Date: November 27, 2013
To: Wayne Chen, Kristen Clements, City of San Jose Housing Department
From: Elizabeth Wampler, Reconnecting America; James Pappas, CHPC
RE: *San Jose Summary and Recommendations*
Total of 17 pages

Introduction

This memo summarizes the policy, data and spatial analysis that Reconnecting America (RA) and the California Housing Partnership Corporation (CHPC) completed for the City of San Jose, with the aim of identifying the affordable housing preservation need near transit in San Jose. The memo also includes a set of recommendations for consideration by the City of San Jose Department of Housing.

This work was funded through the Metropolitan Transportation Commission by the Housing the Workforce Initiative of the U.S. Department of Housing and Urban Development (HUD) Regional Prosperity Plan. In addition, CHPC is under contract with the City of San Jose Department of Housing to perform analysis and outreach on the City's existing federally subsidized affordable housing properties, identify the risk of losing that housing through expiring subsidy contracts, affordability agreements and mortgages, as well as identify the ratio of restricted rents to market rents, the properties' physical condition, and the owners' sophistication and capacity. CHPC's work was integrated into the overall analysis and is explained in the first section of the memo.

The goal of this work is to identify a set of solutions to minimize the impact of increasing market pressures due to transit investments and related planning and transportation enhancements on low-income residents living and working in San Jose.

This memo has four sections:

I. *HUD Subsidized Property Preservation Need and Spatial Analysis*: This section describes the findings from CHPC's analysis of at-risk properties and outreach efforts to property owners. This section also identifies where deed-restricted properties are located in relation to new and existing transit hubs.

II. *Spatial Analysis – Identifying Priority Preservation Areas:* This section explains the mapping analysis completed for this project, and how RA and CHPC used a combination of demographic and housing analysis and identification of key transit investments and planning efforts to identify the areas of high priority preservation need in San Jose.

III. *Existing Housing Supportive Policies and Programs:* This section explains the policy conditions in San Jose, including the tools that the Housing Department currently has to support preservation of affordable housing near transit, as well as other policies that have the potential to impact the preservation need in the city in the future.

IV. *Recommendations and Potential Tools:* This section outlines a series of both city-wide and place-based recommendations that would support preserving affordable housing near transit in San Jose.

Key Findings

- **Transit alone does not create a preservation priority area.** Not all areas with major transit investments are places where affordable housing preservation efforts should be focused. Nor are all areas with concentrations of existing affordable housing or vulnerable households near transit. While there may be other reasons to focus attention on those neighborhoods, they do not necessarily provide access to transit and the walkable, livable neighborhoods that Plan Bay Area seeks to build throughout the region.
- **Priority Preservation Areas are located in central San Jose and directly to the east and west.** The neighborhoods in and around downtown San Jose, around the Diridon station, and to the east towards Alum Rock are the neighborhoods where there is both the potential of market pressure from transit investments and planning efforts as well as vulnerable populations and existing affordable housing stock. RA and CHPC recommend that the City and partners should focus place-based preservation efforts in these areas.
- **West San Jose lacks the concentration of transit investment and vulnerable neighborhoods to make it a priority.** West San Jose includes some of the first priority Urban Villages, but there is limited overlap with the elements that would make this area a priority for preservation efforts. West San Jose neighborhoods have fewer vulnerable households and fewer concentrations of existing affordable housing. No new transit investments are planned for these areas of the City.
- **The northern section of the BART to San Jose extension does not fall into a priority area for preservation.** Northeastern San Jose, from the border of Milpitas down to Berryessa has planned transit improvements but no significant concentrations of vulnerable residents or existing affordable housing. Areas along the future BART alignment from Berryessa north are primarily business parks with some single-family neighborhoods.

Summary of Recommendations

CHPC and Reconnecting America have identified three broad categories of recommendations and potential tools for preservation of affordable housing meant to complement the place-based strategies:

- **Dedicated funding** is a key tool for preservation of existing affordable housing.
- **Active Monitoring** of the restricted affordable and rent-controlled housing stock and **enforcement** of existing regulations are also important to preservation of San Jose's affordable housing stock.
- **New policies and regulations** may be necessary to target particularly vulnerable housing stock and respond to major increases in market pressures on existing affordable rental housing.

I. HUD-Subsidized Property Preservation Need and Spatial Analysis

Assessing Risk Status of Restricted Affordable Housing in San Jose

The restricted, subsidized affordable housing stock in San Jose consists of 18,690 units in 169 properties. These include properties funded through the Low Income Housing Tax Credit (LIHTC) program as well as properties funded with HUD mortgages and HUD rental assistance contracts.

Table 1. Subsidized Affordable Housing Properties in San Jose

Type of Assistance	Total Number of Properties	Total Low Income Units	HUD Rent Assisted Units	County Project-Based Voucher Units
HUD	32	3,607	3,067	0
LIHTC	136	14,931	0	575
Other	1	152	0	37
Total	*169*	*18,690*	*3,067*	*612*

The LIHTC program has helped fund 70 percent of the existing restricted affordable properties in San Jose. The program provides equity investors with ten years of tax credits in exchange for up-front capital enabling units to be built with rents affordable to low-income households for a minimum of 30 years. Many of these tax credit properties are also supported by State of California Housing and Community Development (HCD) funding and City of San Jose loans.

Twenty-eight properties in San Jose have expiring LIHTC rent restrictions in the next 10-15 years. A majority of the properties are in the hands of large, mission-driven nonprofits including the affiliate of the Housing Authority of the County of Santa Clara (HACSC), which also provides long-term project-based vouchers to LIHTC properties it helped to build. However, at least four properties are owned by for-profit investors who may be tempted to convert the properties to market rate once affordability restrictions end.

Though smaller in number, affordable properties funded with expiring HUD mortgages are more likely to be at risk for conversion to market rate. Many HUD-funded properties were built using subsidized loans that typically predate the LIHTC program. There are 32 HUD-funded properties in San Jose with 3,607 units. In addition, HUD has provided rental assistance to many of these properties through separate market-based rent subsidy contracts, enabling deeper affordability to tenants while offering higher returns to owners and supporting the financial and physical maintenance of the property.

