

**TO: Envision San José 2040
4-Year Review Task Force**

FROM: Jared Hart

**SUBJECT: February 27, 2020
TASK FORCE MEETING**

DATE: February 27, 2020

This memo provides information to assist you in preparation for the February 27, 2020 Envision San José 2040 Task Force meeting. Links to the referenced documents and other resource materials (e.g. reading materials and correspondence) are posted on the Envision San José 2040 4-Year Review website (<http://www.sanjoseca.gov/generalplanreview>).

The following is a summary of agenda items for the February 27, 2020 Task Force meeting:

Agenda Item 2 – Announcements

Staff will present a summary of motions approved at the previous Task Force meeting and changes to the Task Force meeting schedule.

Agenda Item 3 – Capitol Caltrain Station Area

Staff will lead a brief presentation to follow up on a newly proposed Regional Transit Urban Village near the Capitol Caltrain Station that was presented to the Task Force at the November 13, 2019 meeting. Task Force members will be given an opportunity to discuss and ask questions about the topic. Members of the community will be provided with an opportunity to address the Task Force. Task Force members will then vote on staff recommendation to establish the new Capitol Caltrain Station Area.

Background

The Monterey Corridor Working Group (MCWG), led by Councilmembers Maya Esparza and Sergio Jimenez, began meeting in May 2019 and is comprised of Monterey Corridor stakeholders. The working group studies issues and opportunities in the Monterey Corridor relating to blight removal and beautification, economic development, and transportation planning, and is developing a workplan to identify important improvements for the area over the next two years. To advance these goals, staff recommended to establish a new Urban Village on the east side of Monterey Road, adjacent to the Capitol Caltrain station, at the November 2019 MCWG meeting. The MCWG confirmed to recommend the establishment of the new Capitol Caltrain Station Area at their January 2020 meeting.

Capitol Caltrain Station Area (CCSA)

The Capitol Caltrain Station Area is approximately 16 gross acres and primarily designated as Neighborhood/Community Commercial. The potential Urban Village was identified because of its proximity to high-quality transit and large vacant parcels. Additionally, as part of Caltrain's recently

adopted 2040 Service Vision (business plan), service to the Capitol Caltrain Station is anticipated to increase significantly in the future, making this area a strategic node for mixed-use development. Similar to the proposed Story Road Urban Village discussed below, this area is already planned for employment growth as part of the W. Capitol Expressway/Monterey Rd. Employment Lands Growth Area and adding residential capacity would allow mixed-use development adjacent to a current regional rail transit station. The proposed boundaries for the new Urban Village reflect the current Employment Lands Growth Area, but staff recommends adjusting the boundary to exclude areas that have existing multifamily residential uses that are not anticipated to redevelop, and to reflect the accurate potential for development.

Staff Recommendation

Staff recommends converting the W. Capitol Ex/Monterey Road Employment Growth Area to an Urban Village with a residential capacity of 700 residential units and revise the boundary to reflect development potential.

See Attachment A for a map of the Capitol Caltrain Station Area.

Agenda Item 4 – Residential Uses in Neighborhood Business Districts

Staff will present their recommendation on allowing residential uses in Neighborhood Business Districts (NBD). Task Force members will be given an opportunity to discuss, provide input, and ask questions about staff recommendations on allowing residential uses in Neighborhood Business Districts. Members of the community will be provided with an opportunity to address the Task Force. Task Force members will then vote on staff recommendations on Residential Uses in NBDs.

The complete staff analysis and recommendations were included in the previous Task Force memo; however, time limitations forced the deferral of this topic to the February 2020 Task Force meeting. For an in-depth discussion on this topic, please refer to the January 30, 2020 Task Force Memo. (<https://www.sanjoseca.gov/home/showdocument?id=51219>)

Story Road Urban Village

The General Plan Four-Year scoping item approved by City Council requested that staff explore allowing residential uses in non-Urban Village Neighborhood Business Districts. The Story Road NBD is primarily designated with a Neighborhood/Community Commercial General Plan land use designation which does not allow residential, unless an affordable housing project were to qualify under General Plan Policy H-2.9 (“1.5-acre rule”). The Story Road NBD is also encompassed by the Story Road Employment Area (C42) which includes approximately 1,800 planned jobs but no planned residential units. This Employment Area was considered as an Urban Village during the General Plan 2040 planning process but was ultimately designated as an Employment Growth Area. See Attachment B for maps of Story Road.

The NBD is characterized by a mix of low-density residential, smaller-scale commercial developments along Story Road, and low-density shopping centers, at the corners of King Rd./Story Rd., Capitol Expy./Story Rd., and White Rd./Story Rd. The low-density shopping centers on larger parcels located at the bookends of the Story Rd. NBD are future opportunity sites for mixed-use

development of housing and commercial uses. Additionally, a future Valley Transportation Authority (VTA) light rail station is proposed at the intersection of Story Road and Capitol Expressway which would make it an ideal location for future employment and residential growth. As part of the Eastridge to BART Regional Connector-Capitol Expressway Light Rail Project, this future light rail station will allow VTA riders to board light rail at the Eastridge Station and connect directly with BART at the Milpitas Station by Fall 2025.¹

Staff recommends changing the Story Road Employment Lands Growth Area to a Local Transit Urban Village with a capacity of 1,000 residential units, advancing the scoping item by allowing residential development in the NBD near a planned light rail station. Through the Urban Village planning and community engagement process, stakeholders will have input in the type and form of development in this community. Regular NBDs do not include a comprehensive planning effort and would not include engagement on shaping how Story Road would redevelop; engagement would be limited to community meetings as part of specific development proposals. An Urban Village plan provides an opportunity to plan for more growth along Story Road, including opportunities for Signature Projects, while an NBD would provide fewer opportunities for new development. Additionally, the Urban Village planning process would allow for preparation of a comprehensive plan that could address circulation, streetscape design, and parks and open space. The plan could also, through land use and development policies, provide a policy framework to discourage small business displacement.

There are other considerations to establishing an Urban Village, such as timing. – Residential projects would be able to move forward in NBDs immediately under staff's recommended policy changes for Calle Willow, North 13th Street, Willow Glen, and Japantown (Taylor Street only). If Story Road is designated as an Urban Village residential development would be contingent on the preparation of an Urban Village plan with the exception of Signature Projects or 100% affordable housing projects.

