on preventing displacement soon after its implementation (Chapple, 2021). A 2019 study found that cities with just cause eviction laws had much lower eviction and eviction filing rates than those who did not (Cuellar, 2019).

**2. Consistent with the January draft policy, the TOC policy should apply to the entire transit-rich area (TRA) surrounding fixed-guideway transit, rather than limited to the locally-selected priority development area (PDA) in order to reach our Plan Bay Area 2050 goals and further the region's obligation to affirmatively further fair housing.** The updated policy limits the geographic scope of the policy in a variety of ways. While we understand the rationale for many of these changes, we are particularly concerned with the shift away from policy application to all transit-rich areas surrounding fixed-guideway transit and instead limiting it to locally-selected priority development areas (PDAs). Given that the policy already excludes parcels on which there are already residential properties, the remaining parcels in the transit-rich area that are zoned for residential and office are precisely the type of scarce parcels where development is needed to reach Plan Bay Area 2050 goals. By allowing local jurisdictions to only comply with the TOC policy in their voluntarily-elected PDAs, we are concerned that the policy could exacerbate existing inequities and exclusion, particularly undermining the obligation to affirmatively further fair housing. Please see the appendix for a selection of cities where the geographic scope of the policy has been seriously diminished by only applying to PDAs.

**3. Set a clear threshold for transit expansion projects for which the expansion funds would be conditioned upon TOC policy compliance and clarify the breadth of additional discretionary funding and endorsements that would be applicable for the new TOC policy.**

We request that staff provide greater clarity on which planned transit extensions would be exempt from conditioning this funding for the expansion project itself under the TOC policy, and we believe that the Major Projects Advancement Policy would be a helpful way to assess which projects should be exempt or not. The updated draft policy proposes that jurisdictions that have been "planning for...extensions based on" the 2005 policy will not need to meet the updated TOC policy requirements in order to get their regional discretionary funding; instead they must "commit to achieving TOC Policy compliance by the adoption of OBAG4." **This is a step back from the 2005 TOD policy, which conditions new transit expansion funds on compliance.** We agree that near-term projects should not be stalled while waiting for jurisdictions to come into compliance. However, where conditioning funding on TOC compliance will not delay the project, then there is no reason to grandfather such projects. We request that staff work within MTC to identify an objective threshold, such as the phases of the Major Projects Advancement Policy.

In addition to transit-expansion funding, we request that staff outline the breadth of funding that will be part of incentives for jurisdictions to comply with the policy, including and in addition to future OBAG cycles. **We recommend that the most expansive set of discretionary funding for roads, grade separations, and other transportation uses be considered as well as MTC endorsements for state and federal funding of local transportation projects.**

## **Recommendations for Transit-Oriented Communities Policy - Updated Draft**

### **Appendix**






The updated draft of the TOC policy limits the geographic scope on which where the policy would apply from all TRAs and PDAs to only PDAs. We are concerned this limits the policy's ability to affirmatively further fair housing in the Bay Area by allowing cities to opt out of compliance.

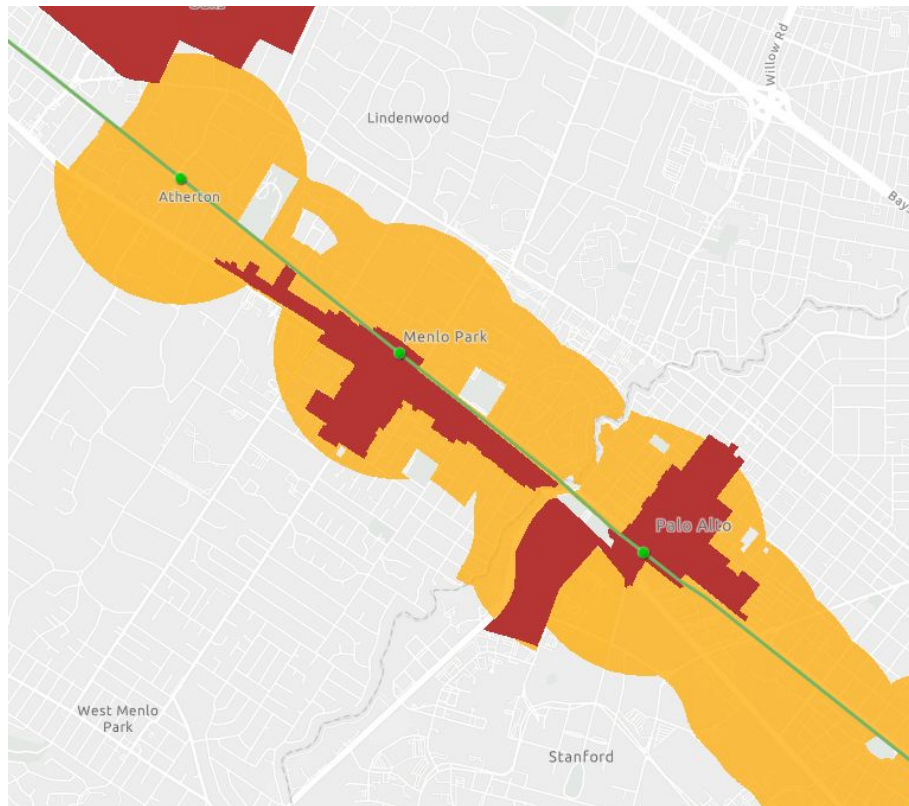
Please see a selection of cities where this limitation disqualifies a significant portion of the geographic area where the TOC policy would apply in the following maps. All affected areas run along the fixed guideway transit in green. The TRAs are highlighted in orange, highlighting the area that is no longer required to comply with the TOC policy. The PDAs, where the policy would apply, are highlighted in red.



# Atherton / Menlo Park / Palo Alto

Legend

- Passenger Rail Stations (2019)  

- Passenger Railways (2019)  

- Priority Development Area (PDA)  

- Transit-Rich High-Resource Areas (Outside PDAs)  

- Transit-Rich Areas (Outside PDAs)  




# Sunnyvale / Santa Clara\*

Legend ×

Passenger Rail Stations (2019)



Passenger Railways (2019)



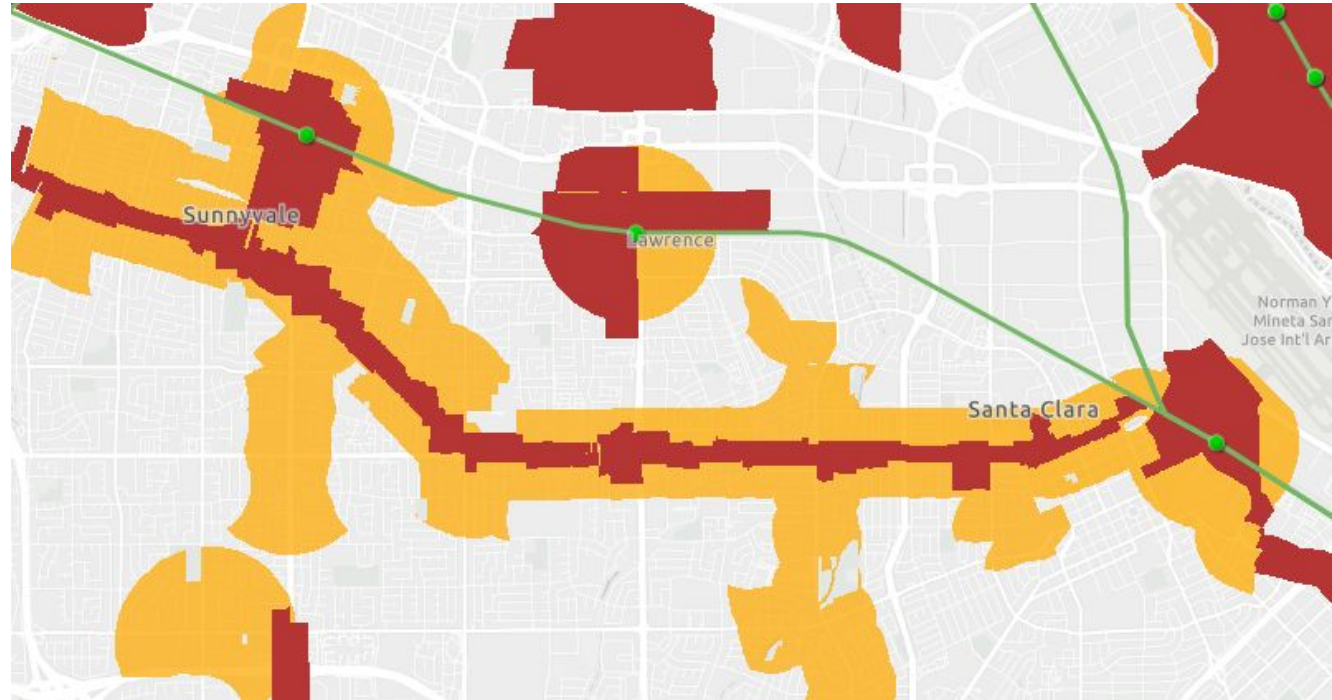
Priority Development Area (PDA)



Transit-Rich High-Resource Areas (Outside PDAs)



Transit-Rich Areas (Outside PDAs)



\*This geographic area runs along the El Camino Real BRT fixed guideway segment, where the policy would apply

# Berkeley

## Legend



Passenger Rail Stations (2019)



Passenger Railways (2019)



Priority Development Area (PDA)



Transit-Rich High-Resource Areas (Outside PDAs)



Transit-Rich Areas (Outside PDAs)



# El Cerrito / Albany

## Legend



Passenger Rail Stations (2019)



Passenger Railways (2019)



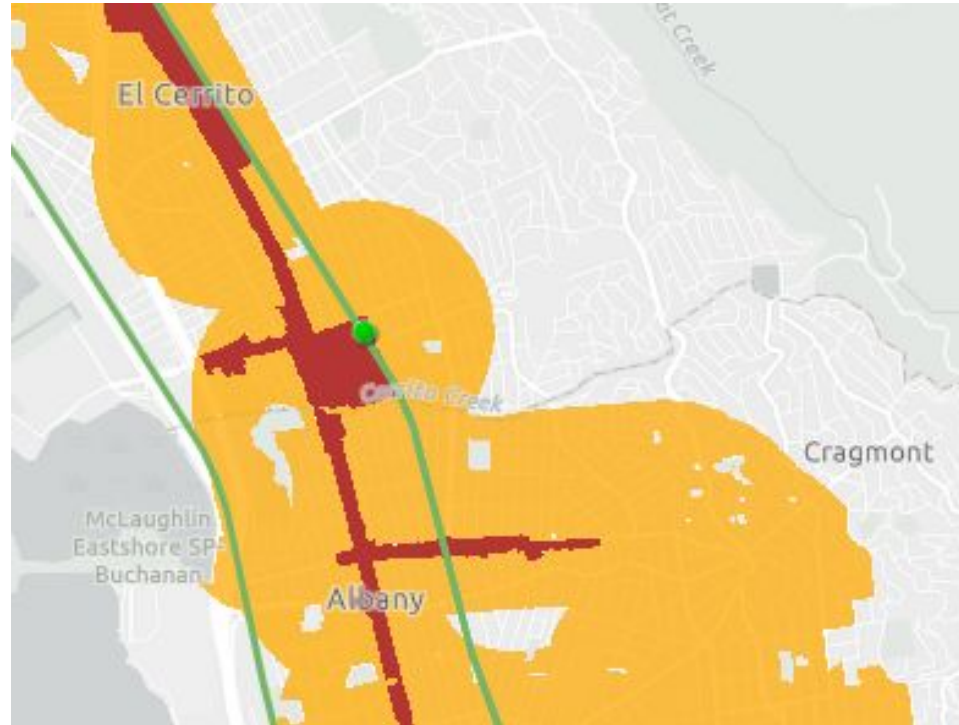
Priority Development Area (PDA)



Transit-Rich High-Resource Areas (Outside PDAs)



Transit-Rich Areas (Outside PDAs)



# Campbell

## Legend



Passenger Rail Stations (2019)



Passenger Railways (2019)