HUD Project Based Rental Assistance contracts, typically in the form of Section 8, are the single most powerful tool for providing deep affordability to extremely low-income households. They are also a scarce and diminishing resource since HUD stopped issuing new market based PBRA Section 8 contracts in 1984. Table 1 shows that 3,067 units have HUD rental assistance in place, 85 percent of all HUD-funded units.

The type of owner of an affordable housing property is also an important factor in assessing risk of conversion. Large, mission-driven nonprofit affordable housing developers typically have the commitment, staff, and resources to maintain the affordability of their housing over the long term. City and county agencies also are committed to the long-term preservation of affordable properties that they own or have helped to develop. For-profit affordable housing developers, on the other hand, may be more tempted to convert an affordable property to market rate in strong markets. Ownership by small nonprofits may also present significant risk of conversion as a changing mission or limited capacity can lead to the sale of an affordable property to the highest bidder. For-profits and small nonprofits own 75 affordable properties, or 44 percent, of the existing subsidized affordable housing in San Jose.

Table 2. Restricted Affordable Housing by Owner Type in San Jose

	Total Number of Properties	Large Nonprofit	Small Nonprofit	For-Profit	Public Agency	Joint Venture or Unknown Owner Type
HUD	32	8	12	9	3	0
Tax Credit	136	47	9	45	15	20
Other	1	1	0			
Total	*169*	*56*	*21*	*54*	*18*	*20*

HUD-Funded Properties at Risk

HUD mortgages carry affordability restrictions that may expire when the mortgages mature or are prepaid. Tracking the mortgage maturity date for HUD properties, as well as determining if a property can prepay or has already prepaid its mortgage, are important to determining risk of conversion for a HUD property. However, it is the time remaining on a property's rental assistance contract with HUD that is the strongest indicator of a property's risk of conversion to market rate.

Since HUD began offering the option, owners committed to long-term affordability often renew contracts for 20 years. Owners wanting to preserve more flexibility or contemplating sale or conversion of a property may choose to renew rental assistance contracts for one to five years. Using the length of time remaining on rental assistance contracts between HUD and property owners as a guide, CHPC applies the following at-risk rankings to HUD properties:

- **Moderate Risk** properties have 5-10 years remaining on rental assistance contracts
- **High Risk** properties have 1-5 years remaining on rental assistance contracts
- **Very High Risk** properties have less than 1 year remaining on rental assistance contracts

CHPC and Reconnecting America used these factors to rank the risk of conversion for rent-restricted affordable properties in San Jose. Eleven HUD-funded properties (with rental assistance and a current or formerly subsidized mortgage) have rental assistance contracts expiring in the next 10 years, potentially affecting 1,209 units. (See Table 3.)

One real estate company, DKD, owns all five of the for-profit owned properties at risk. San Jose decided it would directly speak to DKD while CHPC conducted outreach to the owners and managers of the small nonprofit affordable properties. The results of this outreach suggest that five of six properties are committed to long-term affordability, though many were in need of recapitalization and rehabilitation. CHPC was unable to contact one nonprofit-owned property.

Table 3. HUD-Subsidized Properties at Risk in San Jose

	Properties	Units	Assisted Units	Small Nonprofit Owned	For Profit Owned	Near Existing Transit	Near Future Transit
Very High Risk	2	245	193	1	1	2	0
High Risk	7	829	698	4	3	5	0
Moderate Risk	2	321	318	1	1	0	0
Total	*11*	*1,395*	*1,209*	*6*	*5*	*7*	*0*

Spatial Analysis of Restricted Affordable Housing Stock

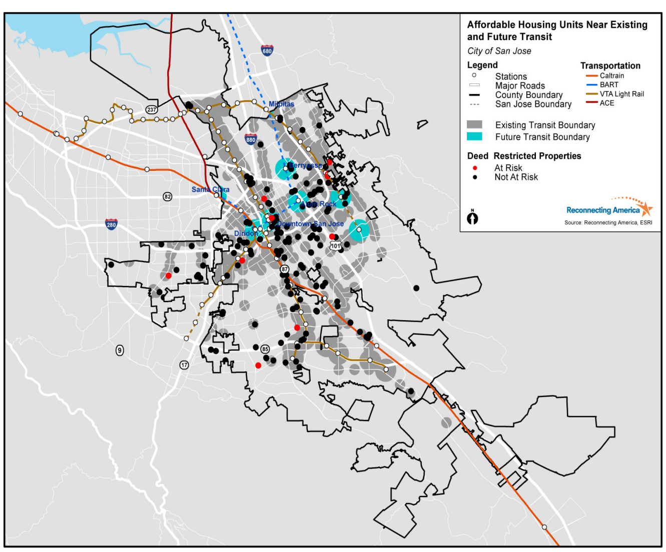
Table 4 shows that a majority of existing restricted affordable housing, 122 of 169 total properties, are near frequent transit (within a half mile of a rail station or a quarter mile of a bus stop with 15-minute frequencies or better).

Table 4. Restricted Affordable Housing near Transit in San Jose

Program	Total Number of Properties	Properties Near Current Transit	Properties Near Future Transit
HUD	32	24	4
Tax Credit	136	97	17
Other	1	1	0
Total	*169*	*122*	*21*

However, only 21 properties are near future transit investments. The at-risk properties (shown as red dots in Figure 1) are all older HUD-subsidized properties and are not located near future transit construction. The greatest geographic concentration of restricted affordable developments is located in Downtown and to the east as well as south along the Caltrain line and the Santa Teresa VTA line.

Figure 1. Subsidized Affordable Housing Near Existing and Future Transit



The next section discusses how RA and CHPC identified the areas of greatest concern for the preservation of restricted affordable properties due to increased real estate market pressures accompanying new transit investment and denser commercial and residential development.

II. Spatial Analysis – Identifying Priority Preservation Areas

The following factors identity priority preservation areas in San Jose:

- Transit and Transportation Investments and Planning Efforts
- Demographics and Neighborhood Change
- Naturally Occurring Affordable Housing

Each of these factors involved mapping out several specific metrics or planned investments, and all maps can be found in the appendix attached to this memo.