Establishing Story Road as an Urban Village would provide more opportunities for affordable housing projects prior to preparation of an Urban Village Plan through General Plan Policy IP-5.12, however, this could also result in small business displacement.

The proposed Story Road Urban Village is an area with a diversity of residents and businesses, particularly with Hispanic and Vietnamese communities. To help keep in place the existing residents and cultural diversity of the proposed Story Road Urban Village, staff also recommends incorporating appropriate policies and strategies from the Citywide Residential Anti-Displacement Strategy, which the City Council expects to consider in April 2020, and from the small business anti-displacement pilot program on Alum Rock Avenue. The Supporting Small Business Alum Rock Pilot Program focuses on fostering relationships between City staff and small businesses, including, but not limited to, collaborating with local business groups and associations, hosting educational events and seminars, providing free access to legal advice, providing business support, and conducting a business needs survey. Using this pilot, City staff will assess capacity of scalability of this service, identify business areas for the next phase, and develop recommendations for policies, staffing for future programs, and resource needs.

¹ Eastridge to BART Regional Connector – Capitol Expressway Light Rail Project, VTA, <https://www.vta.org/projects/eastridge-bart-regional-connector>.

Staff Recommendations

Staff recommends the following General Plan changes:

1. Convert the Story Road Employment Area Growth Area to an Urban Village with a residential capacity of 1,000 residential units and recommend that the Story Road Urban Village be considered as potential area for the Supporting Small Business Program for small business anti-displacement efforts.
2. Amend the General Plan to include Willow Street, North 13th Street, Willow Glen, and Japantown (Taylor Street only) NBDs as Growth Areas in Appendix 5 of the General Plan to allow limited residential development. These NBDs do not have a specific residential growth capacity assigned to them; instead, staff recommends reallocating a pool of 600 residential units from Urban Villages to allow entitlement of residential or mixed-use residential projects in these NBDs. The capacity would function as a pilot and could be increased as part of a General Plan Annual Review or Four-Year Review.
3. Amend the existing Neighborhood Business District overlay to add the following language:

“Residential uses are allowed in the Japantown (Taylor Street only), North 13th Street, Willow Glen, and Willow Street Neighborhood Business Districts. New residential or residential-mixed use developments shall:

1. *Replace 100% of the existing amount of commercial or industrial space on site, with commercial square footage. Where commercial or industrial uses do not currently exist, no commercial space is required unless the property is bounded by (shares a property line) with existing employment uses that also front the primary neighborhood businesses street (e.g. Lincoln Avenue, Willow Street, Taylor Street or 13th Street). In these location, a residential project would need to provide ground-floor commercial space to create continuity of the commercial frontage along the street;*
2. *Have the following maximum residential densities (to be determined):*
 - *Willow Street: X DU/AC*
 - *North 13th Street: X DU/AC*
 - *Willow Glen: X DU/AC*
 - *Japantown (Taylor Street): X DU/AC;*
3. *Have the following height limits (to be determined):*
 - *Willow Street: X stories*
 - *North 13th Street: X stories*
 - *Willow Glen: X stories*
 - *Japantown (Taylor Street): X stories;*
4. *Be allowed to keep its existing on-site density and height if it is higher than the maximums established in this policy;*
5. *Comply with City Design Guidelines; and*
6. *Adaptively reuse any historic structures that are on a property.”*

Agenda Item 5 – Opportunity Housing

Staff will present their recommendation on Opportunity Housing. Task Force members will be given an opportunity to discuss, provide input, and ask questions about staff recommendations. Members of the community will be provided with an opportunity to address the Task Force. Task Force members will then vote on staff recommendations on Opportunity Housing.

The City Council approved the following General Plan Four-Year Review scope of work item:

Explore allowing single-family parcels currently designated “Residential Neighborhood” to redevelop to 2-4 units per parcel with the following parameters from the outset:

- a. Limit to parcels proximate to transit-oriented Urban Villages or immediately adjacent to residential parcels with existing medium-density building types, e.g., duplexes or triplexes.*
- b. Develop a set of design guidelines that would maintain current allowed heights and keep setbacks comparable to existing single-family homes to ensure development would be well integrated into neighborhoods.*
- c. Allow flexibility on the number of units allowed per parcel that would vary based on the lot size, location, and other factors.*
- d. Clarify that any redevelopment remains within the discretion of the property owner.*
- e. Specify that this would be sensitive to historic neighborhoods.*
- f. Validate that opportunity housing projects are cost effective.*

Staff will present a policy framework to allow single-family residential parcels to develop up to four units as detailed in the scope of work. Some items outlined in the Council specified criteria for this topic require more time and are dependent upon a policy framework being established first. Staff will also present these next steps necessary to implement Opportunity Housing and seek input from the Task Force.

Background

To address this General Plan Four-Year scoping item, this type of housing shall be referred to as “Opportunity Housing”. Opportunity Housing will refer to multi-unit housing of up to four units per parcel which include duplexes, triplexes, fourplexes, bungalow courts, and single-family court homes. This differs from the concept of Missing Middle Housing, a term used by Opticos Design in their presentation to the Task Force in December 2019, that includes additional building types such as multiplexes, townhomes, live/work units, and courtyard apartments. Missing Middle is also a term commonly used for the missing moderate-income housing that is in short supply in San José.² Although staff is not proposing that Opportunity Housing be provided at specific affordability levels, Opportunity Housing may be more affordable by design than single family homes, given its slightly

² As the City Council has used the term “Missing Middle” to also refer to housing affordability (see moderate-income housing strategy memo at <https://sanjose.legistar.com/LegislationDetail.aspx?ID=3927832&GUID=E7C550C2-D884-4D8D-8CA1-B6C9606E31C9&Options=&Search=>), the term “Opportunity Housing” here is retained to refer only to the physical form of the buildings.

greater density. In addition, compared to mid-rise and high-rise multifamily construction, Opportunity Housing can be built on smaller sites with less expensive wood frame construction instead of concrete or steel.³ Cost savings in land and materials can hold down development costs, allowing slightly lower rents to be charged if the market so dictates, and therefore potentially lower-cost housing without subsidy. In addition, the construction of duplexes, triplexes, or fourplexes requires much less capital than building larger five- to seven-story multifamily buildings, thereby providing opportunities for small builders and property owners to get in the business of building housing in San José.