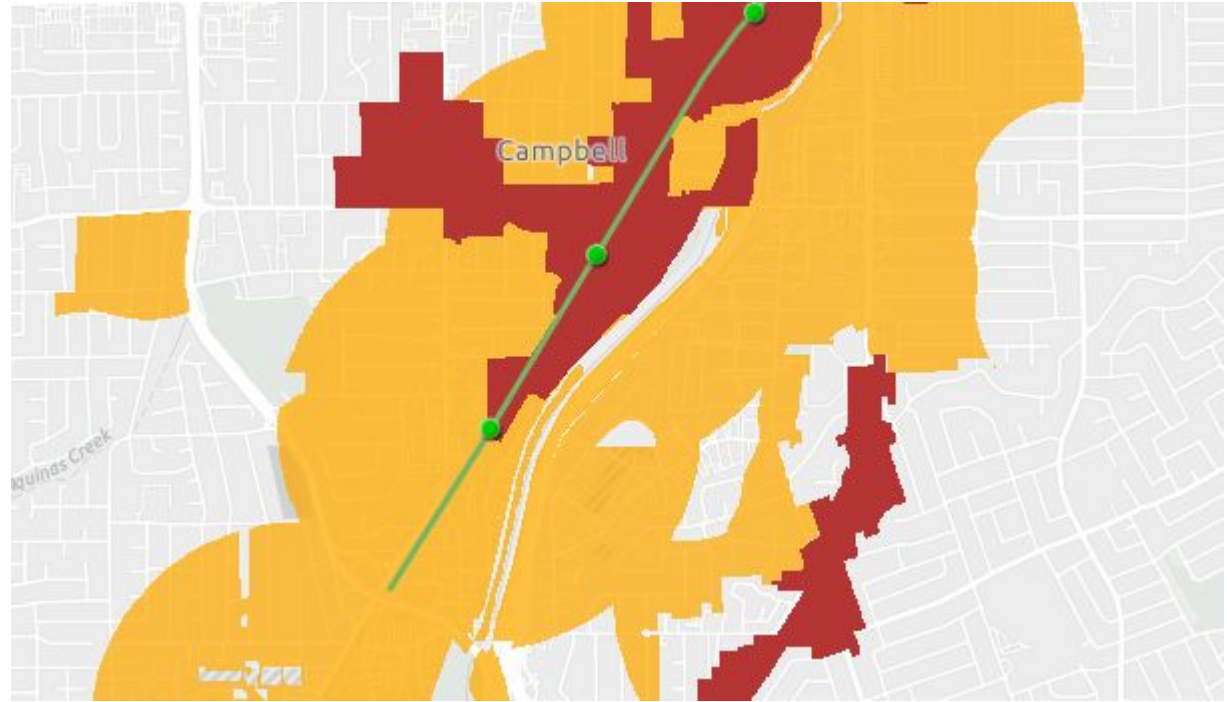
Priority Development Area (PDA)



Transit-Rich High-Resource Areas (Outside PDAs)



Transit-Rich Areas (Outside PDAs)



June 3, 2022

Therese McMillan, Executive Director  
Metropolitan Transportation Commission/Association of Bay Area Governments  
Bay Area Metro Center  
375 Beale Street, Suite 800  
San Francisco, CA 94105-2066

Dear Ms. McMillan,

The Bay Area County Transportation Agencies (BACTA) appreciate the important work MTC is performing on the development of the Transit Oriented Communities (TOC) Policy as a means to support implementation of PBA 2050. We also appreciate the numerous meetings your staff have had with us during the development of the policy and for addressing many of our comments. We understand that the TOC policy is slated for approval at your July Commission meeting and would like to share a few specific comments germane to all the CTAs below. In addition, individual CTAs may also be submitting additional separate comments. There are six areas of interest that the CTAs would like to see addressed prior to the TOC Policy adoption in July to enable informed decisions and to allow us to advise our policy makers and jurisdictions:

- Finalize a baseline assessment of how the proposed density and policy changes compare with the existing conditions in the approved PDAs. This is critical for CTAs and local jurisdictions to determine the extent of increase in density that is being recommended.
- Provide a detailed map of where the TOC policy would apply, and a list of which PDAs or TRAs would be included in it. This would be especially helpful for counties that have many PDAs. (For reference, San Mateo County has 25 PDAs, Alameda County has 48 PDAs).
- Consider adjustments to the 4-year timeframe for jurisdictions to rezone the areas for compliance with the TOCs. Local jurisdictions are devoting significant time and resources to updating their housing elements. If an adopted TOC policy requires updated PDA specific plans or new specific plans for areas within a TRA, there may not be sufficient time to complete the rezoning within the 4-year timeframe. Jurisdictions will have to pivot from the resource-intensive housing element update to immediately start on Specific Plan efforts to comply with the TOC Policy. A Specific Plan update can easily take several years. If many of the PDA Specific Plans have to be updated, it will be exceedingly challenging to accomplish that in the 4-year timeframe.
- Clarify the implications for PDAs for which the policy doesn't apply or for areas where there are fixed guideway stations outside of PDAs – in either of these cases, clarify if they would be eligible for future OBAG funds.
- Clarify whether or how the TOC Policy would be used in the future to determine funding distributions, including which fund sources would be considered for alignment with the TOC policy.

- Clarify the implications for a fixed guideway corridor when one jurisdiction (of many on the corridor) may not be in compliance with the policy: which agencies would be affected and what would be the funding ramifications.

Again, we appreciate the collaboration with your staff on the development of the TOC policy and seek your responses to the above items in a manner that would allow us enough time to evaluate and coordinate with our jurisdictions and policymakers prior to adoption of the TOC policy.

Sincerely,



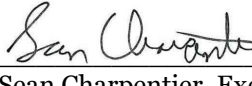
Tess Lengyel, Executive Director  
Alameda County Transportation Commission



Tilly Chang, Executive Director  
San Francisco County Transportation Authority



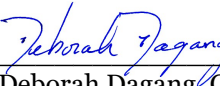
Tim Haile, Executive Director  
Contra Costa Transportation Authority



Sean Charpentier, Executive Director  
City/County Association of Governments of San Mateo County



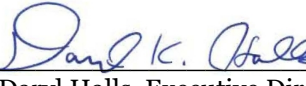
Anne Richman, Executive Director  
Transportation Authority of Marin



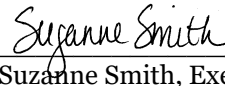
Deborah Dagang, Chief Planning & Programming Officer  
Santa Clara Valley Transportation Authority



Kate Miller, Executive Director  
Napa Valley Transportation Authority



Daryl Halls, Executive Director  
Solano Transportation Authority



Suzanne Smith, Executive Director  
Sonoma County Transportation Authority

cc: Alix Bockelman, Deputy Executive Director, Metropolitan Transportation Commission  
Matt Maloney, Director, Regional Planning, Metropolitan Transportation Commission



June 3, 2022

Bay Area Metro Center  
375 Beale Street, Suite 800  
San Francisco, CA 94105-2066

RE: Draft Transit-Oriented Communities (TOC) Policy

Dear Director McMillan,

On behalf of the East Bay Advocacy Coalition consisting of the East Bay Economic Development Alliance (EDA), the East Bay Leadership Council (EBLC) and the Innovation Tri-Valley Leadership Group (ITV), we are sending this letter to offer comments on the Draft Transit-Oriented Communities (TOC) Policy that is being developed by the Metropolitan Transportation Commission (MTC).

First, we commend MTC for this laudable endeavor, as we all recognize the importance and necessity of expanding transit-oriented development as a means of achieving our region's climate goals and continuously improving our quality of life. Our coalition looks forward to partnering with MTC on a TOC policy that achieves its stated goals within the context of our diverse communities. As this TOC Policy is being crafted, we are submitting some suggestions to consider as well as some questions we wish to see addressed and clarified before final adoption.

#### **Increasing Transit Ridership**

The current draft TOC Policy focuses on increasing residential and commercial densities, but equal weight should be added to increase transit ridership and choice. This is a simple overarching metric for measuring the effectiveness of the Policy – and something communities will be able to understand and accept. Simply put, the TOC Policy should contribute to expanding existing transit networks and creating new ones which will get our region's residents out of their cars.

#### **Recognize Station Typologies**

We are pleased to see a tiered approach to the TOC Policy that recognizes the diverse transportation, land use, and housing patterns and development potential. However, for successful implementation, MTC-ABAG will need to engage and partner with jurisdictions to effectively meet the unique individualized goals and objectives of each tier. The proposed policy presents densities based on the type of transit infrastructure – though it is also important to recognize the continuum of station area contexts that exist in the Bay Area within each tier (i.e., downtown, urban neighborhood, suburban neighborhood, etc.) and should offer some flexibility to jurisdictions with fewer public transportation options.

It should not be assumed that the area surrounding a station always needs to have a region-wide uniform building height and density to serve a critical function within the transit network. We recommend that there be a market analysis performed to better understand development feasibility. The broad minimum proposed residential and commercial densities proposed in the policy may or may not be financially feasible in every geography. The market in Richmond, for example, is vastly different than that of Livermore, Oakland, or Oakley. Staff needs to conduct a much more thorough market analysis and vetting of these numbers with cities and developers to determine the appropriate ranges for specific geographies.



Station-adjacent infrastructure improvements that could improve pedestrian and bicycle connectivity and facilitate transit will also vary by station type. By incentivizing municipalities to cater to the specific needs of each station type, it may be possible to achieve a best-case ridership return on station area investments.

### **Compliance**

Unlike MTC Resolution 3434, the staff report for the Draft TOC seems to imply that MTC and others listed will negotiate an approach on a case-by-case basis. While there may be benefit in this flexible approach, it may result in an uneven application of the policy. Clarification is needed on who makes the decisions and what determines compliance. It is also unclear what constitutes meeting minimum housing density thresholds - whether the test is actual densities met on the ground or if merely zoning to allow it passes this test - even if nothing happens.

Requiring a transit agency to obtain full policy compliance at every single station to achieve OBAG funding eligibility could also prove to be problematic. For example, ValleyLink is planning seven stations, four of which are in San Joaquin County and outside MTC's planning area. Of the remaining three, the Dublin-Pleasanton station is already built out and the Isabel Neighborhood plan which was adopted in 2020 meets the criteria required under MTC Resolution 3434. We believe that existing TOD's such as the ones surrounding the Dublin-Pleasanton BART stations, or the proposed Isabel Neighborhood Plan in Livermore adopted in good faith under previous MTC policies should remain eligible for funding.

Furthermore, Caltrain, BART, the ferry and bus systems in the Bay Area operate with hundreds of stations. Policy compliance at every single station will be difficult given the sheer number of PDAs, specific plans, neighborhood plans, general plans, zoning maps, etc. which may need to be revised. Given the sheer size of the OBAG funding pot, this policy could trigger updates to dozens if not hundreds of community plans at considerable cost in time and resources. The TOC staff report indicates that such an analysis would be done in the first phase of the policy implementation, but this is a massive policy expansion and Commissioners will need to have a sense of these impacts before proceeding.

### **Parking Requirements**

While it makes sense in many areas of the Bay Area to eliminate parking minimums as transit-oriented communities are developed, there are regions of the Bay Area with limited transit alternatives where this would not be feasible, making this a critical factor affecting a successful outcome. There needs to be a pathway identified that will bring developers along and considers market viability or this may be a significant detriment to advancing development.

There is a need to provide affordable housing across the region, but not all sites will be located near employment centers that have jobs accessible for low-income workers. It is our hope that the TOC Policy can provide a way for a locality and/or developer to request exceptions with some sort of offset/tradeoff. Consideration also needs to be given to end-of-the-line stations that need more parking to make shifting to transit possible, and some of the housing at these sites may be for families, which could necessitate the need for additional parking.

### **Affordable Housing and Anti-Displacement**

The draft Policy states that low-income households are significantly more likely to utilize public transit and that adding affordable homes closer to the region's major transit investments can increase the ridership and improve the cost effectiveness of these investments while reducing GHG emissions. While we agree with this statement, please note that a recently published Bay Area Council report notes that in the Altamont/I580 Corridor there are an estimated 100,000 displaced Bay Area workers living in the San Joaquin Valley who travel through the Altamont Corridor each day. Many other people who work in San Francisco or Silicon Valley have been displaced to East Contra Costa County and beyond. Close to half or more of these jobs are in the construction, manufacturing, health care and social assistance employment

sectors which do not lend itself to remote work or accessible by transit. The needs of displaced lower income households is very important to consider when designing public transit alternatives.