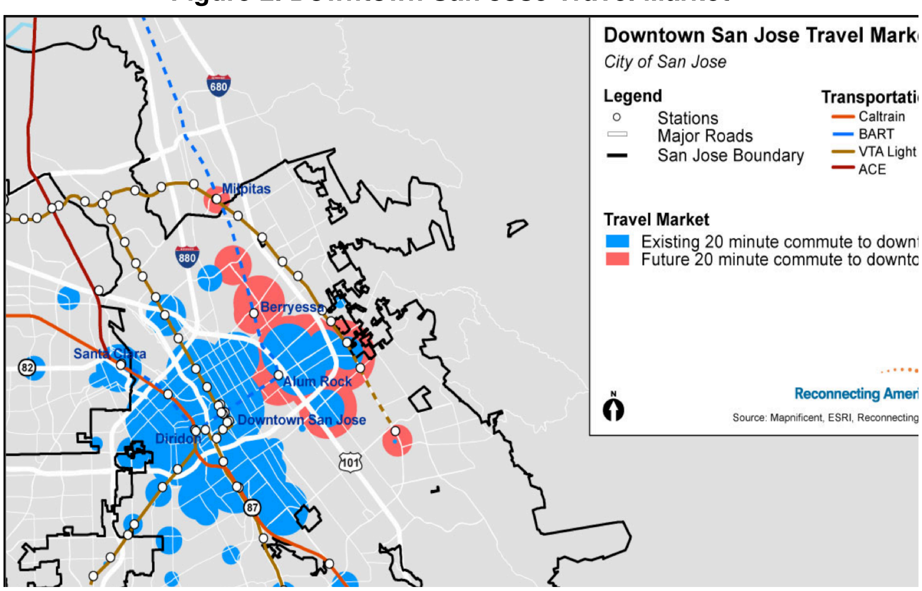
Transportation Investments and Planning Efforts

Public investments and planning efforts sometimes have the potential to create heightened market pressures for neighborhoods. Living in walkable neighborhoods near transit is increasingly desirable, especially as congestion increases and local and regional governments continue to make investments to make neighborhoods near transit stops and stations more attractive places to live. Ensuring that low-income residents can benefit from these investments in transit, place-making and planning is at the heart of the Regional Prosperity Strategy.

Housing costs in San Jose are already some of the highest in the region, in large part due to the proximity to Silicon Valley jobs. However, some neighborhoods with lower housing costs today are providing relatively affordable homes for residents. Understanding where land and the housing stock may become more desirable and more expensive, just as these places become even more important for lower-income residents to access, is at the heart of this project. Identifying *where* these investments are taking place will identify neighborhoods that may face market pressures on the existing housing stock.

Major transit investments are concentrated in and around downtown and in eastern neighborhoods in San Jose. The BART extension south from downtown Fremont to Berryessa and eventually to downtown San Jose and Diridon will create significant new connections for those neighborhoods. Much of the City of San Jose has good transit access today—defined as stops or stations where a bus or train comes every 15 minutes during peak hours. Figure 2 shows how the commuter transit market to downtown San Jose will change when the BART extension is complete. Much of

Figure 2. Downtown San Jose Travel Market

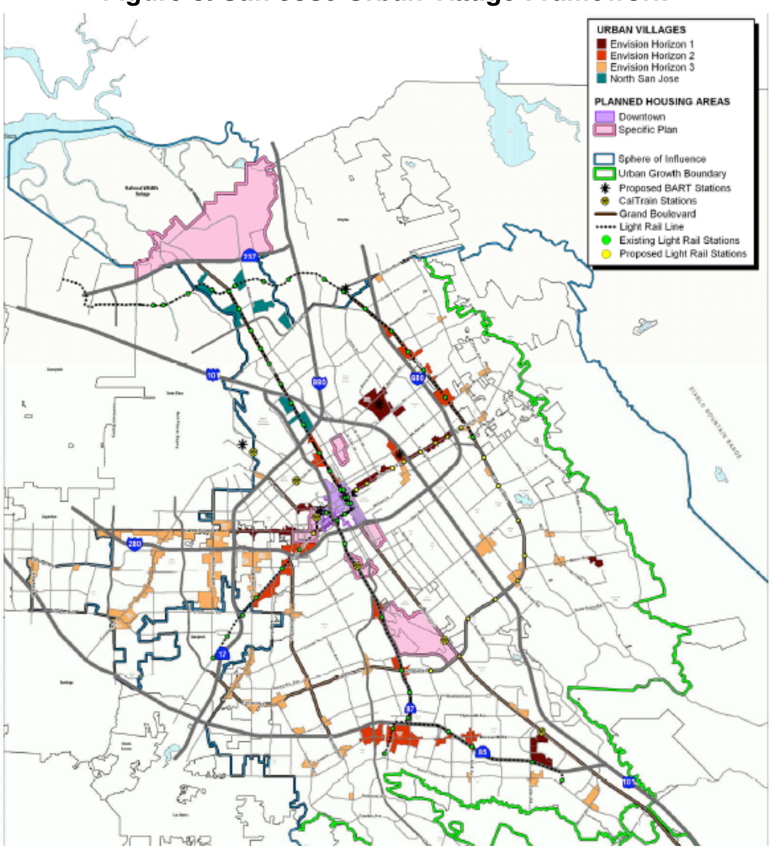


eastern San Jose and neighborhoods along the BART corridor to the north will see truly enhanced transit connections to downtown San Jose, allowing anyone living in those areas to get from their neighborhood to downtown in less than 20 minutes, a truly competitive transit travel time. BART's all-day frequency and reliability may make the areas around new stations increasingly desirable places to live. These areas are primarily located in and around downtown San Jose, and in neighborhoods around Alum Rock and Berryessa to the east. In addition, VTA's planned transit investments (as identified in Plan Bay Area, the region's 2040 transportation and land-use/housing plan) include the extension of light rail on the Capitol Expressway to the Eastridge Transit Center. Again, this investment is located in eastern San Jose.

The City's planning priorities are likely to affect housing affordability. San Jose's recently updated General Plan, Envision San Jose 2040, has the potential to increase market pressure on much of the existing housing stock in the City of San Jose. Housing and jobs growth is targeted for transit-accessible, central parts of the city. In addition, growth in the housing supply is phased such that it is likely to lag behind job growth. Taken together, these policies are likely to impact housing affordability in the city, particularly in transit accessible locations where much of San Jose's affordable housing stock is located.