Staff explored the idea of Opportunity Housing to allow additional opportunities for housing, following trends in State law and the lead of trailblazing jurisdictions nationwide that aim to address the housing crisis.⁴ The intended goals of Opportunity Housing are to increase housing supply, provide housing type choices, provide less expensive housing options, and provide more housing in areas with high resources such as high educational outcomes and higher incomes. Allowing Opportunity Housing in existing neighborhoods would be a low-impact way of adding more homes and housing choices in San José to further achievement of the City's goal to build 25,000 more homes by 2023, as outlined in the Housing Crisis Workplan.⁵

Additionally, allowing a wider range of homes in areas historically restricted to single-family residential uses would also advance efforts to address historic housing discrimination practices. Beginning in the early twentieth century, in San José and cities nationwide, exclusionary zoning restricted neighborhoods to more expensive single-family houses with one of the goals being the exclusion of low-income families and minorities who often could not afford to live in neighborhoods restricted to single-family homes. This, along with other exclusionary practices that limited access to housing, contributed to the racial and economic segregation of neighborhoods across the country, and is not unique to San José. Additional historic context can be found in Attachment C of this memo, and was also discussed at a recent City Council study session on *Building a Shared Understanding of Equity Work in the Context of City Government*.⁶ Allowing Opportunity Housing could provide more opportunities for housing that would be more affordable by design in some areas of the City that are not only close to transit, but which were historically restricted to only single-family homes.

Recent proposed State laws have attempted to or are proposing to facilitate Opportunity Housing. Although neither of the following bills have been approved, staff expects another push for Opportunity Housing in 2020:

³ "The 'Missing Middle' Housing Affordability Solution," Karen Parolek, Missing Middle Housing, August 16, 2016, <https://missingmiddlehousing.com/the-missing-middle-affordable-housing-solution/>.

⁴ "Cities Start to Question an American Ideal: A House With a Yard on Every Lot," *The New York Times*, June 18, 2019, https://www.nytimes.com/interactive/2019/06/18/upshot/cities-across-america-question-single-family-zoning.html?te=1&nl=the-upshot&emc=edit_up_20200218&campaign_id=29&instance_id=16074&segment_id=21379&user_id=eac9a3f647ca4ad3f4bfd2c678db47a®i_id=6261463520200218.

⁵ City Council Memo, Housing Crisis Workplan, June 12, 2018, <https://www.sanjoseca.gov/Home/ShowDocument?id=52229>.

⁶ Building a Shared Understanding of Equity Work in the Context of City Government, <https://sanjose.legistar.com/MeetingDetail.aspx?ID=714758&GUID=5162682F-2453-4896-B033-D61D7A4C0866&Search=>

- *Senate Bill (SB) 50*: Requires cities to allow duplexes, triplexes and fourplexes in neighborhoods currently zoned only for single-family homes and larger residential buildings near transit stops. This two-year bill failed to pass the Senate in January 2020, but the topic is expected to be reintroduced in one or more new bills in 2020.
- *Assembly Bill (AB) 1279*: Streamlines affordable Opportunity Housing projects in State-designated high resource areas where residential uses are allowed.⁷ This bill passed the State Assembly in 2019 but has not yet advanced in the State Senate.

Several pioneering cities have also approved or are working towards allowing Opportunity Housing to provide more housing opportunities. Some examples include:

- *Minneapolis, MN*: Approved a new comprehensive plan in October 2019 that allows all lots throughout the city to have at least three homes, inclusive of Accessory Dwelling Units (ADUs), that are at most 2.5-stories tall.
- *Vancouver, B.C.*: Approved a zoning update in 2018 to allow duplexes on 99% of lots zoned for single-family houses. Remaining lots are irregular or have historic structures, where the complexity of changes would delay implementation in the rest of the city.
- *Durham, NC*: Approved a zoning update in 2019 to allow duplexes throughout the city's central neighborhoods. It also allows townhomes in additional types of subdivisions, expands the city's density bonus to include triplexes and fourplexes along arterials, and creates an option for smaller duplexes on smaller lots.
- *Portland, OR*: Pending a zoning update to allow duplexes, triplexes, fourplexes, and ADUs on most residential lots outside of landslide areas, flood hazard areas, or those that front unpaved streets. Oregon also passed House Bill (HB) 2001 in 2019 which requires all cities in Oregon over 10,000 to allow duplexes on all single-family sites and cities over 25,000 to allow Opportunity Housing-type housing on all residential sites.

For a more thorough description and more examples of jurisdictions that approved or are considering allowing Opportunity Housing-type housing, see Attachment C.

Recommendation Discussion: How?

Consistent with the approved scope of work, staff recommends allowing Opportunity Housing for properties that meet certain criteria. A property owner may redevelop properties that have a "Residential Neighborhood" General Plan land use designation with up to four units such as duplexes, triplexes, and fourplexes through a ministerial ("over the counter") permit, similar to the current process for single-family homes. Types of development allowed include:

- Subdividing existing buildings into multiple units.
- Building up to four units on vacant land within the building envelope established in the Zoning Ordinance.
- Demolishing existing structures and building up to four units within the building envelope established in the Zoning Ordinance.

⁷ As outlined by the California Fair Housing Task Force in the TCAC/HCD Opportunity Map, including factors such as income, educational outcomes, employment, environmental quality, low concentrations of race and poverty, etc. <https://www.treasurer.ca.gov/ctcac/opportunity/draft-2020-tcac-hcd-methodology-december.pdf>

Detached bungalow courts and single-family court homes are not a building typology facilitated in the Zoning Ordinance. Therefore, these housing types would be allowed through a discretionary permit. Staff also recommends allowing Opportunity Housing on properties on the City of San José's Historic Resources Inventory so long as it "adaptively reuses" the historic structure through a discretionary permit process to maintain the historic significance of the structure and/or site.

Recommendation Discussion: Where?

The scope of work limits allowing Opportunity Housing to certain parcels. Staff recommends allowing Opportunity Housing for:

- Parcels within a half-mile of a Regional or Local Transit Urban Village boundary
- Parcels outside of the half-mile radius of a Regional or Local Transit Urban Village boundary that share a property line with:
 - Medium or higher-density residential land use designations;⁸ OR
 - Existing and medium or higher-density residential development with conforming land uses.⁹

Staff recommends a half-mile distance from a Transit Urban Village because it is the widely accepted walkable distance standard for transit-oriented development that assumes it would take 10 minutes for a person to walk to a transit station. Allowing Opportunity Housing near Urban Villages would provide a gradual transition from higher density Urban Villages to lower density single-family neighborhoods. Additionally, when located near Urban Villages, Opportunity Housing would allow more residents to live near transit, commercial hubs, and more services. Limiting Opportunity Housing to areas adjacent to existing or planned medium and higher-density residential buildings also helps maintain the existing character of neighborhoods by limiting development to areas where they already exist.