### **Congestion Pricing and Next Generation Freeways**

Plan Bay Area 2050 calls for all lanes tolling on freeways with parallel high-capacity transit service. The impact of this policy could be significant on the proposed land use and parking requirements that are being established by this TOC policy. Specifically, under an all-lanes tolling scenario, the minimum densities, parking requirements (or lack thereof), and density caps requirements may need to be significantly different (most likely higher) than what is being established in this TOC policy to accommodate the anticipated shift from single occupant vehicle mode to public transit. With all lanes tolling, it is anticipated that demand for housing near transit stations and increased availability for on-street and off-street parking could increase significantly.

We understand the Next Generation Freeways Study is just getting started and appreciate MTC's openness to revisit the requirements in this TOC policy in the future when more is understood/developed regarding all lanes tolling concepts. With most freeways with parallel high capacity transit located in Contra Costa and Alameda Counties (I-80/Capital Corridor, I-580/SR238/I-880/BART, SR24/SR4 BART), we are concerned that without proper planning, the impacts of all lanes tolling on the East Bay businesses and communities will drive both residents and businesses out of the area, further exacerbating a labor shortage and unbalanced job/housing distribution in the Bay Area, and could be a detriment to the East Bay economy.

### **Scope and Impact**

It is difficult based upon previous staff reports to understand the scope and impact of the new policy, making it very difficult to ascertain whether the advertised advantages of the policy are worth the trade-offs. Considering that OBAG 3 and its funding priorities are currently under separate discussion, if the TOC is adopted the new policy would override OBAG 3 funding decisions. It would also dictate the terms of all future funding decisions in OBAG 4 and beyond, so whatever TOC Policy is ultimately adopted needs to be done with utmost sensitivity to scope and impact along with maximum engagement of local jurisdictions.

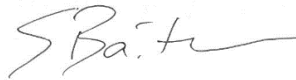
In summary, we recognize that things need to change over past practices, and that the Draft TOC Policy is a solid step forward for our region. That said, going from a policy that applied minimum housing densities to a handful of projects to one that ties every single MTC discretionary dollar to mandates for broad housing and job density must allow for flexibility in solutions to varying situations. In the end, the TOC Policy that is adopted needs to make housing easier to build and more affordable to buy or rent, improve transit ridership, and make transit expansions and improvements cheaper and/or faster. On the contrary, if the TOC Policy adds considerable time, cost, and uncertainty to the development process, or contains requirements which are not feasible economically to developers and local jurisdictions, it will lead to less housing being constructed and lower demand for transit, not more.

Thank you again for your consideration of these comments, questions, and concerns. We look forward to continued engagement with MTC Commissioners and Staff on developing an inclusive TOC Policy that meets the needs of our entire region.

Warmest regards,



Kristin Connelly  
President & CEO  
East Bay Leadership Council



Stephen Baiter  
Executive Director  
East Bay Economic  
Development Alliance



Lynn Naylor  
CEO  
Innovation Tri-Valley  
Leadership Group

###

**East Bay Leadership Council (EBLC)** is a private sector, public policy organization that advocates on issues affecting the economic vitality and quality of life of the region. EBLC's membership of East Bay employers includes leaders from business, industry, health care, education, local government, labor and the nonprofit community. [www.eastbayleadershipcouncil.org](http://www.eastbayleadershipcouncil.org)

**East Bay Economic Development Alliance (East Bay EDA)** is a unique cross-sector partnership of private, elected, county/city/town and nonprofit leaders in the East Bay counties of Alameda and Contra Costa, helping to establish the East Bay as a globally- recognized region to grow business and attract capital and resources to create quality jobs and preserve a high quality of life. [www.EastBayEDA.org](http://www.EastBayEDA.org)

**Innovation Tri-Valley Leadership Group (ITVLG)** is a business leadership association committed to connecting the businesses, research labs, educational institution and civic leaders in the Tri-Valley region of the East Bay, by generating job growth and economic vitality for a region that is globally connected, regionally united and locally unique. [www.innovationtrivalley.org](http://www.innovationtrivalley.org)

###

## **Appendix - Feedback, Comments, and Questions Raised by East Bay Coalition Members**

### *Future & Planned Transit Stations*

- Does the new TOC policy apply to any of the Valley Link stations outside of the Bay Area if the policy is no longer at the corridor level? Does this change if the Mountain House station is within the initial operating segment that is subject to future MTC allocations of regional funding?
- If Valley Link has adopted the 2005 TOD Policy, MTC staff seemed to suggest that there are no restrictions for the Valley Link "project" being able to seek additional regional funding, but it was not clear to me that the exception covered the City of Livermore from being able to seek regional funding for your own projects in support of the station areas.
- Are development projects such as the Isabel Road Valley Link station and Isabel Neighborhood Specific Plan in Livermore that are already entitled up to OBAG Cycle 4 (2026) exempt from the change in policy?
- Would the policy apply to future Capitol Corridor stations via the South Bay Connect project? (e.g., Ardenwood)
- AC Transit's view is that there are bus lines which have had frequent service for decades, with high demand, which should be considered permanent. Rail lines also get abandoned.

### *Land Use & Development*

- How will the TOC policy consider small, narrow, or otherwise irregular lot sizes?
- Implementation of an overlay zone to protect and assist small businesses and non-profit community organizations. Another good concept that does not have an established “best practice” or model. Very new, controversial in implementation, staff-intensive and potentially expensive (as well as potentially in conflict with other goals related to development density). Surely an easier way of approaching the goal of supporting local business would be to have a set-aside in any new development on transit-agency property for local-serving non-profits or locally-owned businesses.
- I really appreciate that the policies are not fully proscriptive--adding residential is voluntary, not required; more limited requirements near ferry terminals, recognizing they may be in places where industrial takes place. I would like to see that recognition expanded to some rail as well that are located in the midst of viable industrial locations
- Just wanted to say that as program manager for the Link21 team, I am really excited to see this TOC policy because existing and planned uses can shape success of the Link21 program. Also, a large megaregional program like Link21 can also help transform the regional land use, and to that end, you will be pleased to know that we have developed a Land Use Strategic Framework that aligns with and complements this TOC policy.
- I would note that the Bay Area has historically had a problem of much more land being zoned for commercial use than can be absorbed, that employers want. So this policy needs to avoid that.
- Has MTC considered how the parking restrictions could impact the ability for developers to secure loans without some minimum parking allowance?
- Why does the policy apply parking maximums?

### *Implementation & Funding*

- How will the TOC policy actually increase transit ridership and achieve significant mode shift? Are there complementary strategies and/or policies working to support the TOC policy?
- MTC-ABAG’s envisioned implementation and funding guidelines for the TOC policy is unclear. The timeline for requirements is also unclear.
- In communities with no direct rail access and limited bus service, but with growing population eastward, what public incentives, infrastructure, and/or policies exist to support commercial development in suburban markets to mitigate the jobs-housing imbalance and support “reverse commute”?
- How will the access gap analysis and accompanying improvement program for station access via a 10-minute walk, bicycle, or bus/shuttle trip be addressed? In particular, it is specified that the recommended improvement program for station access is to be incorporated into a capital improvement plan for the jurisdiction or plan area – but how will non-capital operating expenses be programmed and funded to address this issue?

### *Housing*

- The suite of affordable housing production/preservation policies is very far-reaching and removes significant local control from jurisdictions. Beyond that, it gets into technical and logistical issues with administering affordable housing programs and policies that MTC is not equipped to help jurisdictions with or evaluate if a jurisdiction or specific development is complying over the lifetime of an affordability period (typically 45 or 55 years).
- Adopt policies addressing “two or more of the following” includes SRO preservation. There are no SROs outside the urban core, so jurisdictions can’t choose this option, forcing them to choose among fewer.

- Condo conversion restrictions (most jurisdictions already have something in this field plus this is much less of an issue now than it was a decade ago)
- Tenant opportunity to purchase. This is a very progressive and very new type of policy that every jurisdiction should be able to determine if need
- The affordable housing work is expensive to administer. No funding source.
- Preservation of affordable housing at-risk of conversion to market rate. It is not reasonable to ask smaller jurisdictions to develop a program around this as it is labor-intensive, can be expensive depending on the project, AND not necessarily a RHNA-meeting program. The State of California is working on some solutions, which obviously local government housing planners would support. This should be left to the State.
- Rent stabilization. Again, more of a State issue and it doesn't seem reasonable to have a rent stabilization district within a larger jurisdiction.
- "Just Cause" evictions. This is a very broad tent with a lot of nuances that both doesn't seem reasonable to apply to a district within a larger jurisdiction, as well as something that is far beyond MTC-ABAG's remit in terms of station-area development.
- Tenant right to counsel. Already exists in California law.
- Foreclosure assistance. Without funding, this is not a useful policy although like many of these items, worthwhile concept.
- Rental assistance programs. Pre- and post-ARPA, these are typically Federally funded programs run through CDBG administrators, not every jurisdiction. Not reasonable to expect smaller agencies to develop and run these as they are labor-intensive and expensive.
- Preference policy prioritizing openings deed-restricted affordable homes for existing residents and displaced former residents and family members. This is the law already.
- Bay Area job housing imbalance is 7 to 1. With the proposed housing density increase, what would the new ratio be? Moreover Tri-Valley ratio is 10 to 1. Can MTC provide the new ratios for Bay Area wide and Tri valley specifically?

June 6, 2022

Therese McMillan  
Executive Director  
Metropolitan Transportation Commission  
375 Beale Street, Suite 800  
San Francisco, CA 94105-2066

Subject: Draft Transit-Oriented Communities (TOC) Policy Update, dated May 13, 2022

Dear Ms. McMillan,

Thank you for the opportunity to review and respond to the Draft Transit-Oriented Communities (TOC) Policy Update, dated May 13, 2022. Our comments below are categorized based on the Draft TOC Policy's four key elements:

**1. Minimum required and allowed residential and/or commercial office densities for new development**

The addition of Tier 4 addresses some of our concerns regarding accommodations for areas with commuter rails and ferry terminals. However, the policy needs to go further to account for suburban and rural communities that have lower population and/or lower densities or jurisdictions that do not have access to regional rail service in the Priority Development Areas (PDAs) or Transit-Rich Areas (TRAs). The policy should include a Tier 5 that considers a lower level of allowable density or additional context-sensitive criteria such as population and economic feasibility factors. Providing examples of density by number of units per acre for housing or floor area ratio for commercial office developments supported by a feasibility study would be beneficial to better understand the impact to approved PDAs. Additionally, MTC should prepare a detailed map of where the TOC policy would apply. The policy should clarify that jurisdictions with PDAs and TRAs that do not have fixed guideway are still eligible for future One Bay Area Grant (OBAG) funding cycles. Consideration should be made on how to incorporate California's Density Bonus Law, which encourages the development of affordable and senior housing up to a 50% to 80% increase in project densities based on the amount of affordable housing provided by a development. The allowable and required density in the policy should include the density bonus. Furthermore, considerations should be

made to allow jurisdictions to “grandfather” in current ongoing housing development for meeting the new TOC Policy and getting credit for delivering housing in the Bay Area and meeting the strategies of Plan Bay Area 2050.

**2. Policies focused on housing production, preservation, and protection, and commercial anti-displacement and stabilization policies**

The timing of these policies may not align with the preparation of jurisdictions’ Housing Elements in response to identifying housing need. Also, clarifications are needed on how to address jurisdictions that are in the process of updating their General Plan that may need to update their document based on this new TOC Policy. There should be consideration to adjust timing of the implementation of the TOC policy to allow for local jurisdictions to update PDA specific plans or develop new specific plans within a TRA. There may not be enough time to meet the four-year timeframe to adopt the TOC policy before OBAG 4 funding cycle relative to the timing of updating housing elements, updating specific plans for PDAs, or development of new specific plans for TRAs. Depending on the timing of the approval of the TOC policy, housing elements that are approved should be “grandfathered” into the TOC policy until the next time the local jurisdiction updates their housing element, general plans, and/or specific plans. Additionally, consider that based on economics feasibility of a development, jurisdictions may implement development outside the PDAs and TRAs, therefore, affordable housing located outside of PDAs or TRAs should also be addressed within this policy to meet the goals of Plan Bay Area 2050 and the Regional Housing Needs Assessment. As such, consideration should be made, on a case-by-case basis, to identify any exemptions to any of the above policy, as applicable. Collaboration with local jurisdictions is necessary when developing subsequent guidance and policy in determining TOC policy compliance under these sections.