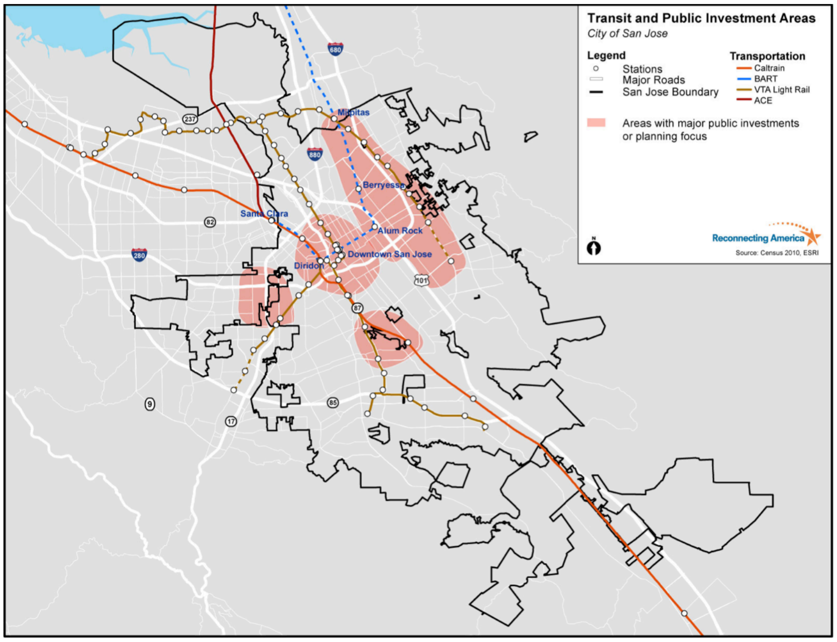
Urban Villages are areas that San Jose has identified for higher density development. As Figure 3 shows, many of these are along major transit corridors or around new transit stations. Residential growth in the Urban Villages will be phased over three time horizons, with "First Horizon" Urban Villages having the strongest market potential in the near term. Focusing growth in areas of the city with the best transit access, including Downtown and the Urban Villages will help San Jose grow while limiting increases in greenhouse gas emissions. However, the focus on growth around transit will also put greater pressure on the real estate markets in central and transit accessible areas of the city where many of the city's low-income residents currently reside

Figure 3. San Jose Urban Village Framework



Funding for infrastructure and placemaking is concentrated in San Jose's major transit corridors and growth areas. The other urban planning framework at play in San Jose is the regionally designated PDAs. PDAs are designated for both housing and jobs growth, and are where County Congestion Management Agencies must dedicate 70% of federal and

Figure 4. Areas of Transit and Public Investments



regional transportation funding as part of the One Bay Area Grant Program. This funding can be used for infrastructure improvements to the pedestrian and bicycle realms around stations, or for capital placemaking improvements. The PDAs in San Jose generally overlap with the areas of new transit investment and the Urban Villages, though they also include the half-mile around all existing light rail stations and major job centers and development areas in North San Jose.

Figure 4 shows where in San Jose these efforts – transit investment, housing growth, and infrastructure and placemaking investments – may overlap. These neighborhoods are the places where the combination of the kind of investment and planning called for in Plan Bay Area and the City of San Jose's Urban Village Framework may combine to put pressure on existing housing markets.

Other Elements to Consider in San Jose's Planning Framework

Jobs-Housing Balance: Local officials and planners have identified a "jobs-housing" imbalance in San Jose. The city estimates that there are 0.9 jobs available in the city per employed resident, a lower ratio compared to other smaller, jobs-rich Silicon Valley cities. San Jose city leaders believe that housing their current share of the region's residents generates higher demand for resident services and infrastructure while decreasing potential tax revenue, making the city more financially vulnerable. As a result, San Jose has chosen to emphasize job growth and commercial development in the Envision San Jose 2040 plan, setting a goal of 1.3 jobs per employed resident by 2030. This plan could limit the supply of housing at the same time that demand for housing grows, increasing market demand on the existing housing supply.

Phased Housing Development: To shift the jobs-housing balance, the city's plan requires phasing of residential development, while commercial development is allowed on an ongoing basis. The phased nature of housing development will slow residential developers' ability to match job growth with new housing, leading to increased pressure on existing housing stock. Again, this may put increasing demand on the city's existing housing supply, increasing prices in previously more affordable neighborhoods.

Demographics and Neighborhood Change

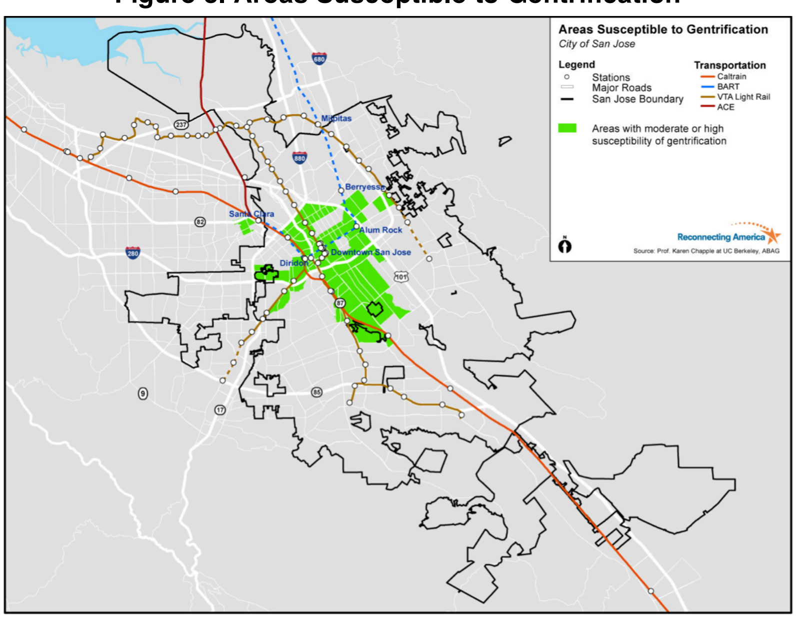
Demographic patterns can point to neighborhoods that may be vulnerable to housing market pressures. Neighborhoods with lower median incomes and a higher concentration of renters in particular can be more at risk of displacement as land is purchased for redevelopment or lower quality housing stock is rehabilitated for higher income renters or owners.