Based on these criteria, approximately 47,500 parcels, or 25% of all parcels designated "Residential Neighborhood" would potentially qualify. Of the parcels that qualify:

- It encompasses 93% of the existing Opportunity Housing in San José¹⁰
- 72% of parcels are within half-mile of a high-quality transit corridor¹¹
- 60% of parcels are within moderate to highest resource areas¹²
- Only 30% of parcels are within areas with below City median household income¹³

See Attachment D to view maps of the proposed Opportunity Housing areas.

⁸ Mixed-Use Neighborhood, Transit Residential, Urban Residential, Downtown, and Urban Village.

⁹ Adjacent to parcels with two or more units (from County Assessor Data).

¹⁰ Using Santa Clara County Assessor data, approximately 5,700 parcels of existing Opportunity Housing were identified citywide. These were likely approved prior to changes in the Zoning Ordinance that disallowed this type of housing.

¹¹ Defined as a corridor with fixed rail or route bus service with service intervals of 15 minutes or less during the morning and afternoon peak commute periods

¹² As outlined by the California Fair Housing Task Force in the TCAC/HCD Opportunity Map, including factors such as income, educational outcomes, employment, environmental quality, low concentrations of race and poverty, etc.

<https://www.treasurer.ca.gov/ctcac/opportunity/draft-2020-tcac-hcd-methodology-december.pdf>

¹³ American Community Survey, 2017.

Recommendation Discussion: Displacement

Displacement is an existing and growing concern in San José and is perceived as a potential threat of allowing Opportunity Housing. Like many other jurisdictions that have explored this topic and that have addressed displacement concerns, staff also recommends limitations to allowing Opportunity Housing to minimize displacement. Properties that qualify, but that meet one of the following conditions would not be able to develop Opportunity Housing on their property:

- Rent stabilized units that are subject to the City's Apartment Rent Ordinance (ARO)
- Units/parcels occupied by renters within the last seven years

These clauses were modeled after Senator Wiener's previously proposed SB 50 (2019), which included protections against displacement for renters. The City's ARO applies to rental apartments with three or more units built or rented on or before September 7, 1979. It also applies to units built or rented on or before September 7, 1979, with rent that is fully or partially paid for by a government subsidy (such as Section 8). Since the ARO does not apply to single-family homes, and since most opportunity housing would be anticipated to occur through the conversion or redevelopment of single family homes, this criteria is unlikely to make a significant change to the number of parcels that would qualify under staff recommendations for Opportunity Housing.

See Attachment E to learn more about the City's Rent Stabilization Program.

Recommendation Discussion: Other Considerations

Other changes to the Zoning Ordinance and General Plan are necessary to implement Opportunity Housing. Staff will explore making the following changes to encourage Opportunity Housing and to make development more feasible:

- *Reduction in parking requirement:* Single-family on-site parking requirements are one of the biggest barriers to Opportunity Housing. By reducing the number of spaces required on-site, more land area would be available for more units.
- *Reduction in lot size minimums:* Currently the Zoning Ordinance establishes a single-family minimum lot area of at least 5,445 square feet. Reducing the minimums would allow for more infill development on residential parcels that were previously not eligible for development.
- *Allow flag lots:* A flag lot is a parcel at the end of a long driveway that may be positioned behind residences, buildings, or open land, and is typically not visible from the road. General Plan Land Use Policy LU-9.15 and City Council Policy 6-19 (Flag Lot Development in Single Family Neighborhoods) discourage flag lots in the city. Allowing flag lots would allow more infill development and opportunities for property ownership.
- *Flexible development standards:* Setbacks from the property line for single-family zoning is typically only conducive for one single-family home. Allowing flexible setbacks for Opportunity Housing would make more units feasible.

Staff recommends exploring changes to the Zoning Ordinance to reduce parking requirements, reduce lot size minimum requirements, relaxing restrictions on flag lots, creating flexible development standards for Opportunity Housing.

Next Steps

More analysis and work are necessary before implementing Opportunity Housing in San José. Many other jurisdictions who have approved a similar program underwent a thorough vetting process to limit unintended consequences. The next steps for staff can be grouped into two timelines: short-term and long-term. The short-term deadline is fall 2020 when staff brings the package of General Plan Four-Year Review Recommendations to the City Council for consideration. The long-term deadline is expected to be a one- to two-year process to complete.

Short-term Steps

- *General Plan Text Amendments:* Staff will revise the General Plan to include Action Items to explore allowing Opportunity Housing.
- *Cost Effectiveness Analysis:* With generally lower land and construction costs than midrise development, Opportunity Housing, should be less costly to build. Additionally, because Opportunity Housing units would be relatively affordable by design, the costs for buyers or renters should generally be less than traditional single-family homes. However, the exact impacts on development in San José are unclear. An economic analysis would help quantify the impact of Opportunity Housing changes by analyzing where, how much, and at what price points development is likely to occur.

Long-term Steps

- *General Plan Text Amendments:* Staff will revise the General Plan to change policies and residential density allowed in the Residential Neighborhood land use designation to allow for Opportunity Housing. It may also require staff to explore changes to how the General Plan regulates density because its current metric of dwelling units per acre would allow unintended higher-density building forms to develop in single-family neighborhoods.
- *Zoning Code:* The Residential Zoning Districts' lot size, setback, minimum frontage, and parking requirements are currently designed around car-oriented, single-detached houses and larger scale multifamily buildings. Allowing more homes on R-1 and R-2 parcels without changing these development standards would make Opportunity Housing possible, but more difficult to build. Large minimum lot sizes raise land costs, wide setbacks limit the developable footprint, and parking requirements reduce yard and curb space. Updating these development standards would help facilitate the implementation of Opportunity Housing.
- *Displacement Risk Analysis:* Development of Opportunity Housing raises concerns about gentrification and displacement. In Portland, the City's displacement risk analysis found that compared to baseline zoning, Opportunity Housing was likely to reduce net demolitions, provide units affordable to lower income ranges, and reduce displacement risk overall for renters in single-family homes.¹⁴ At the same time, displacement risk might increase in some parts of the city, which warranted additional consideration. A similar analysis for San Jose would help inform the development of policy changes by projecting displacement impacts of Opportunity Housing on a citywide and local level, which could help identify mitigation strategies.
- *Design Guidelines:* The draft Citywide Design Guidelines do not address Opportunity Housing aside from side-by-side duplexes and townhouses. Design standards and guidelines

¹⁴ *Appendix H: Displacement Risk and Mitigation Analysis*, City of Portland, February 2019, <https://www.portlandoregon.gov/bps/article/711707>, 1.

for Opportunity Housing will need to be developed consistent with the General Plan Four-Year Review scope of work item.