**3. Parking management**

The “No minimum parking requirements allowed” policy for new residential and commercial office development is problematic and remains a concern for suburban communities. The policy is more appropriate for urban areas and still not a viable option for suburban and rural areas. In lieu of a strict no parking minimum policy, jurisdictions should be allowed the flexibility to evaluate each development on a case-by-case basis, including parking consideration under the Americans with Disabilities Act of 1990, clean vehicles, and car share strategies. Similar to the density requirement, an additional Tier 5 should be created to accommodate lower populations and other factors.

#### 4. Transit station access and circulation

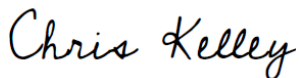
We concur that local jurisdictions should be coordinating with transit agencies, the community, and stakeholders in completing the appropriate plans and analyses within the PDAs and TRAs identified in this TOC Policy, granted that MTC provide the necessary funds and resources, as applicable, to assist jurisdictions in these efforts and to implement the TOC policy.

#### 5. Ministerial approval and State legislation

We are concerned about the addition of ministerial approval of housing projects with a threshold of affordability, to the list of TOC housing production policies. Many of our jurisdictions are currently in the process of revising design and development guidelines and local review policies in response to State legislation such as Senate Bill (SB) 35 and SB 330. These laws include strict eligibility requirements for streamlined/ministerial review of housing projects. Given the current regulatory work associated with housing review under State law, the logistical and legal ramifications of ministerial review in the TOC policy should be carefully assessed.

If you have any questions, please contact John Hoang, Director, Planning, at (925) 256-4729 or via email at [jhoang@ccta.net](mailto:jhoang@ccta.net).

Sincerely,



Chris Kelley  
Chair

Cc: Timothy Haile, Executive Director, CCTA  
John Hoang, Director, Planning, CCTA  
Kara Vuicich, MTC  
Alix Bockelman, MTC  
Matt Maloney, MTC  
Therese Trivedi, MTC





June 7, 2022

Therese McMillan  
Metropolitan Transportation Commission  
Bay Area Metro Center  
375 Beale Street, Suite 800  
San Francisco, CA 94105-2066

Re: Transit-Oriented Communities Policy

Dear Mrs. McMillan,

City of Livermore (City) staff appreciates the opportunity to continue discussions with MTC staff related to the Transit-Oriented Communities (TOC) Policy. The City has three Priority Development Areas (PDAs): Downtown, Isabel Avenue/BART Station Planning Area, and McGrath Southfront. The City understands that the TOC Policy would apply to each of these PDAs but has specific comments related to the Isabel Avenue/BART Station Planning Area PDA.

The Isabel Neighborhood Specific Plan (Specific Plan) was adopted by the Livermore City Council on November 9, 2020, following a 6-year planning process and over 50 public meetings. The Isabel Neighborhood is designed to include a mix of housing, commercial and office, and community uses to form a complete neighborhood where residents and workers have easy access to transit and everyday services. Furthermore, the Isabel Neighborhood provides a variety of residential types to address existing housing needs and provides convenient transit access to regional jobs. Currently, Livermore Amador Valley Transit Authority (LAVTA) provides express bus service from this neighborhood to the Dublin/Pleasanton BART station. The Valley Link Station at Isabel Avenue will provide access to the Dublin/Pleasanton BART station in the future.

The Specific Plan was developed in compliance with the 2005 TOD Policy (MTC Resolution 3434). The Specific Plan exceeds the 2005 TOD Policy minimum housing requirement of 3,850 housing units by 245 units, for a total of 4,095 new housing units. City staff understands that because the Specific Plan is compliant with the 2005 TOD Policy, MTC may program or allocate regional discretionary capital funding for project construction in advance of TOC Policy compliance. City staff understands that in order to be eligible for funding, the City must commit to achieving TOC Policy compliance by the adoption of the One Bay Area Grant 4 program, currently estimated in 2026. City staff understands that this commitment must be documented through written communication with MTC.

The goals of the Specific Plan align with the goals of the TOC Policy, including increasing residential densities and prioritizing affordable housing; increasing commercial office densities near regional transit hubs; prioritizing bus transit, active transportation, and shared mobility; and supporting and facilitating partnerships to create equitable transit-oriented communities within transit-rich areas. The Specific Plan has the highest residential and commercial office densities in the City, with the densest products centered around the future Valley Link rail station at Isabel Avenue. The residential densities within the Specific Plan range from 15-100 dwelling units per acre with an average density of approximately 40 dwelling units per acre. New residential development will include various product types including townhomes, condominiums, flats, and apartments. In addition, the Specific Plan requires that at least 20 percent of new residential units be affordable with a goal of 25 percent of all units in the Specific Plan to be affordable. This is an increase from the citywide inclusionary affordable requirement of 15 percent.

The Specific Plan includes an office-core designation with a permitted floor area ratio between 1.0-2.0, allowing for a greater intensity of development than the Specific Plan's standard office designation. Finally, the Specific Plan includes policies supporting and facilitating bus transit as well as a robust pedestrian and bicycle network including pedestrian bridges, under crossings, and trails to enhance connectivity north and south of I-580, to the future rail station, and throughout the Isabel Neighborhood.

The City has four active residential development applications under planning entitlement review and one approved residential development application for planning entitlements in the Specific Plan. City staff anticipates an additional application for approximately 170 new residential units to be submitted this summer. Four of these applications are within a half-mile radius of the future Valley Link rail station at Isabel Avenue. These pending, active, and approved applications total over 2,400 units including over 575 affordable units. City staff understands that these applications will not be subject to the TOC Policy.

City staff requests that the capital funding and endorsement of Specific Plan projects and the Valley Link rail project not be contingent upon compliance with the TOC Policy requirements by 2026. The Specific Plan was adopted less than two years ago after significant community outreach and engagement and aligns with the TOC Policy goals. Furthermore, the Specific Plan includes densities and development standards based upon existing surroundings, fiscal and environmental analyses, and feedback from the public.

Should the Specific Plan projects and Valley Link rail project capital funding and endorsement remain subject to the TOC Policy, staff requests the draft policy be modified to clarify that the residential density requirements are not on a parcel-by-parcel basis but can be averaged within the half-mile radius of the Valley Link rail station. In addition, staff requests that the residential parking maximum limit exempt electric vehicle spaces. This exemption would align with the City's ongoing Climate Action Plan update to further reduce greenhouse gas emissions.

We look forward to continued communication and collaboration with MTC staff. If you have any questions, please don't hesitate to contact me at [prspence@livermoreca.gov](mailto:prspence@livermoreca.gov).

Sincerely,



Paul Spence  
Community Development Director

cc:

Bob Vinn, City Engineer  
Steve Stewart, Planning Manager  
Steve Riley, Principal Planner  
Ashley Vera, Associate Planner

June 23, 2022

**TRANSMITTED VIA E-MAIL and U.S. MAIL**  
***kvuicich@bayareametro.gov***

Kara Vuicich  
Principal Planner  
Bay Area Metro Center  
375 Beale Street  
San Francisco, CA 94105

***RE: Proposed Transit-Oriented Communities Policy***

The San Francisco International Airport (SFO or the Airport) is aware that the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) are in the process of updating the 2005 Transit-Oriented Development (TOD) Policy defined in the Regional Transit Expansion Program (MTC Resolution No. 3434).

The proposed replacement policy, the Transit-Oriented Communities (TOC) Policy, establishes requirements for Priority Development Areas (PDAs) and Transit-Rich Areas (TRAs) related to residential and office density for new development, affordable housing and anti-displacement policies, parking management, and transit station access and circulation. The draft policy, however, does not adequately recognize State land use compatibility laws as they relate to lands near airports, including SFO.

SFO is concerned that the draft TOC policy, as presented on May 13, 2022,<sup>1</sup> does not recognize and exclude areas from this policy that would unintentionally encourage and intensify incompatible land use in the vicinity of SFO, as defined under State land use compatibility laws. While the Airport understands that the draft TOC policy does not require cities to upzone land near high-quality transit, recent experience suggests that the practical outcome of the policy will be to encourage the introduction of new incompatible land uses, and the densification of legacy incompatible land uses. Therefore, SFO seeks to engage MTC and ABAG regarding the draft TOC policy and identify practical options to avoid creating incentives for cities and developers to seek new land uses that are incompatible with airport-adjacent locations.

**BACKGROUND**

California State Law requires Airport Land Use Commissions to adopt an Airport Land Use Compatibility Plan (ALUCP) for each public use and military airport within their jurisdiction. The City/County Association of Governments (C/CAG) of San Mateo County is the acting Airport Land Use Commission for SFO, and the current SFO ALUCP was adopted in 2012.<sup>2</sup> State law requires a submittal for proposed development and land use policy actions that affect property within the area

<sup>1</sup> Association of Bay Area Governments, and the Metropolitan Transportation Commission, "Transit-Oriented Communities Policy, Joint MTC Planning Committee with the ABAG Administrative Committee," May 13, 2022.

<sup>2</sup> City/County Association of Governments of San Mateo County, *Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport*, November 2012.

designated as the Airport Influence Area (AIA) to the Airport Land Use Commission for determination of consistency with the SFO ALUCP.<sup>3</sup>

This letter describes the land use compatibility concerns raised by the proposed TOC policy regarding the noise, airspace, and safety compatibility policies defined in the SFO ALUCP. Several communities near SFO served by high-quality transit (e.g., defined by the TOC policy and State law as areas within a half mile of BART, Caltrain, and high-frequency SamTrans stations) were not evaluated for consistency with existing State land use compatibility laws. MTC and ABAG are required to submit the proposed policy to the C/CAG, as the Airport Land Use Commission, for a consistency determination prior to accepting the proposed TOC policy; however, until the Airport discovered that the TOC policy was being revised as staff attended an unrelated meeting, the Airport was not consulted during the stakeholder engagement process on the proposed TOC policy.

**AIRCRAFT NOISE COMPATIBILITY POLICIES AND CONCERNS**

As shown in **Exhibit 1** (attached), aircraft noise exposure contours extend northwest and southwest from SFO. The research-based noise exposure policies defined in the ALUCP are designed to protect the health of people on the ground near airports. As identified in the SFO ALUCP, the following noise compatibility policies should be considered in the development of the TOC Policy<sup>4</sup>:

- Noise Policy 1 (NP-1): Noise Compatibility Zones. For the purposes of the SFO ALUCP, the projected 2020 CNEL noise contour map from the Draft Environmental Assessment for the Proposed Runway Safety Area Program shall define the boundaries within which noise compatibility policies described in this Section shall apply. The zones are defined by the Community Noise Exposure Level (CNEL) 65, 70, and 75 dBA contours.
- Noise Policy 4 (NP-4): Residential Uses within CNEL 70 dBA Contour. Residential uses are not compatible in areas exposed to noise above CNEL 70 dBA and typically should not be allowed in these high noise areas.

To the west of Airport property is an irregular but contiguous PDA. To the northwest of SFO, high-quality transit areas, specified as a TRA comprise the half-mile area around the San Bruno BART station. Most of the half-mile area around the San Bruno BART station is located within the CNEL 70 dBA. To the southwest of SFO, portions of the half-mile area around the Millbrae Caltrain and BART stations are located within the CNEL 70 dBA. Portions of the PDA associated with the San Bruno and Millbrae transit stations are similarly in the CNEL 70 dBA contour.