Median incomes are lowest in San Jose from downtown to the east and from Tully Rd north to Berryessa. Residents with lower median incomes are more vulnerable to rising housing prices, and the areas of the city with concentrations of lower income residents are where families may face rising housing costs and displacement pressures. Because lower income workers are more likely to take transit than higher income workers, ensuring that lower income households remain connected to transit has positive benefits for equity goals as well as transit ridership goals.

North San Jose, and corridors east, west and south of downtown have higher shares of renters. Renters are also more susceptible to gentrification pressures, though San Jose's rent control policy does mean that renters living in buildings constructed before 1970 will have more predictable rent increases than in cities without rent control policies. Much of the northern neighborhoods in the city have a high share of renters, and housing stock tends to be newer, since the area was historically mostly commercial and industrial in nature.

The City has identified Five Wounds, Mayfair and Santee as areas with historic concentrations of low-income households and historic concentrations of people of color. These three neighborhoods are part of the City's "Place-Based" neighborhoods plan, which aims to use city investments in infrastructure and community development in a targeted way to address this historic inequality and improve quality of life and life outcomes for residents. The Five Wounds neighborhood, place-based neighborhood number 2 on the map below, wraps around the future Alum Rock BART station. This major transit investment will likely improve transit connections for residents as well as draw increased private investment to complement the City's place-based neighborhoods initiative. However, the increased transit access and focused growth planned for the area may also put greater price pressure on existing affordable rental housing and increase risk of displacement for low-income residents.

Figure 5. Areas Susceptible to Gentrification



Downtown and north to 101, the Alum Rock neighborhood and North San Jose all gentrified in the period between 1990 and 2000. This conclusion is based on analysis from UC Berkeley looking at demographic shifts in neighborhoods in the Bay Area.[i] That work defined a gentrified neighborhood as one that started the decade as a low-income neighborhood in a central location and experienced increases in household income and educational attainment greater than the Bay Area region as a whole.

Neighborhoods identified with a high or moderate susceptibility to gentrification include downtown, west to Diridon, south to Tully Rd, and east to Alum Rock and Berryessa. This analysis was completed in the UC Berkeley study referenced above. Neighborhoods classified as susceptible to gentrification included 13 or more of 19 factors that predicted gentrification from 1990 to 2000, including: parks, high share of multi-unit housing properties, high share of renters, and high share of non-family households. When this information is overlaid in maps, shown in Figure 5, a picture emerges of the neighborhoods most vulnerable to pressures on housing stock, even absent the transit and public investments that might spur further market demand for housing.

Naturally Occurring Affordable Housing

To identify where naturally occurring affordable housing is located in the City, this analysis uses two approaches: using census data and looking at properties subject to San Jose's Rent Control Policy.

HUD customizes tabulations of Census data and shares it as Consolidated Planning (CHAS) data. The CHAS data identifies neighborhoods where there are concentrations of families paying affordable rents for housing, less than 30% of their income. The data also shows the distribution of affordable units in single family homes, buildings with 2-4 units, or buildings with 5 or more units. In San Jose, affordable units for families making 30% of the area median income (AMI), 50% AMI, and 80% AMI were concentrated in properties with 5 or more units.

Concentrations of low-income renters paying affordable rents for housing are located west of downtown, near Alum Rock, in and around downtown, and south of downtown, with some concentrations in east San Jose. The Appendix show where units affordable to families at different income levels in San Jose are located. The maps also overlay this Census data with the locations of deed-restricted housing in San Jose. Because the census is based on survey data, the affordable units include both naturally occurring affordable housing and subsidized housing. However, the presence of deed-restricted housing does not appear to be the factor driving the affordability of any particular neighborhood.

Figure 6. Concentrations of Affordable Housing

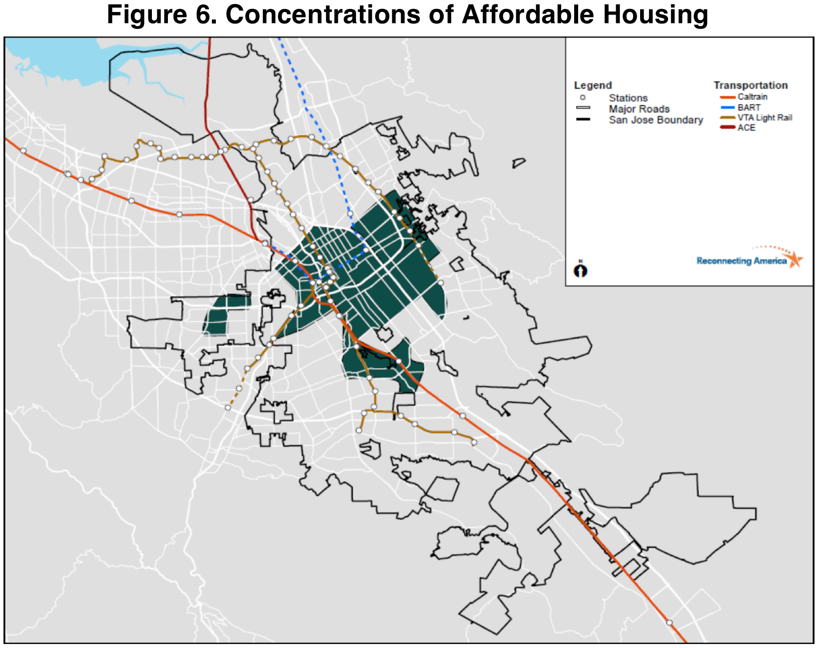
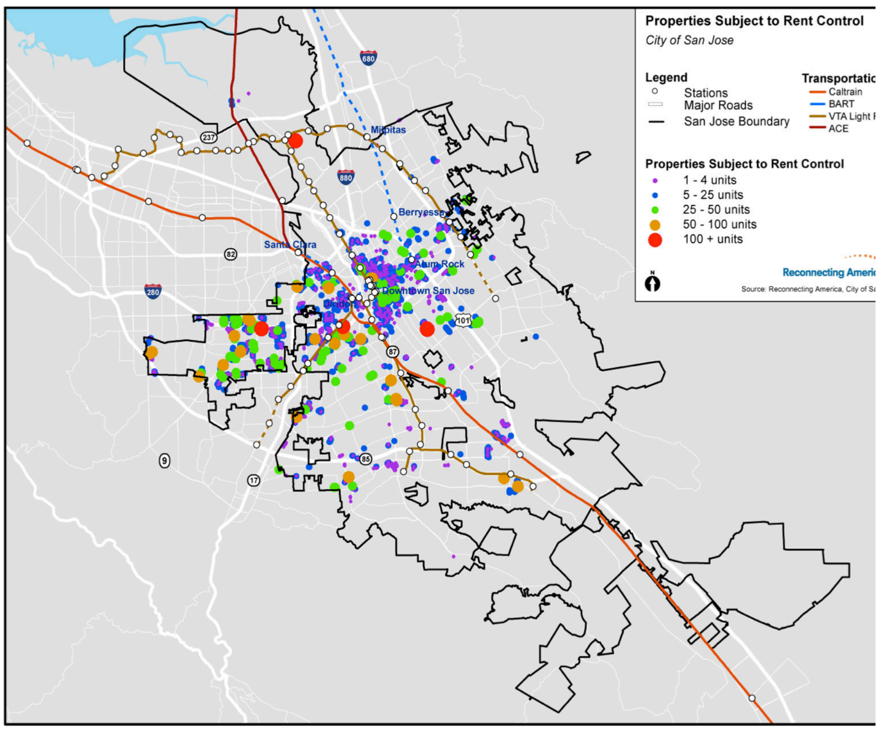