- *Flag Lots:* The General Plan and Council Policy generally discourage flag lots. Staff would explore updates to General Plan Policy LU-9.15 and City Council Policy 6-19 to loosen restrictions on flag lots and facilitate Opportunity Housing.
- *Public Outreach:* Staff recommends hosting workshops or community meetings to seek input on the Long-Term policy work items prior to presenting it to City Council for consideration.

Following the full implementation of Opportunity Housing strategy staff could consider expanding this program to more parts of the city or to all areas designated for single-family homes based on lessons learned.

Staff Recommendation

Staff recommends adding two Action Items to Chapter 6, Land Use and Transportation, of the General Plan.

1. Under Goal LU-10 – Efficient Use of Residential and Mixed Use Lands (pages 15 and 16)
“LU-10.11 Update the General Plan and Zoning Ordinance to allow designated Residential Neighborhood areas to have up to four units on a parcel, which shall be referred to as Opportunity Housing, in areas within half-mile of a Local or Regional Transit Urban Villages and next to properties with existing and conforming medium to higher density residential uses to provide more housing opportunities for San José residents. Prior to implementation of Opportunity Housing, in addition to revisions to the General Plan and Zoning Ordinance, a displacement risk assessment and identification of mitigations strategies, and design guidelines must be completed.”
2. Under Goal LU-11 – Residential Neighborhoods (pages 16 and 17)
“LU-11.9 Establish design standards for Opportunity Housing to ensure that it is compatible with the form of existing residential neighborhoods.”

Staff recommends adding the following policy framework to the General Plan:

“Allow parcels with a Residential Neighborhood land use designation to redevelop with up to four units per parcel if it meets the following criteria:

1. The site is within half-mile of a Regional and Local Urban Village boundary.
2. If the site is outside of a half-mile radius from a Regional and Local Urban Village boundary, the site must share a property line with a property that has an existing residential development with more than two units or has a General Plan land use designation of Mixed-Use Neighborhood, Urban Village, Transit Residential, Urban Residential, or Downtown.
3. The site is not a qualifying property under the Apartment Rent Ordinance.
4. The site has not been occupied by renters within the last seven years.
5. The site adaptively reuses structures that are on or are eligible for inclusion on the City of San José’s Historic Resources Inventory.”

Action Items for Staff: Building on the policy framework described above, staff will conduct the following studies and steps prior to the implementation of Opportunity Housing:

- *General Plan Text Amendments*
- *Cost Effectiveness Study*
- *Displacement Risk Assessment & Identification of Mitigation Strategies*
- *Zoning Ordinance Updates*
- *Citywide Design Guidelines Updates*
- *Public Outreach*

Next Meeting

The next meeting is scheduled for March 26, 2020 at 6:00 p.m. This meeting will discuss Coyote Valley and capacity shifts.

If you have any questions, please contact either myself or Kieulan Pham. I can be reached by phone at (408) 535-7896 or by email at: jared.hart@sanjoseca.gov. Kieulan can be reached by phone at (408) 535-3844 or by email at: kieulan.pham@sanjoseca.gov.

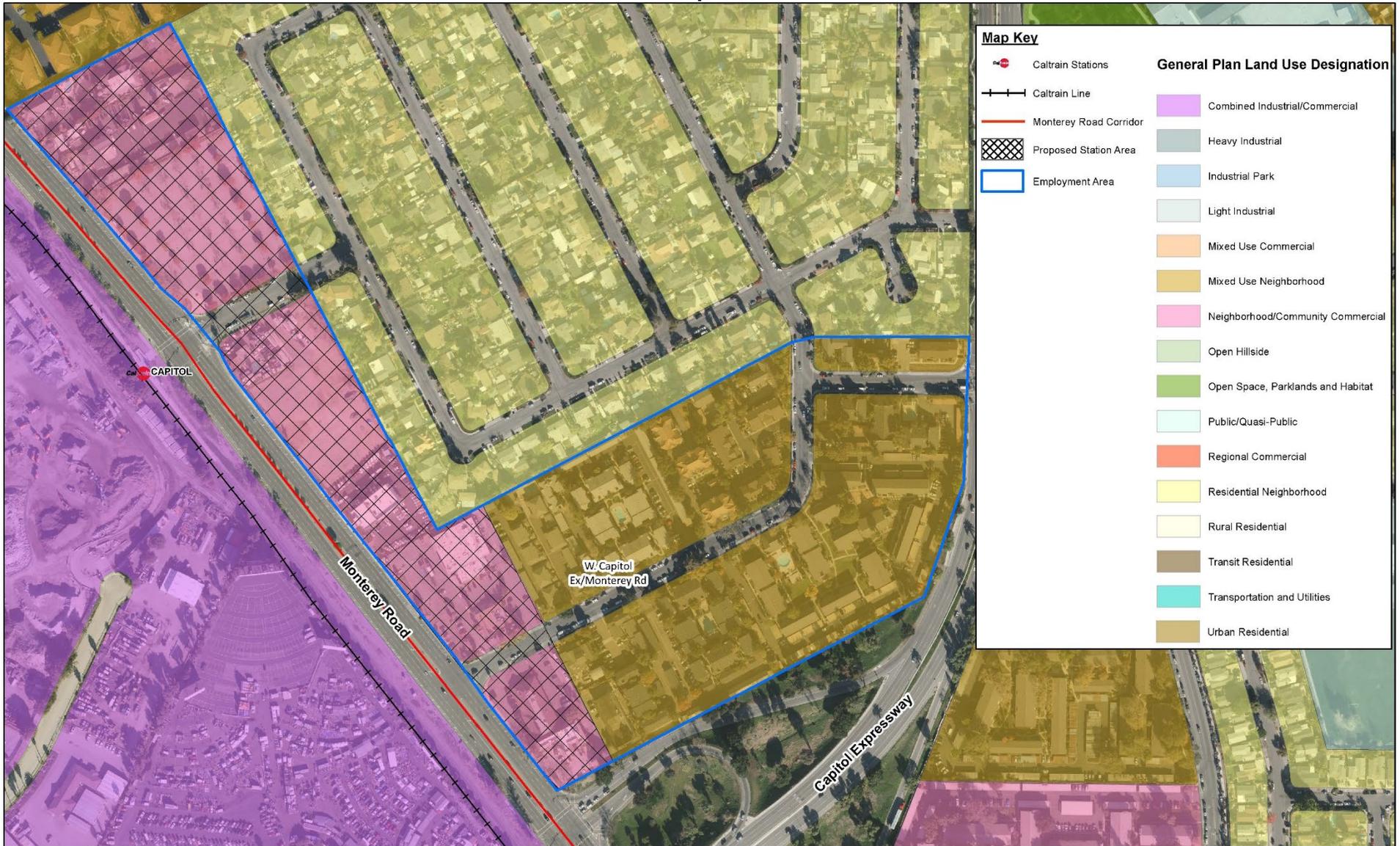
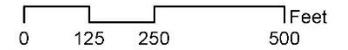
Jared Hart
Division Manager