SFO was the first US airport with an approved noise compatibility program from the Federal Aviation Administration (FAA) in 1983. Since then, the FAA and SFO have funded, implemented,

<sup>3</sup> Before a local agency makes plans consistent, all proposed development and land use policy actions that affect property within an area designated as the project referral area (or Area B of the Airport Influence Area [AIA]) must be submitted to the Airport Land Use Commission for a consistency determination prior to agency action on any policy decision, and prior to issuance of any development permit. After a local agency makes plans consistent, any proposed land use policy action (adoption or amendments to general plans, specific plans, zoning ordinances, and facilities master plans) within Area B of the AIA must be submitted to the Airport Land Use Commission for a consistency determination prior to agency action. (City/County Association of Governments of San Mateo County, Airport Land Use, available at <https://ccag.ca.gov/programs/airport-land-use/> [accessed May 25, 2022].)

<sup>4</sup> City/County Association of Governments of San Mateo County, *Comprehensive Airport Land Use Compatibility Plan for the Environs of San Francisco International Airport*, November 2012, pp IV-12 and IV-19.

and maintained a robust sound insulation program that has allowed SFO to be one of the few public use airports in the State of California to be fully compliant under Title 21 of the California Code of Regulations. Millions of federal and local funds have been expended to achieve land use compatibility within the CNEL 65 dBA noise contour – by sound insulating homes, places of worship, and schools, to be consistent with federal and state land use compatibility regulations. ***Implementation of the TOC policy within the SFO AIA would require cities with legacy incompatible land uses to undermine decades of scientifically informed land use planning and millions of dollars expended to safeguard public health and safety.***

The Airport supports practical housing development in the Bay Area, especially low-income and transit-oriented developments. However, commercial and industrial areas near rail corridors, zoned and used as such for decades near SFO, are now being identified by local municipalities to accommodate housing and transit-oriented communities because these areas are located adjacent to high-quality transit (i.e., the San Bruno Transit Corridors and the Millbrae Station: Transit Station Area) and because MTC’s Regional Housing Needs Assessment methodology also did not account for airport land use incompatibilities.<sup>5</sup> Implementation of the draft TOC would exacerbate this issue by requiring cities with legacy incompatible land uses, or cities which choose to create new incompatible land uses, to increase the intensity of those uses and expose more future residents to unmitigable noise levels.

The proposed TOC policy would encourage the densification of incompatible housing uses within the SFO vicinity and presents a serious concern for the Airport and conflicts with local compatibility regulations. Specifically, in 1992, the Airport Commission entered into a Memorandum of Understanding (MOU) with neighboring communities to provide \$120 million in residential noise insulation for homes in proximity to the Airport affected by noise.<sup>6</sup> Signatory jurisdictions to the MOU promote real estate disclosure for all residential properties within the Airport’s CNEL 65 dBA aircraft noise contour and in proximity to the Airport, as well as prohibit new residential construction within the CNEL 70 dBA aircraft noise contour.

State law requires people offering subdivided property for sale or lease to disclose the presence of all existing and planned airports within two miles of the property as a condition of the sale.<sup>7</sup> Further, the noise elements and/or General Plans adopted by the cities of Burlingame, Daly City, Millbrae, San Bruno, and South San Francisco restrict the development of new housing and various noise sensitive facilities within areas exposed to aircraft noise of CNEL 70-75 dBA. The TOC policy would conflict with local land use planning requirements and many years of successful progress towards compatibility in proximity to SFO.

***All residential development related actions within the CNEL 70 dBA contour are incompatible, including rezoning of a site to residential uses, under Noise Compatibility Policy (NP-4).*** Within the CNEL 65 to 70 dBA contour, acoustical treatments could reduce interior noise levels and could be conditionally compatible residential developments. However, residential developments within the

<sup>5</sup> City/County Association of Governments. *San Mateo County Priority Development Area (PDA) Investment & Growth Strategy*, May 2017.

<sup>6</sup> Parties to the Agreement include the City and County of San Francisco, San Mateo County, and the cities of Daly City, Millbrae, Pacifica, San Bruno, and South San Francisco.

<sup>7</sup> California Business and Professions Code, §11010; California Civil Code, §§1102.6, 1103.4, 1353.

CNEL 70 dBA noise contour would allow a significant impact to future residents and is identified under federal and state regulations as incompatible with sound insulation. Interior insulation would fail to address noise in outdoor amenity spaces often provided alongside housing. Further, the simple act of opening a window would compromise the efficacy of even the best noise insulation.

The materials and technology used for sound insulation have limited warranties and eventually fail over time. ***Residential development within the CNEL 70 dBA contour would render that development ineligible for FAA/SFO grants for future sound insulation, including the subsequent repair or re-installation of insulation materials when they fail over time.*** Similarly, Public Utilities Code section 21678 precludes the City and County of San Francisco/SFO from having any liability should a local jurisdiction proceed with residential development in contravention of the SFO ALUCP noise compatibility policies. There would be no viable aircraft noise abatement or noise mitigation measures that could alleviate the significant and unmitigable noise these future residents may experience, especially from long-haul international air carriers and cargo operators that depart late night/early morning; and due to the weight of the cargo, the cargo freighter aircraft typically fly slow and low to the ground. Therefore, the Airport will be unable to address noise complaints from these residents will and will refer them to the respective local jurisdiction (e.g., City of San Bruno and City of Millbrae).

***The Airport encourages MTC and ABAG to recognize noise compatibility policies in the TOC policy to prevent development of uses incompatible with SFO operations.***

#### **AIRSPACE COMPATIBILITY POLICIES AND CONCERNS**

**Exhibit 2** presents the aeronautical surfaces considered most critical in the SFO ALUCP to protect airspace required for multiple types of flight procedures. This exhibit depicts the lowest elevations from a combination of protected airspace surfaces, so it indicates the ***maximum heights*** with which structures can be considered compatible with SFO operations. Additionally, the proposed development would receive an incompatible determination from the C/CAG. The C/CAG's determination would not negate the requirement for the developer to also undergo FAA Obstruction Evaluation and Airport Airspace Analysis (OE/AAA) study. To be found compatible with the SFO ALUCP, a project must lie beneath the critical aeronautical surfaces identified in the ALUCP and receive a Determination of No Hazard from the FAA. Compliance with only one out of these two requirements would be incompatible with the ALUCP.

Due to the proximity to the Airport of several high-quality transit areas and certain procedures from the Airport's runways, both the permanent building heights and temporary cranes or construction equipment must be considered. ***Otherwise, any permanent penetrations of the critical aeronautical surfaces adopted in the SFO ALUCP would result in real financial and economic impacts to air carriers, cargo operators, SFO/City and County of San Francisco, and potentially reduce airlines' ability to transport high-value cargo (e.g., biotechnology and high-technology cargo).***

While the encouragement of upzoning alone would not necessarily force a conflict with the airspace compatibility policies of the SFO ALUCP, the encouragement of higher densities without a corresponding restriction on over-height structures could encourage cities and developers to propose incompatibly tall permanent buildings. Further, by maximizing the heights of permanent buildings while still meeting airport land use compatibility requirements, the temporary cranes used to

construct the buildings must be over-height and can create acute operational effects on the Airport. In turn, this can shift noise to other communities and to other times of the day or night.

***The Airport encourages MTC and ABAG to recognize airspace compatibility policies in the TOC policy to prevent development of uses incompatible with SFO operations.***

**SAFETY COMPATIBILITY POLICIES AND CONCERNS**

Five safety zone types are identified in the vicinity of SFO. These empirically derived safety zones are designed to protect the health and safety of people on the ground in the event of an aircraft accident or incident. **Table 1** presents the zones as well as the land uses identified as incompatible with each zone and the land uses to be avoided in each zone. **Exhibit 3** depicts the safety zones defined for SFO. The land use compatibility criteria for safety zones are provided in the SFO ALUCP. The safety compatibility criteria are generally based on the guidelines provided in the *California Airport Land Use Planning Handbook* (Caltrans Handbook),<sup>8</sup> although modifications have been made in recognition of the intense level of existing development in the vicinity of airports. Appendix E of the Caltrans Handbook contains a discussion of the factors that were considered in establishing the safety compatibility policies. The criteria include two categories: uses that are incompatible and uses that should be avoided in the respective zones, as summarized in Table 1.

Per the Plan Bay Area 2050: Final Blueprint Growth Geographies, areas within PDAs and TRAs near SFO are within Zones 2, 3, and 4.<sup>9</sup> Specifically, the PDA and TRA associated with the San Bruno BART station encroach on Safety Zones 2, 3, and 4; the PDA associated with the San Bruno Caltrain station may encroach on Safety Zones 2 and 3, depending on the extents of the proximate PDA specific to the Caltrain station; and the PDA and TRA associated with the Millbrae BART and Caltrain stations encroach on Safety Zones 1, 2, and 3. As described in Table 1, MTC should consider airport land use incompatibility when refining TOC policy for PDAs and TRAs in proximity to SFO.

***The Airport encourages MTC and ABAG to recognize safety zone compatibility policies in the TOC policy to prevent development of uses incompatible with SFO operations.***

**Table 1: Safety Compatibility Zones**

Zones and Descriptions	Incompatible Land Uses	Land Uses to Avoid
<p><b>Zone 1, Runway Protection Zone and Object Free Area (RPZ-OFA)</b> The RPZ is a trapezoid-shaped area off each runway end, with the dimensions based on the runway approach visibility minimums and the type of aircraft using the runway. The OFA is a rectangular area centered on each runway within which objects, other than those serving a specific aeronautical purpose, are</p>	<ul style="list-style-type: none"> <li>• All new structures<sup>3</sup></li> <li>• Places of assembly not in structures</li> <li>• Hazardous uses<sup>2</sup></li> <li>• Critical public utilities<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Nonresidential uses except very low intensity uses<sup>4</sup> in the “controlled activity area”<sup>2</sup></li> </ul>

<sup>8</sup> Caltrans Division of Aeronautics, California Airport Land Use Planning Handbook. Available online: <https://dot.ca.gov/-/media/dot-media/programs/aeronautics/documents/californiaairportlanduseplanninghandbook-11y.pdf>

<sup>9</sup> County of San Mateo, California. Plan Bay Area 2050: Final Blueprint Growth Geographies Adopted by ABAG Executive Board and MTC Commission, September 2020. (Accessible at - <https://mtc.maps.arcgis.com/apps/webappviewer/index.html?id=485e374221e84074b7e577ad381f6fce>)



Zones and Descriptions	Incompatible Land Uses	Land Uses to Avoid
to be prohibited. Zone 1 is an area of relatively high accident risk that FAA encourages airport proprietors to own and keep free of objects, structures, and incompatible uses.		
<p><b>Zone 2, Inner Approach/Departure Zone (IADZ)</b> The IADZ is designated along the extended centerline of each runway beginning at the outer edge of the RPZ. It is an area of secondary accident risk that tends to be overflowed by most aircraft arrivals and departures off each runway end.</p>	<ul style="list-style-type: none"> <li>• Children’s schools <sup>2</sup></li> <li>• Large child day care centers and noncommercial employer-sponsored centers ancillary to a place of business <sup>2</sup></li> <li>• Hospitals, nursing homes</li> <li>• Hazardous uses <sup>2</sup></li> <li>• Critical public utilities <sup>2</sup></li> <li>• Theaters, meeting halls, places of assembly seating more than 300 people</li> <li>• Stadiums, arenas</li> </ul>	<p>--</p>
<p><b>Zone 3, Inner Turning Zone (ITZ)</b> The ITZ, lies alongside the RPZ and IADZ. It is an area overflowed by aircraft making turns at low altitude immediately after takeoff. It tends to be subject to lower accident risk than the IADZ.</p>	<ul style="list-style-type: none"> <li>• Biosafety Level 3 and 4 facilities <sup>2</sup></li> <li>• Children’s schools <sup>2</sup></li> <li>• Large child day care centers <sup>2</sup></li> <li>• Hospitals, nursing homes</li> <li>• Stadiums, arenas</li> </ul>	<ul style="list-style-type: none"> <li>• Hazardous uses other than Biosafety Level 3 and 4 facilities <sup>2</sup></li> <li>• Critical public utilities <sup>2</sup></li> </ul>
<p><b>Zone 4, Outer Approach/Departure Zone (OADZ)</b> The OADZ, extends along the extended runway centerline immediately beyond the IADZ. It is subject to overflights of aircraft on approach and straight-out departures. At SFO, the OADZ off the west end of Runways 10R-28L and 10L-28R is overflowed by a high proportion of departures using Runways 28L and 28R, especially long-haul departures by heavy, wide-body aircraft.</p>	<ul style="list-style-type: none"> <li>• Biosafety Level 3 and 4 facilities <sup>2</sup></li> <li>• Children’s schools <sup>2</sup></li> <li>• Large child day care centers <sup>2</sup></li> <li>• Hospitals, nursing homes</li> <li>• Stadiums, arenas</li> </ul>	<ul style="list-style-type: none"> <li>• Hazardous uses other than Biosafety Level 3 and 4 facilities <sup>2</sup></li> <li>• Critical public utilities <sup>2</sup></li> </ul>
<p><b>Zone 5 – Sideline Zone (SZ)</b> The SZ is a rectangular area centered on each runway centerline with a width of 2,000 feet and a length extending 200 feet beyond each runway end. This area is subject to accident risks associated with aircraft losing directional control on takeoff or after landing. At SFO, the SZ is entirely on Airport property.</p>	<ul style="list-style-type: none"> <li>• Children’s schools <sup>2</sup></li> <li>• Large child day care facilities and noncommercial employer-sponsored centers ancillary to a place of business</li> <li>• Hospitals, nursing homes</li> <li>• Hazardous uses <sup>2</sup></li> <li>• Critical public utilities <sup>2</sup></li> <li>• Stadiums, arenas</li> </ul>	<p>--</p>

Notes:

1/ Avoid: Use is not fully compatible and should not be permitted unless no feasible alternative is available. Where use is allowed, habitable structures shall be provided with at least 50 percent more exits than required by applicable codes. Where the 50-percent factor results in a fraction, the number of additional exits shall be rounded to the next highest whole number.