Figure 6 shows the areas with the largest concentrations of affordable housing for families at different income levels, combined. As with the demographic analysis of vulnerability, this analysis shows where existing pockets of affordability exist in San Jose today. These areas may become less affordable as they become more desirable places to live.

In addition, many of the smaller properties in these neighborhoods are soft-story buildings, which present serious earthquake risks. According to ABAG, San Jose has about 1,093 buildings containing over 10,923 units of housing that may present a soft-story risk.[ii]

The neighborhoods outlined in Figure 6 also correspond with where a large share of the properties subject to San Jose's Rent Control Policy are located, particularly those in smaller properties. Given the purpose of the Rent Control Policy, it isn't surprising that there is significant overlap between these two sources. Figure 7 reveals that the size of the properties subject to rent control vary across neighborhoods in San Jose. Rent controlled properties to the east of downtown tend to be smaller in size, in properties with 1-4 units, 5-25 and some 25-50 units. The rent controlled properties to the west tend to be in larger buildings.

Figure 7. Properties Subject to Rent Control



Properties subject to Rent Control near transit are overwhelmingly smaller properties. Only 16 of the 3,003 properties near existing transit have more than 50 units; 125 properties have 25-50 units. Only 11 out of the 269 rent controlled properties near future transit have more than 25 units. This finding has implications for the enforcement of Rent Control, since smaller properties are more likely to be owned and operated by small-scale owners with limited knowledge of the ordinance.

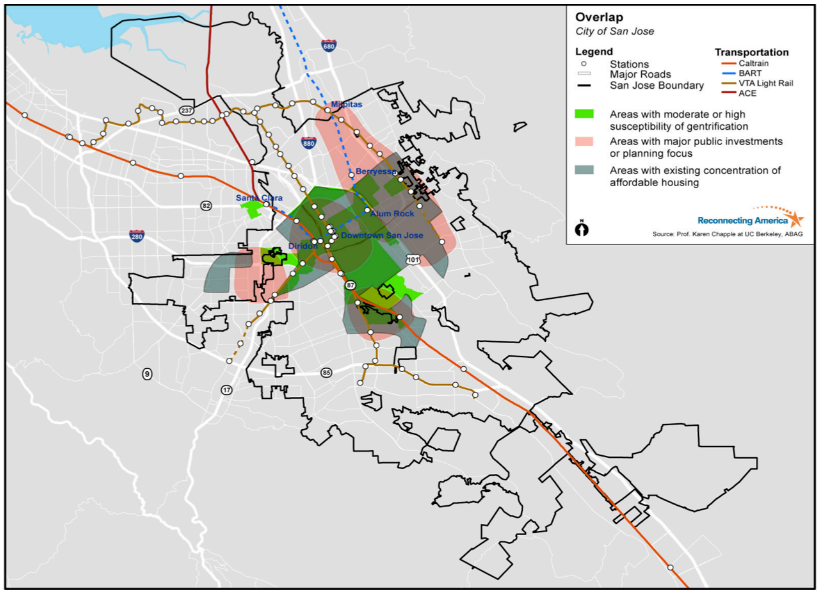
Priority Preservation Areas

The previous sections identified neighborhoods with three different major characteristics:

- transit and planning investments,
- vulnerable neighborhoods, and
- existing concentrations of affordable housing.

Figure 8 on the following page shows how these three layers overlap in San Jose. This mapping shows that not all areas with major transit investments are places where affordable housing preservation efforts should be focused. Nor are all areas with concentrations of existing affordable housing or vulnerable households are near transit, and while there may be other reasons to focus attention on those neighborhoods, they do not necessarily provide access to transit and the walkable, livable neighborhoods that Plan Bay Area seeks to build throughout the region.

Figure 8. Three Areas of Interest Related to Affordable Housing Preservation



West San Jose includes some of the first priority Urban Villages, but there is limited overlap with the elements that would make this area a priority for preservation efforts. West San Jose neighborhoods have fewer vulnerable households, and fewer concentrations of existing affordable housing. New transit investments are also not planned for these areas of the City.

On the other hand, northeastern San Jose, from the border of Milpitas down to Berryessa has planned transit improvements, but does not have significant concentrations of vulnerable residents or existing affordable housing stock. Areas along the future BART alignment from Berryessa north are primarily business parks with some single family neighborhoods.