Attachments:

- A) Map of the Proposed Capitol Caltrain Station Area
- B) Maps of the Proposed Story Road Urban Village
- C) Opportunity Housing Background
- D) Opportunity Housing Eligible Areas Maps
- E) City Renter Protection Programs Fact Sheet

ATTACHMENT A
Capitol Caltrain Station Area

Proposed - Capitol Caltrain Station Area



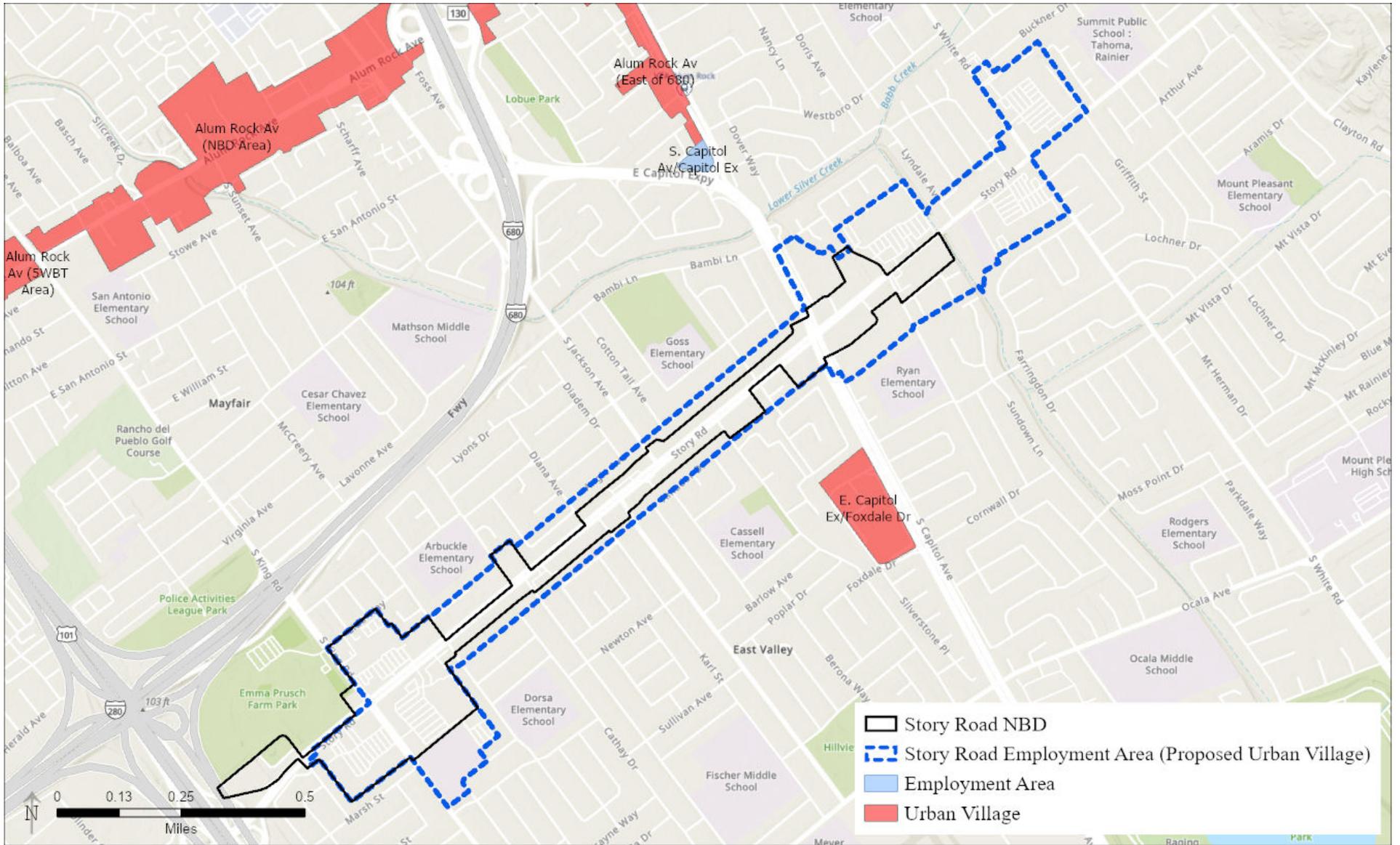
Map Key

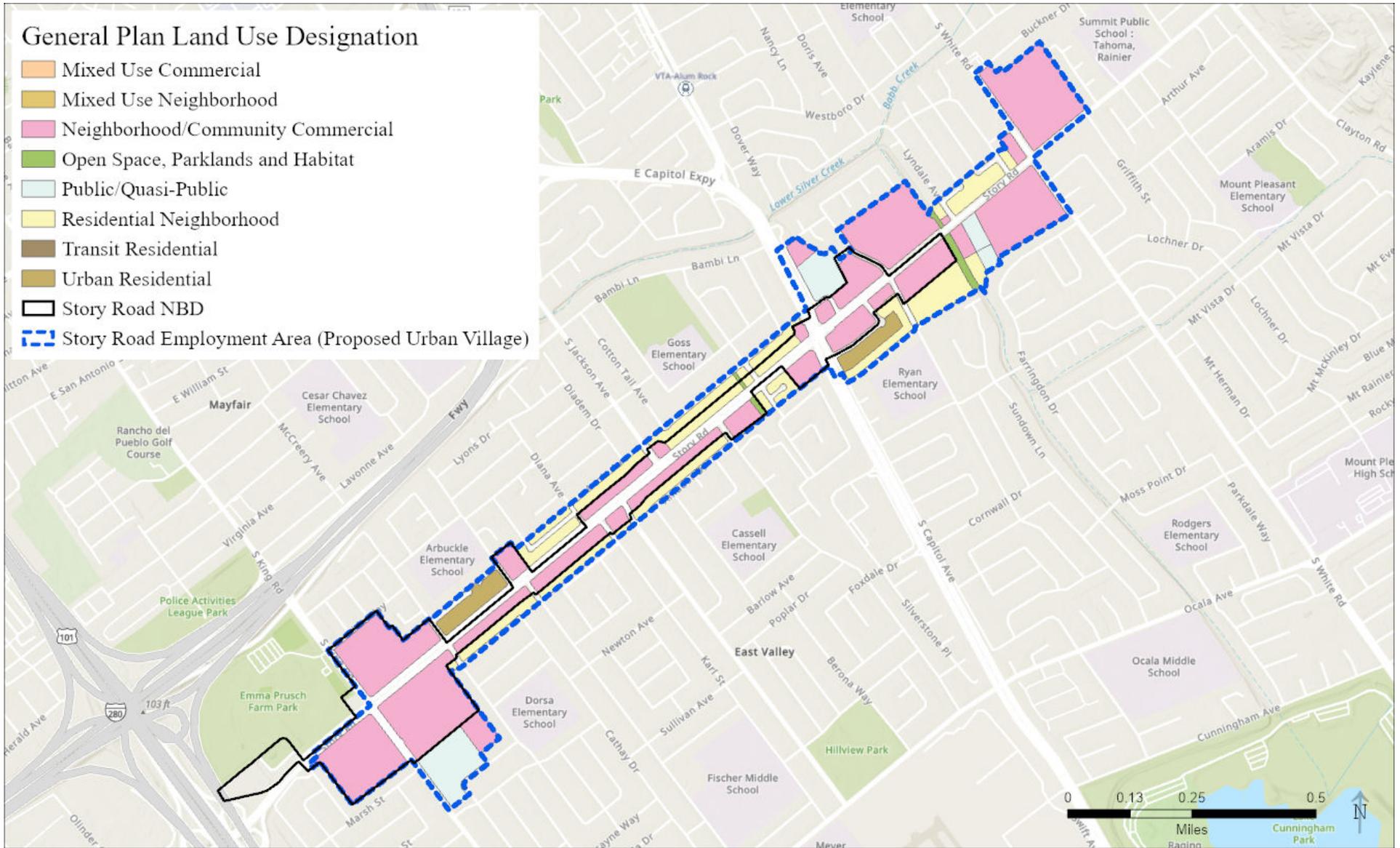
- Caltrain Stations
- Caltrain Line
- Monterey Road Corridor
- Proposed Station Area
- Employment Area