Incompatible Use is not compatible in the indicated zones and cannot be permitted.

2/ Definitions:

- Biosafety Level 3 and 4 facilities: Medical and biological research facilities involving the storage and processing of extremely toxic or infectious agents. See Policy SP-3 for additional detail.
- Children’s schools: Public and private schools serving preschool through grade 12, excluding commercial services.
- Controlled Activity Area: The lateral edges of the RPZ, outside the Runway Safety Area (RSA) and the extension of the RSA, which extends to the outer edge of the
- RPZ. See FAA Advisory Circular 150/5300-13, *Airport Design*, Section 212a.(1)(b).
- Critical public utilities: Facilities that, if disabled by an aircraft accident, could lead to public safety or health emergencies. They include the following: electrical power generation plants, electrical substations, wastewater treatment plants, and public water treatment facilities.
- Hazardous uses: Uses involving the manufacture, storage, or processing of flammable, explosive, or toxic materials that would substantially aggravate the consequences of an aircraft accident. See Policy SP-3 for additional detail.
- Large child day care centers: Commercial facilities defined in accordance with Health and Safety Code, Section 1596.70, et seq., and licensed to serve 15 or more children. Family day care homes and noncommercial employer-sponsored facilities ancillary to place of business are allowed.

3/ Structures serving specific aeronautical functions are allowed, in compliance with applicable FAA design standards.

4/ Examples include parking lots and outdoor equipment storage.

Source: The City/County Association of Governments of San Mateo County, *Comprehensive Airport Land Use Compatibility Plan for the Environs of the San Francisco International Airport*, Table IV-2, “Safety Compatibility Criteria,” November 2012.

\* \* \*

While the concerns detailed in this letter address the SFO ALUCP specifically, the same principles apply to every Bay Area airport with a published ALUCP. Therefore, the Airport requests that the draft TOC policy be revised as follows:

1. State explicitly that the TOC policy does not supersede any published airport land use compatibility plan, nor may the TOC policy be used as justification for overriding any component of a published ALUCP.
2. Exclude all housing density requirements from any parcels within the 70 dB CNEL contour of any airport with a published ALUCP.
3. Exclude hazardous uses, including but not limited to Biosafety Level 3 and 4, from any density requirements which would conflict with a published ALUCP.
4. Incorporate by reference the height compatibility policies for permanent facilities near airports, as defined in published ALUCPs, and caution cities and developers on the complex and potentially onerous requirements which may be placed on tall temporary cranes which would interfere with the safe, efficient operations of local airports.

The Airport supports the draft TOC policy’s goals of encouraging the use of mass transit and increasing the housing supply in the Bay Area, especially as many Airport workers must endure long commutes due to a lack of affordable local options. However, meeting these goals cannot come at the expense of decades of research and experience regarding incompatible land uses near Airports. The Airport believes there are many opportunities to densify developments near airports without introducing incompatible land uses; for example, by encouraging higher-density office uses which are typically compatible with the SFO ALUCP.

The Airport appreciates the opportunity to provide input on this important policy to support the region’s transit investments by creating communities around transit stations and along transit corridors that not only support ridership, but that increase residential and commercial development densities in high-quality transit areas. If I can be of assistance, please do not hesitate to me at (650) 821-6678 or at nupur.sinha@flysfso.com.

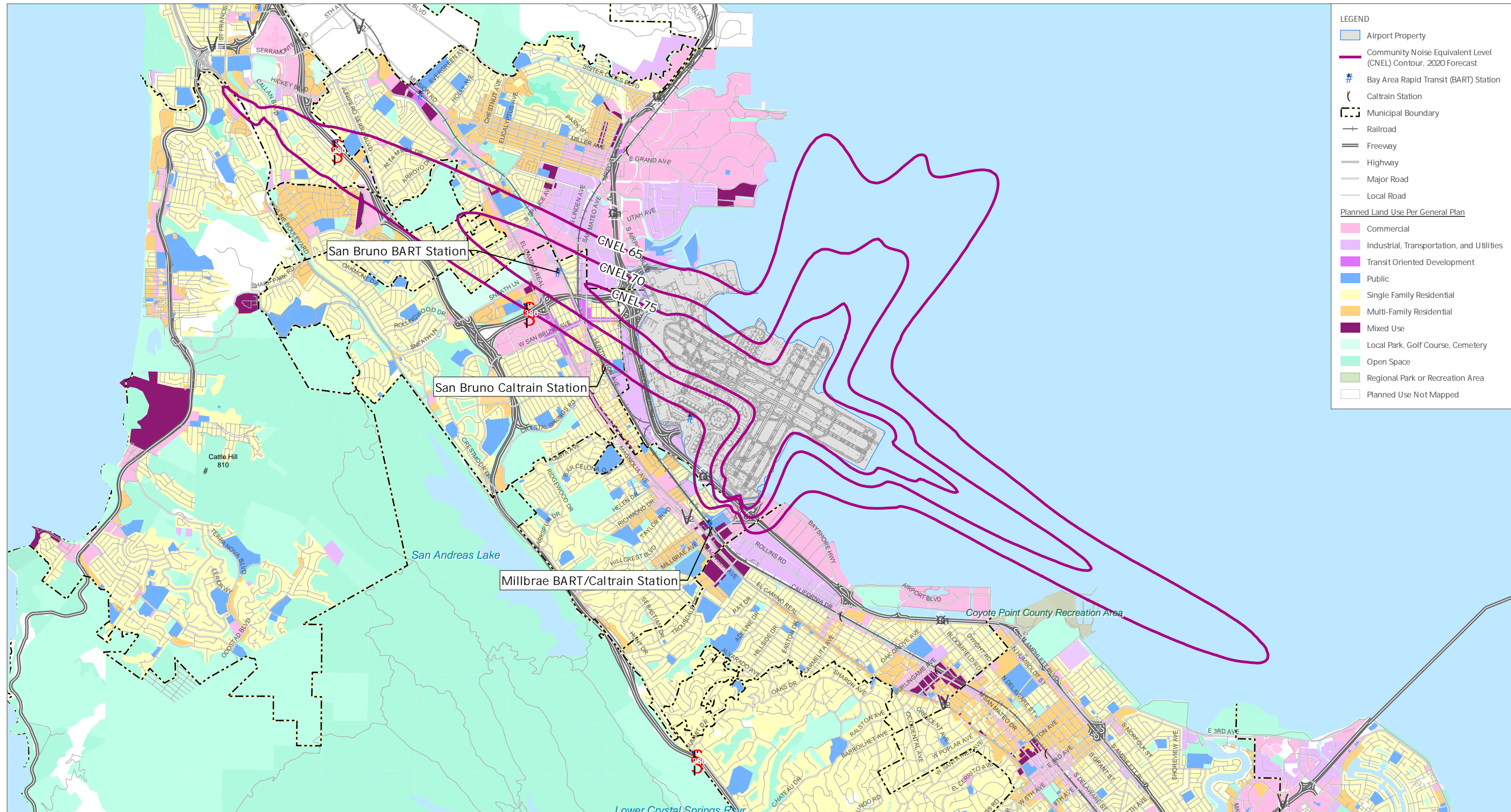
Sincerely,

DocuSigned by:  
**Audrey Park**  
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Nupur Sinha  
Director of Planning and Environmental Affairs

Attachments

- cc: Faviola Garcia, Western-Pacific Deputy Regional Administrator, Acting, FAA
- Laurie Suttmeier, Manager, Western-Pacific Region, FAA San Francisco Airports District Office
- Phillip Miller, Acting, Chief Division of Aeronautics, Caltrans
- Jim Lites, Executive Director of California Airports Council
- Therese McMillan, Executive Director, Association of Bay Area Governments
- Mark Shorett, Principal Regional Planner, Association of Bay Area Governments
- Sam Hindi, Chairperson, SFO Airport/Community Roundtable
- Sean Charpentier, Executive Director, City/County Association of Governments of San Mateo County