Figure 9. Priority Preservation Areas in San Jose

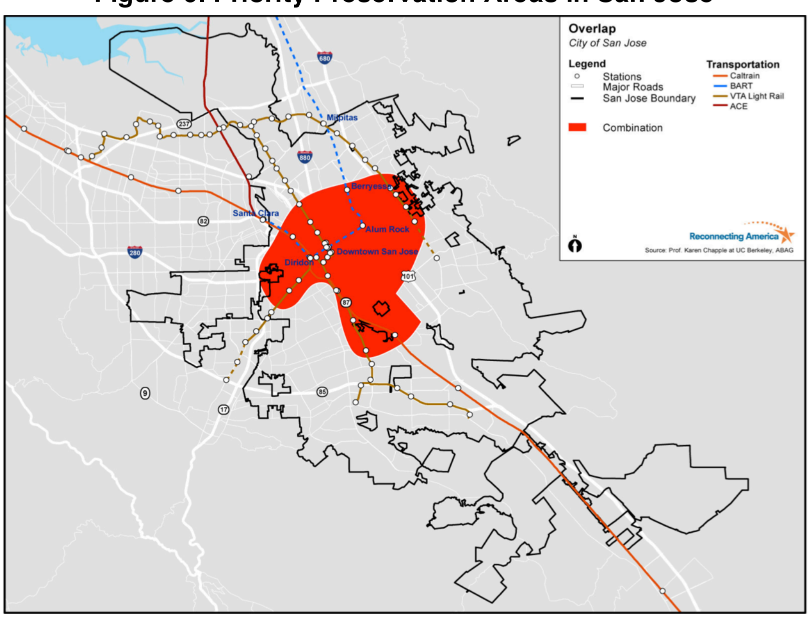


Figure 9 to the left shows the neighborhoods where there is both the potential of market pressure from transit investments and planning efforts, as well as vulnerable populations and existing affordable housing stock. RA and CHPC recommend that the City and partners should focus place-based preservation efforts in these areas, including the neighborhoods in and around downtown San Jose, around the Diridon station, and to the east towards Alum Rock.

III. Existing Housing Supportive Policies and Programs

The City of San Jose has many policies and programs in place to support the preservation of affordable housing and has had success at preserving properties with expiring rental assistance contracts in the past. With the demise of redevelopment, San Jose is exploring how to leverage the remaining sources of funding and create new sources for both production and preservation of affordable housing. These include:

- **HOME, CDBG, and other Federal funds** have been cut significantly in recent years, however, these sources remain important for funding housing development and preservation.
- **San Jose's Inclusionary Housing ordinance**, passed in 2010, requires that a minimum of 15% of units in new residential developments be affordable to low- and moderate-income households. However, implementation of the ordinance is on hold pending a lawsuit by the California Building Industry Association that will soon be reviewed by the California Supreme Court. The policy would only apply to ownership properties (not new rental developments.)[iii] The City may allow payment of "in lieu" fees for developments that choose not to build affordable units on site, which should be explored as a potential source of funding for preservation projects.
- **The Housing Trust Fund** is a City program that funds nonprofit agencies to provide services to people who are homeless or at-risk of becoming homeless, such as gap funding for shelters, an emergency fund for persons displaced due to disasters, and programs geared towards ending homelessness,
- **A Housing Impact Fee** is a new mechanism to raise money for affordable housing that the City is currently considering. The fee would be applied to new market-rate housing development in order to address the need for affordable housing generated by the increase in low and moderate wage workers who will provide services to the new residents. In addition, new market-rate development uses available land, reducing development opportunities for affordable housing. Traditionally, housing impact fees are used to fund new affordable housing projects, but using this funding stream for preservation has yet to be explored. *Note: In November 2014, nearly a year after completion of this memo, San Jose's City Council approved a housing impact fee.*
- **Santa Clara County "boomerang" matching funds** may also be a source of funding for affordable housing. Many cities and counties that formerly had redevelopment are using a portion of local taxes returned to them as a result of redevelopment's end to fund affordable housing. Santa Clara County is proposing to use a portion these "boomerang" funds to match contributions from cities for affordable housing. Unfortunately San Jose will not be receiving "boomerang" funds from redevelopment and it is unclear whether it could use other funds to match county contributions.

In addition to these funding programs, San Jose has policy protections for existing low-income families.

Rent Control

San Jose's rent control policy limits rent increases to 8% a year in rental housing properties of three units or more built before September 8th, 1979. The rent control ordinance does not apply to single family homes, duplexes, condominiums, or hotels, and there is a separate rental control ordinance that applies to mobile home parks. The City's Rental Rights and Referrals program administers and enforces the rent control ordinance by rental dispute mediation and arbitration and is funded through a five dollar annual fee on rent controlled properties.

IV. Recommendations and Potential Tools

Given the analysis detailed in the above sections, RA and CHPC created the following recommendations that we believe will help advance housing preservation near transit in San Jose.

Strategies for Preserving HUD Subsidized Properties

- **Actively track restricted affordable properties** by periodically assessing factors such as time remaining in subsidies—rental assistance contracts, subsidized mortgages, and tax credits—and work with CHPC and other partners to regularly assess risk of conversion to market rate.
- **Maintain regular contact with owners** of at-risk properties and communicate with HUD and the State's Department of Housing and Community Development (HCD) regarding preservation plans.
- **Enforce State and Federal notice laws** by tracking planned opt-outs of rental assistance or subsidy programs, terminations of affordability restrictions, and planned sales and ensuring that notice law has been followed. Use notice law requirements to support preservation purchases or slow termination of affordability by ensuring that all provisions of notice laws are followed.
- **Use Code Enforcement** to maintain quality of affordable housing and identify aging properties that might be good candidates for acquisition and rehabilitation.
- **Negotiate directly with the largest for-profit owner** of HUD-funded affordable properties considered at risk to establish long-term preservation plans.

Create a local preservation working group. A preservation working group made up of City staff, affordable housing managers, developers, CDFIs, and funders can meet regularly to ensure that preservation opportunities are identified and can be acted on quickly. Such a group could also work proactively to anticipate where investments or planning initiatives might change market pressures and could use this spatial analysis approach to dynamically move with those. (For example, there may be neighborhoods that would be vulnerable if VTA plans new lines). The City of Los Angeles has a very effective local preservation working group that could offer one potential model.

Coordinate with the County of Santa Clara and the Housing Authority. The Housing Authority of the County of Santa Clara (HACSC) has invested heavily in tax credit funded properties and used its ability to project-base vouchers to support these properties. HACSC resources, though subject to future federal budget cuts, could be critical to local preservation efforts. The County will also be making a certain percentage of tax dollars returned through the dissolution of redevelopment agencies (boomerang funds) available to housing. San Jose should continue to work with the County to track vulnerable properties and explore if county resources can be used to fund preservation acquisition or rehabilitation.