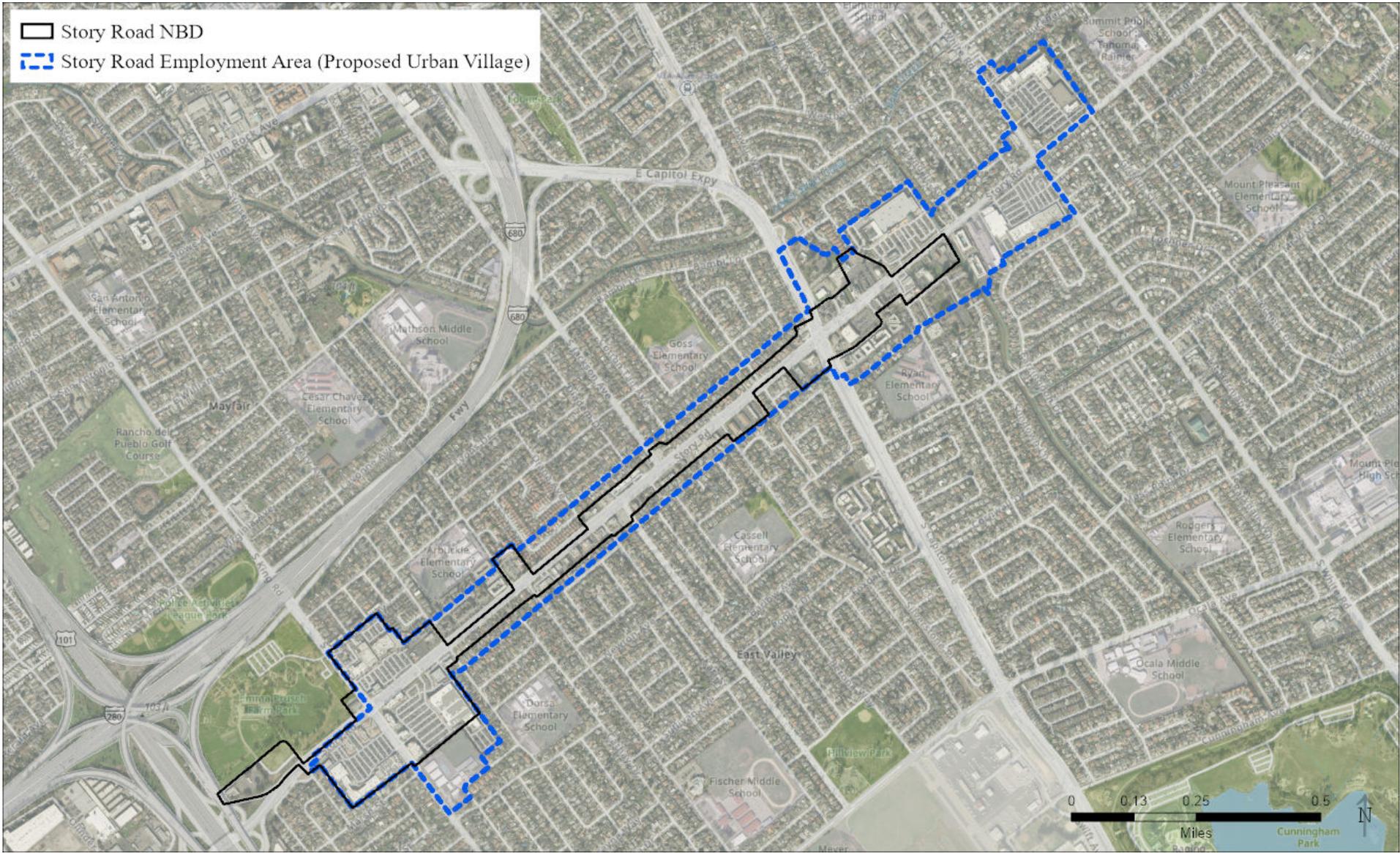
General Plan Land Use Designation

- Combined Industrial/Commercial
- Heavy Industrial
- Industrial Park
- Light Industrial
- Mixed Use Commercial
- Mixed Use Neighborhood
- Neighborhood/Community Commercial
- Open Hillside
- Open Space, Parklands and Habitat
- Public/Quasi-Public
- Regional Commercial
- Residential Neighborhood
- Rural Residential
- Transit Residential
- Transportation and Utilities
- Urban Residential

ATTACHMENT B
Story Road Urban Village







ATTACHMENT C

Opportunity Housing Background

- I. Introduction
- II. Background
- III. Case Studies

I. Introduction

The General Plan Four-Year Review scope of work approved by the City Council includes an item for staff and the Task Force to consider allowing “opportunity housing,” described as medium density housing with 2-4 units per parcel, near transit-oriented Urban Villages or immediately adjacent to existing opportunity housing.¹ Opportunity Housing describes a subset of “missing middle housing,” which includes duplexes, triplexes, fourplexes, small multiplexes, townhouses, and courtyard apartments.² “Missing middle” has also been used to describe moderate income housing that is in short supply in San Jose. To avoid confusion, “Opportunity Housing” is used to describe the housing types considered by this Four-Year Review.

II. Background

In San Jose, examples of Opportunity Housing can be found throughout the City in older, central neighborhoods as well as in surrounding suburban neighborhoods. These developments can often be found among single-family houses of similar forms and scales. Although Opportunity Housing has been legal to build in the past, these housing types are illegal to build in almost the entire city; currently, only single-family houses and ADUs are legal to build on over 90% of San Jose’s residential land.³

Why Opportunity Housing?

Interest in re-legalizing these housing types has grown with the housing crisis and greater demand for walkable neighborhoods. Allowing Opportunity Housing in existing neighborhoods would be a low impact way of adding more homes without sprawl, and it would contribute to meeting the City’s goal of building 25,000 more homes by 2022.⁴ When located near urban villages, Opportunity Housing would allow more residents to live near transit and other services, and would have climate benefits; the UN 2019 Emissions Gap Report highlights lifting multifamily housing restrictions as an emissions reduction strategy.⁵

Additionally, Opportunity Housing can provide dense housing at more affordable levels. With a median home value of almost \$1 million, homeownership is out of reach for most San Jose residents, and new homes tend to be either high-priced or subsidized.⁶ Compared to traditional multifamily construction, Opportunity Housing needs less land and can use cheaper wood frame

¹ General Plan Four-Year Review Scope Memorandum from Mayor Liccardo and Councilmembers Jimenez, Peralez, and Arenas, June 7, 2019, 1.