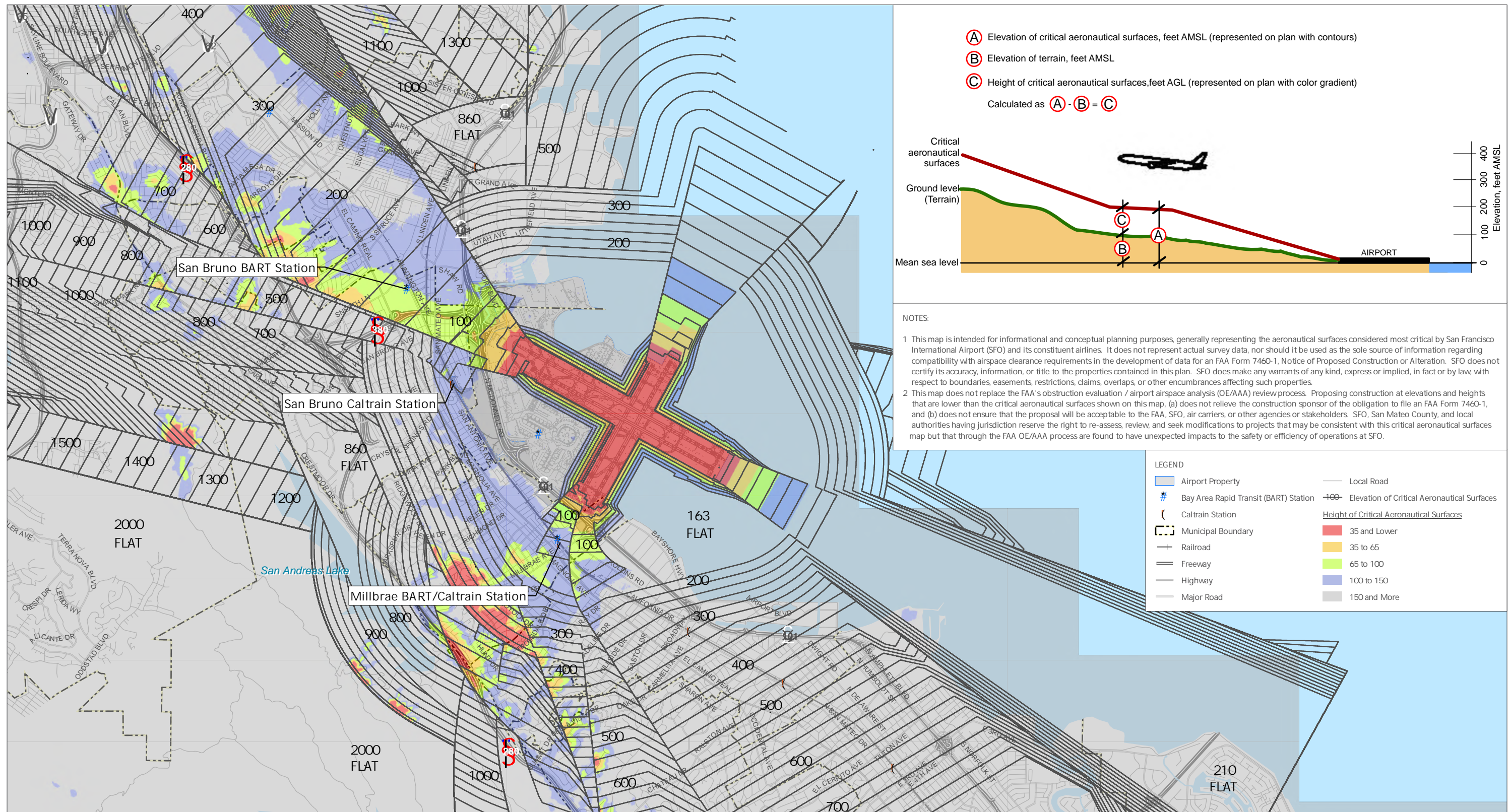


SOURCES: Draft Environmental Assessment, Proposed Runway Safety Area Program, San Francisco International Airport, URS Corporation and BridgeNet International, June 2011 (noise contours); San Mateo County Planning & Building Department, 2007: Burlingame Bayfront Specific Area Plan, August 2006; Burlingame Downtown Specific Plan, January 2009; Burlingame General Map, September 1984; North Burlingame/Rollins Road Specific Plan, February 2007; Colma Municipal Code Zoning Maps, December 2003; Daly City General Plan Land Use Map, 1987; Hillsborough General Plan, March 2005; Millbrae Land Use Plan, November 1998; Pacifica General Plan, August 1996; San Bruno General Plan, December 2008; San Mateo City Land Use Plan, March 2007; San Mateo County Zoning Map, 1992; South San Francisco General Plan, 1998.

EXHIBIT 1



NOISE COMPATIBILITY ZONES

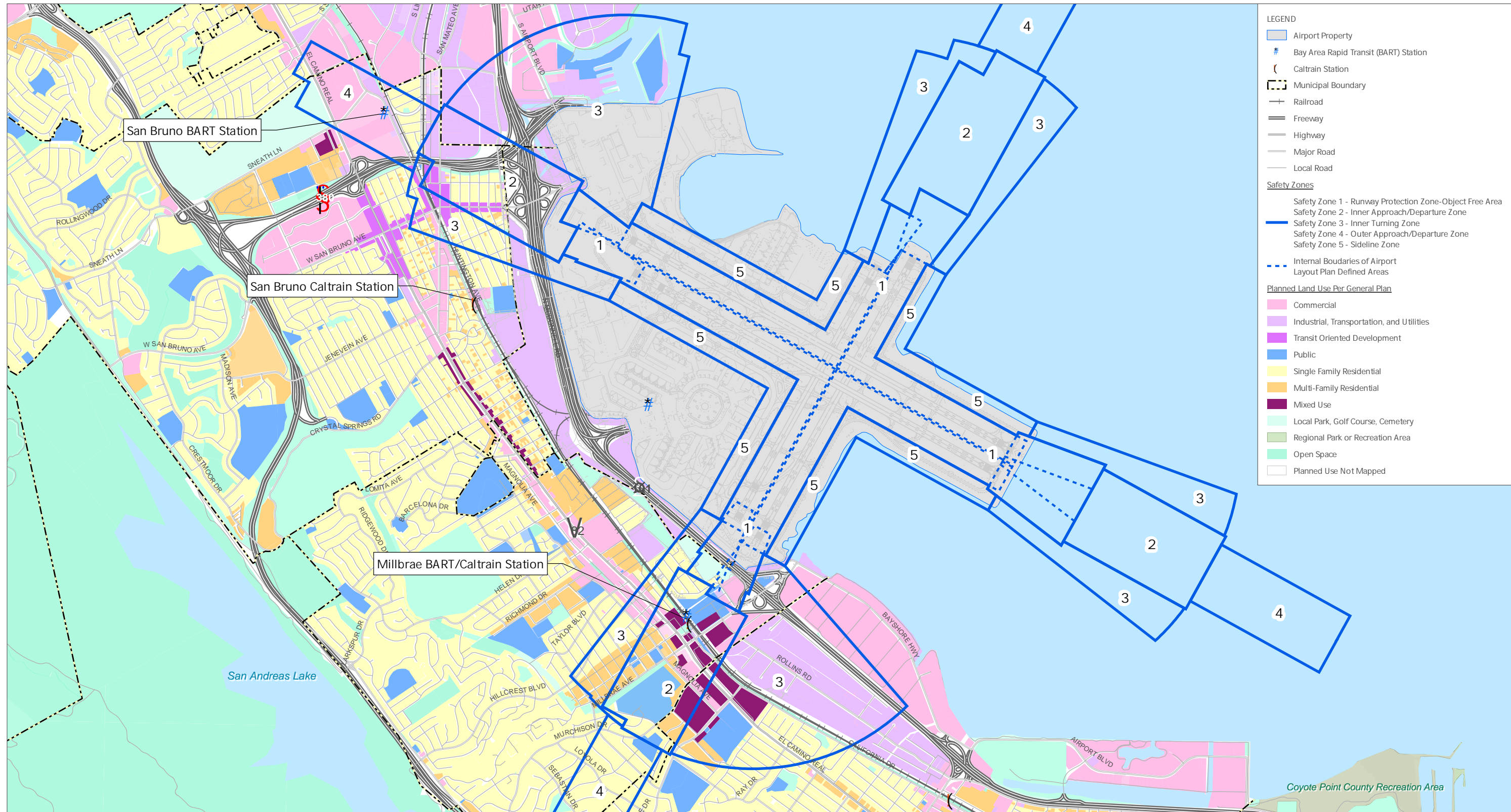


SOURCES: San Francisco International Airport, Jacobs Consultancy, and Planning Technology Inc., 2009.

EXHIBIT 2



CRITICAL AERONAUTICAL SURFACES



SOURCES: Draft Environmental Assessment, Proposed Runway Safety Area Program, San Francisco International Airport, URS Corporation and BridgeNet International, June 2011; San Mateo County Planning & Building Department, 2007; Burlingame Bayfront Specific Area Plan, August 2006; Burlingame Downtown Specific Plan, January 2009; Burlingame General Map, September 1984; North Burlingame/Rollins Road Specific Plan, February 2007; Colma Municipal Code Zoning Maps, December 2003; Daly City General Plan Land Use Map, 1987; Hillsborough General Plan, March 2005; Millbrae Land Use Plan, November 1998; Pacifica General Plan, August 1996; San Bruno General Plan, December 2008; San Mateo City Land Use Plan, March 2007; San Mateo County Zoning Map, 1992; South San Francisco General Plan, 1998.

EXHIBIT 3



SAFETY COMPATIBILITY ZONES



## MEMO

June 27, 2022

To: Therese McMillan, Executive Director, Metropolitan Transportation Commission

From: Enterprise Community Partners, SPUR & Transform, in consultation with TOC Community Stakeholder Group

### **Subject: Transit-Oriented Communities Policy Application to all Transit-Rich Areas Surrounding Fixed-Guideway Stations**

In the January draft transit-oriented communities (TOC) policy, the policy applied to the entire transit-rich area (TRA) surrounding eligible transit stations, consistent with Plan Bay Area 2050 growth projections. In the May update to the policy, the scope of the TOC policy was limited to the locally-selected priority development areas (PDAs), when designated, within the transit-rich areas surrounding fixed-guideway transit stations. This change, specifically limiting application to PDAs, raises significant concerns for our organizations as it may undermine both our ability to reach our Plan Bay Area 2050 climate and equity goals as well as our ability to fulfill the region's obligation to affirmatively further fair housing (AFFH).

We recognize MTC's challenging role of furthering many state-mandated goals, including AFFH, affordable housing production goals outlined in the Regional Housing Needs Allocation, and greenhouse gas reduction. **Because of these mandates, it is imperative that special attention is paid to the importance of equitable development in areas that are both high opportunity and transit rich areas given the multiple co-benefits it would provide.**

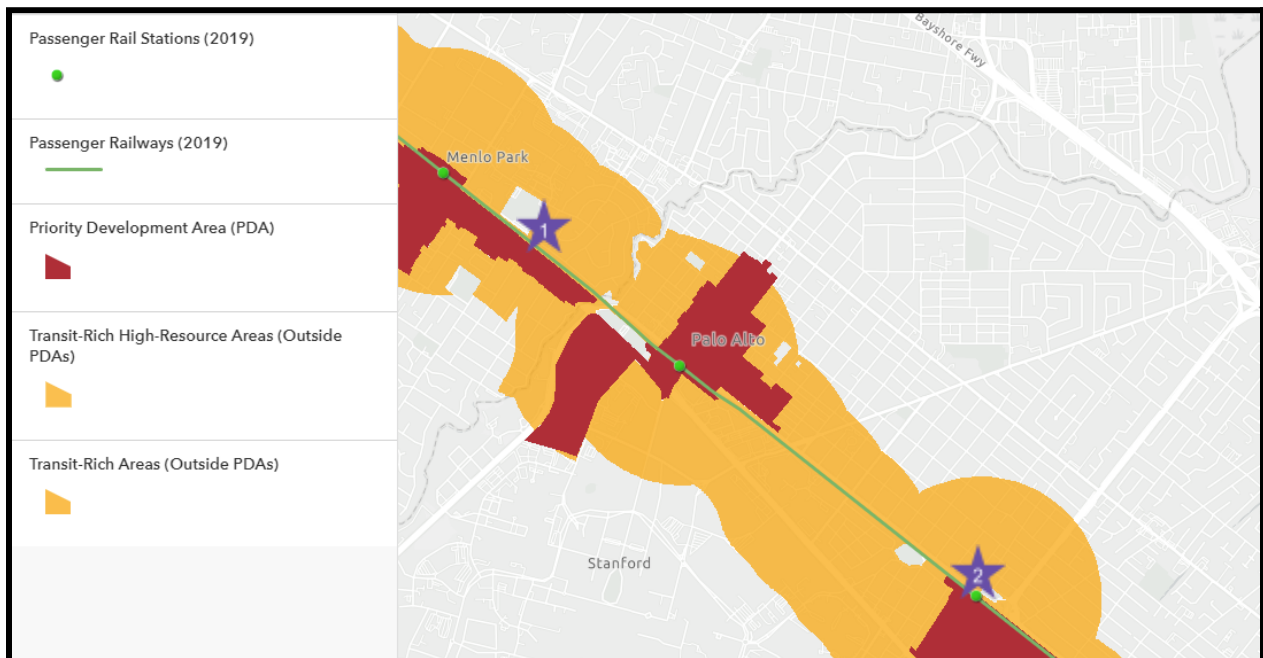
By allowing local jurisdictions to comply with the TOC policy only in voluntarily-elected PDAs, we are concerned that the policy could exacerbate existing inequities and exclusion, particularly undermining the obligation to affirmatively further fair housing. Specifically, there are two scenarios in which this change will, at best, leave missed opportunities for transit-oriented development on the table, and, likely, exacerbate patterns of segregation and exclusion:

1. **A number of locally-selected PDAs are much more limited than the TRA, creating a missed opportunity to further the TOC policy goals through many high opportunity sites; and**
2. **For jurisdictions that have not yet created a PDA, there will be perverse incentives to create a PDA that would seriously limit the geographic scope of the TOC policy, without any guardrails.**

Additionally, given that the policy already excludes parcels on which there are residential properties, there is no additional anti-displacement benefit to limiting application to PDAs, and the remaining parcels in the transit-rich area are precisely the type of scarce parcels where development is needed to reach Plan Bay Area goals.