Identify a Dedicated Preservation Funding Source. San Jose does not currently have a significant funding source available to help preserve aging affordable housing properties. While acknowledging the City's current fiscal challenges, creating a dedicated funding source would allow San Jose to offer critical financial incentives to help fund rehabilitation of aging properties in exchange for extended affordability commitments from owners. City funds could also prove essential for preservation purchases by nonprofit buyers. It may also be possible to use new potential funding sources such as housing impact fees or inclusionary in lieu fees to support the preservation of at risk affordable rental housing. Such a funding source could also be focused on the Priority Preservation Areas identified in Section 2.

Consider a local Preservation Ordinance such as those in place in San Francisco or Chicago. San Francisco's ordinance requires 12 months notice to the city, local nonprofits, and tenants' groups in the case of a triggering event such as opt out, expiration of affordability, or sale. The ordinance requires 18 months' notice for prepayments of mortgages or early termination of rental assistance contracts. In addition, relocation assistance is mandated for residents displaced by the conversion of an affordable property to market rate. Local rent control laws apply if a property converts to market rate as long as the property was built during the time period covered by the city's rent control ordinance. Rents are set at the contract rent under the rental assistance contract on the property. Since adopting its ordinance in 1990, San Francisco has not lost any affordable housing to conversion. Chicago's ordinance includes a provision that any sale of an affordable property must be referred to the city housing department and gives qualified preservation purchasers 120 days to submit a purchase offer that matches the existing offer. If the qualified preservation purchaser agrees to close the sale with the 120 days, the seller must complete the sale with the preservation purchaser and enter into an affordability preservation agreement.

Priority Preservation Area Recommendations

In the recommendations below, RA and CHPC recommend that San Jose consider the impact of focusing on the priority preservation areas identified through the analysis in Section 2. The analysis outlined in this memo shows that there are some areas of the city with strong transit connections and existing but vulnerable housing stock that could benefit from a stronger set of policy solutions to preserving affordability while also maintaining access to transit for low-income residents. The neighborhoods identified on Figure 9 provide a specific geography on which to focus these efforts.

Use Priority Preservation Areas to allocate funding for preservation in the City's Housing Investment Plan. The Department of Housing is working on creating the City's Housing Investment Plan, the document that guides how affordable housing investment dollars will be spent across the city in the coming year. Using the priority preservation areas identified in the section above as a way to target funding to the places most in need of preservation activity is one important strategy underlying many of the following recommendations.

Include protections for existing affordable housing in Downtown and Diridon Station Areas such and the First Horizon Urban Villages. As the areas defined by the City as having the most potential market strength for development and redevelopment in the near term, there is likely to be strong pressures on the existing housing stock. The City should focus staff and resources on these areas to ensure that they remain accessible to residents with a range of incomes – particularly through outreach to owners of deed-restricted properties. Ensuring that redevelopment of existing properties does not result in a loss of existing affordable housing will be crucial. Instituting a 1-to-1 replacement policy of rent-controlled properties can help ensure the overall housing stock remains more accessible to low-income residents.

Implement condo conversion controls, particularly in neighborhoods where existing rental housing is providing affordability. One of the ways in which options for low-income renters can be lost in appreciating markets is the conversion of apartments to condominiums. In hot housing markets with growing demand for homeownership housing, owners may evict tenants and sell off individual units as condominiums at prices too expensive for existing renters to afford.

When combined with a strong Rent Control Policy, condo conversation controls protect existing renters from facing displacement from their current housing. Condo conversion controls can take on several forms, ranging from fees for property owners who choose to convert rental housing to ownership (which can be pooled for other affordable housing purposes), restrictions on the number of conversions allowed in a year or based on rental vacancy rates. In Los Angeles, condo conversions are restricted when vacancy rates for rental units fall below 4%.

Acquisition of market rate properties serving low-income households or subsidy in exchange for long-term affordability. The Priority Preservation Areas should be a focus for any activity by the City or partners (including CDFIs, foundations, and local or regional equity organizations) to add long-term affordability contracts to existing market rate properties. Targeted preservation purchases may be a useful strategy for some properties serving low- and moderate-income households. In addition, the city may offer loans or other subsidy to properties in exchange for commitments from ownership to extend or create affordability restrictions.

Strengthen the City's protections for existing affordable housing stock. In addition to rent control, there are several other policy approaches the City could take to protect the affordability of existing non-deed-restricted housing.

- **Actively monitor rent control properties and neighborhoods.** The City maintains a list of the properties that are subject to rent control and should consider maintaining this in a geodatabase format. Monitoring the market and demographic shifts of neighborhoods with a large share of rent controlled units would allow the housing department to better understand where market pressures may result in higher rents as tenants move out of units and landlords can reset rents at market rates.
- **Focus code-enforcement efforts on rent controlled properties, particularly in Place-Based Neighborhoods.** Code Enforcement of rental properties can help to both maintain quality affordable housing stock and ensure low-income residents have access to decent living conditions. In addition to encouraging improvement to rental housing serving low-income households, code enforcement can help identify properties where owners may need city funds to complete improvements and offer potential to secure new affordability restrictions.
- **Implement a 1-for-1 replacement of rent controlled properties in the event of redevelopment.** Require that any demolition of existing rent controlled apartments result in the same number of units covered by rent control in the new building and that prior tenants have right to return to the units possibly at prior rents. This strategy would help maintain the existing rent controlled unit count and protect current tenants while encouraging redevelopment of those sites only where it will yield a substantial increase in number of new units.
- **Focus tenant and landlord outreach and education in Place-Based neighborhoods.** Grants for tenant organizing and education can prevent both building code and rent control violations while maintaining quality affordable housing stock and decent living conditions for residents o f rent controlled properties. Outreach to owners, especially of smaller buildings which might be family run

and operated and less familiar with rent control laws and other programs, will support San Jose's goal to have code enforcement be a primarily voluntary process.

- **Expand Rent Control Policy.** Finally, the Rent Control Policy could be applied to properties built after 1970 or could be adjusted to allow slower rent increases over time. These changes may be the more politically challenging to implement.

Maps Appendix

See attached.

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[i] Mapping Susceptibility to Gentrification in the Bay Area
[ii] http://quake.abag.ca.gov/housing/softstory/
[iii] This is due to the Palmer decision, an appellate court ruling that invalidated inclusionary housing for rental properties in Los Angeles, finding that the policy did not comply with the state's Costa-Hawkins rent control act.