**1. Many locally-selected PDAs are much more limited than the local TRA, creating a missed opportunity to further the TOC policy goals through many high opportunity sites.** In most jurisdictions with fixed-guideway transit stations, the locally-selected PDA is only a subset of the TRA, which, under the current draft of the policy, would exclude many high opportunity, transit-oriented sites from complying with the goals and requirements of the transit-oriented communities policy, including density and parking requirements. While there is no exhaustive list of these missed opportunity sites, we have provided several examples of sites that would be excluded under the current policy:

- A. Menlo Park and California Ave CalTrain Stations.** The transit-rich area outside of the locally-designated priority-development area shown below is all a high/highest resource area according to the 2022 TCAC opportunity map. We have identified example parcels to illustrate concrete missed opportunities.



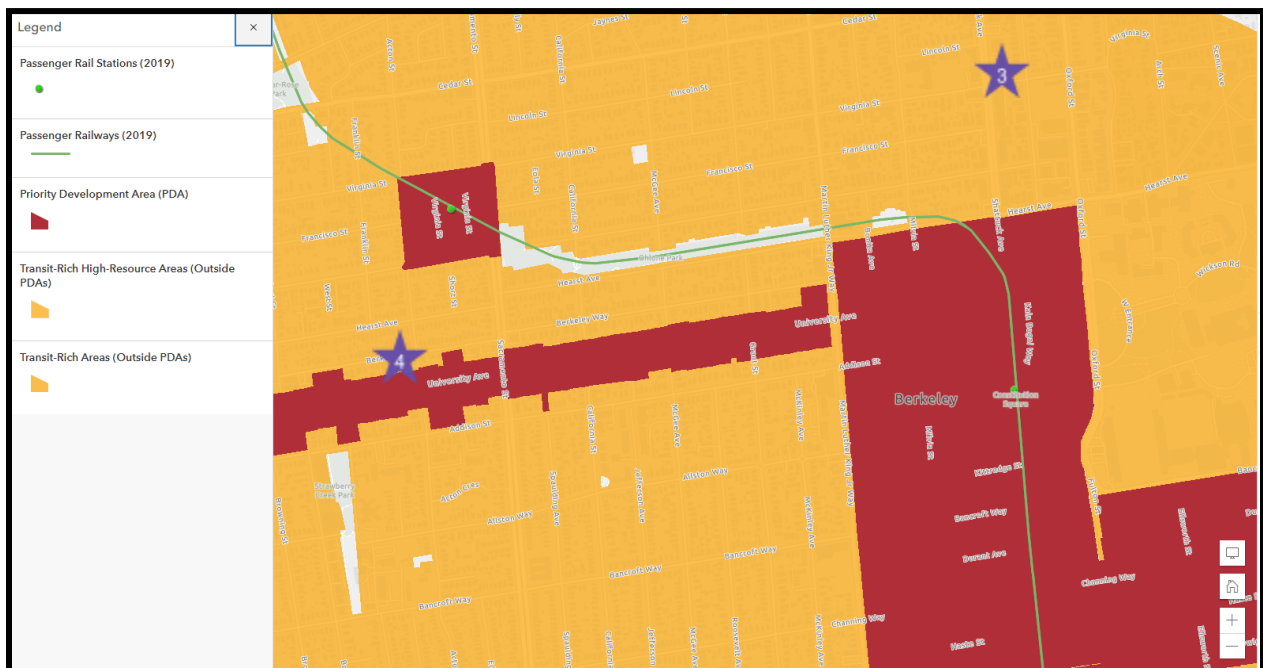
**Star #1:** Set of four adjacent parcels in Menlo Park (401, 445, 431, and 425 Burgess Drive) all with under-utilized single-story offices and parking that the city has identified as housing opportunity sites and is proposing for housing in their [draft housing element](#), which charts a path to meet the city’s 2,946 RHNA obligation. The draft housing element estimates that together these parcels (1.3 acres) could be used for over 130 units of affordable housing. It is across the street from Burgess Park, which includes sports fields and swimming pools, a 10 minute walk (0.5 mile) to Menlo Park CalTrain Station, and a 15 minute walk to a grocery store. These parcels are in a high resource area.

According to the City, *“The overlay zone allows for development of housing on the [Burgess Road sites]. Site redevelopment would allow the site owner to replace functionally obsolete office structures while improving otherwise vacant areas of parcels by contracting with affordable housing developers. [These sites] could be part of a redeveloped multi-use Burgess Drive...The existing structures are not substantial physical impediments to develop an additional residential use on the site.”*



**Star #2:** This quarter-acre parcel in Palo Alto (2233 Alma Street) directly across the street from the California Avenue Caltrain station, outside of the locally-designated priority development area, is identified in the [City of Palo Alto's Draft Sites Inventory Map, as part of their housing element update](#) process, which charts a path to meet the city's 6.86 RHNA obligation. Despite being zoned as RM-20, with a minimum density allowed of 8 du/ac and maximum of 50 du/ac, the parcel currently has no residential units. Instead, it has one story office use with a FAR of 0.4. The Draft Sites Inventory Map estimates that this parcel could yield between 9-12 units of housing, a prime example of gentle density on a relatively small, but transit-accessible and high resource, site. The parcel is a three minute walk to the Caltrain station, a five minute walk to a grocery store, and across the street from a park.

**B. Downtown and North Berkeley BART Stations.** The majority of the transit-rich area north of the locally-designated priority-development area shown below (yellow) are high/highest resource areas according to the 2022 TCAC opportunity map.



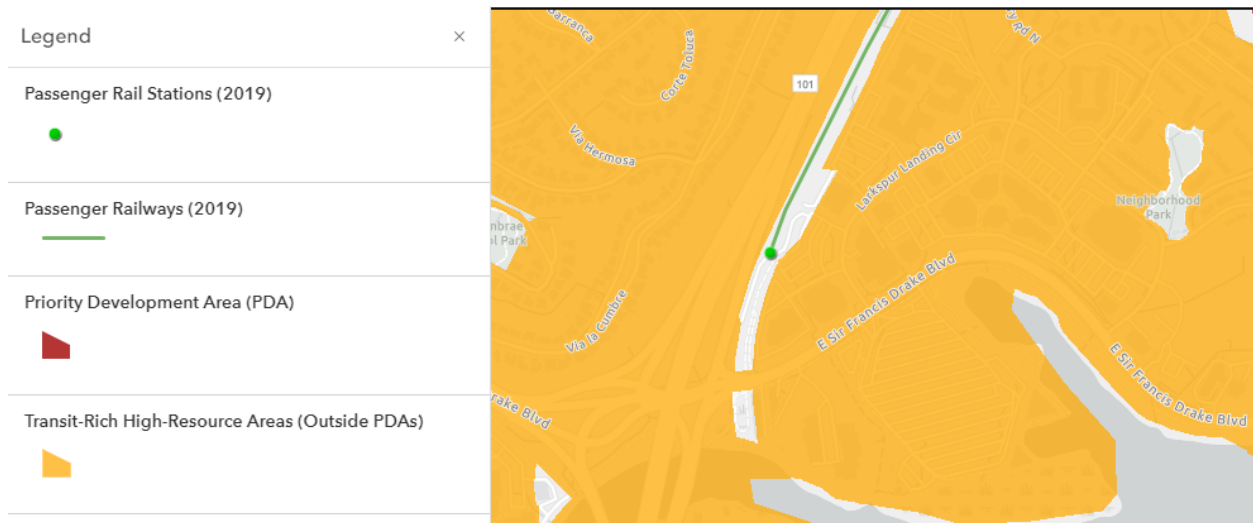
**#3:** This half-acre parcel in Berkeley (2109 Virginia Street) currently has under-utilized commercial space and a parking lot, no residential units. While outside of the locally-designated PDA, the site was identified in the City of Berkeley's 2015-2023 Housing Element as a Commercial Corridor Housing Opportunity Site, as well as in the current draft sites inventory for the 2023-2031 Housing Element with an estimated density capacity of 50 du/ac. The site is in a high opportunity area within a 10 minute walk of Downtown Berkeley BART (0.5 mile), grocery stores, several parks, as well as the University of California - Berkeley.

**#4:** Despite being zoned for residential use, this quarter-acre parcel (1384 and 1396 Berkeley Way) is currently an underutilized parking lot, with no residential units. The parcel is located in a high opportunity area within a 6 minute walk of North Berkeley BART, as well as within a 15 minute walk of grocery stores and parks.

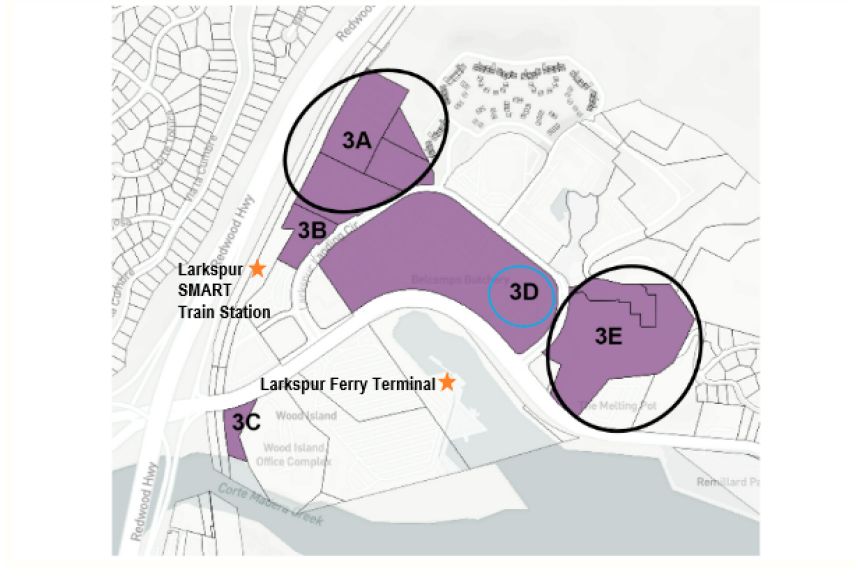
**2. For jurisdictions that have not yet created a PDA, there will be perverse incentives to create a PDA that would seriously limit the geographic scope of the TOC policy, without any guardrails.** We identified three noteworthy examples of relevant TRAs in the region located in part or entirely within high resource areas that currently do not have designated PDAs. The geographic application of the TOC Policy as it is currently written would apply to the entire TRA if a PDA does not exist. If a PDA or more than 50% of a PDA is designated within this area, then the TOC Policy would only apply to the PDA. This presents a real possibility of local jurisdictions designating PDAs within these areas to limit the application of the TOC Policy in an exclusionary manner, undermining its intent, the goals of Plan Bay Area 2050, and our obligation to affirmatively further fair housing.

### A. Larkspur SMART Station and Ferry Terminal TRA

Of particular note is Larkspur, which has both a SMART station and ferry terminal, making it a significant transit node for the region and the North Bay in particular. Leaving the potential for this area to remain underdeveloped would be a huge missed opportunity for the region. The Larkspur TRA is situated entirely within a High Resource Area so development there would be integral in affirmatively furthering fair housing. Furthermore, planned system and service expansions to SMART Train over the coming years would further amplify Larkspur’s status as a transit hub, serving as the link between Marin and Sonoma counties and San Francisco’s job centers.



The City of Larkspur has identified six large sites directly adjacent to either the SMART train station or the ferry terminal in its [draft Housing Element update](#) (see graphic below). Ensuring that the TOC Policy will apply to these potential sites would be integral in helping achieve our regional housing goals. As currently proposed, nothing in the TOC policy or the PDA program would prevent a city like Larkspur from designating a PDA that limited its geographic scope.



**B. Reamwood VTA Station TRA**

The Reamwood TRA in Sunnyvale is centered around the Reamwood VTA station and is another example of a TRA without an associated PDA. While this TRA is located within a Moderate Resource Area, it is in close proximity to High Resource Areas through the Tasman West VTA line. Of particular note in this TRA are the large blocks of surface parking lots serving Levi’s Stadium located in its southeast quadrant, south of Tasman Drive and east of Patrick Henry Drive. It’s a prime candidate for transit-oriented development consistent with the goals of the TOC Policy and Plan Bay Area 2050. Ensuring that the TOC Policy applies to these surface parking lots should they be identified for redevelopment would be crucial in meeting Plan Bay Area’s goals.

**Passenger Rail Stations (2019)**



**Passenger Railways (2019)**



**Priority Development Area (PDA)**



**Transit-Rich High-Resource Areas (Outside PDAs)**