² “The Types,” Missing Middle Housing, <https://missingmiddlehousing.com/types>.

³ “Cities Start to Question an American Ideal: A House With a Yard on Every Lot,” Emily Badger and Quoctrung Bui, *The New York Times*, June 18, 2019, <https://www.nytimes.com/interactive/2019/06/18/upshot/cities-across-america-question-single-family-zoning.html>.

⁴ Housing Crisis Workplan, June 12, 2018.

⁵ *Emissions Gap Report 2019*, UN Environment Programme, November 26, 2019, <https://wedocs.unep.org/bitstream/handle/20.500.11822/30797/EGR2019.pdf?sequence=1&isAllowed=y>, 59.

⁶ “San Jose Home Prices & Values,” Zillow, <https://www.zillow.com/san-jose-ca/home-values/>.

construction instead of concrete or steel.⁷ These savings reduce costs for builders and residents alike, and they provide an opening for residents to find lower cost housing without subsidy. In the 100 largest American metro areas, multifamily housing built since 2000 with up to 9 units is more than twice as likely to be in the bottom third price tier as single-family houses.⁸

Allowing homes that would be affordable by design on lots traditionally restricted to single-family homes would also help address historic housing discrimination. As the federal government and lenders used neighborhood racial makeup as an explicit criterion for lending risk, San Jose's exclusionary zoning restricted desirable neighborhoods to single-family homes, while more affordable multifamily housing could not be developed in those same neighborhoods. Exclusionary zoning and redlining worked in concert to segregate neighborhoods; even today, areas that were better rated on redlining maps tend to be zoned exclusively for single-family housing, while areas that were more poorly rated allow multifamily housing.⁹ Allowing more multifamily housing in single-family neighborhoods can therefore help correct this legacy of exclusion and expand economic opportunity.

State Legislation on Opportunity Housing

To date, state legislation has not been enacted that specifically addresses Opportunity Housing, and the 2019 state legislative session appears to be the first with proposed legislation that does so. Two bills were introduced that would allow and streamline certain Opportunity Housing projects in parts, or even most, of San Jose's residential areas.

In its final version, SB 50 would have required ministerial approval for certain missing middle projects where residential uses are allowed.¹⁰ Eligible projects could have had up to four units and would have to be built on vacant parcels or subdivide existing housing without substantial exterior wall alteration or square foot addition. Eligible projects could not be built in natural resource and hazard areas, and they could not affect rent-controlled units, units occupied by tenants within the last 7 years, and parcels where the Ellis Act has been used in the past 15 years. Cities could have imposed objective zoning, design review standards, and up to a 0.5 parking ratio. SB 50 did not pass the State Senate in the 2019 or 2020 sessions.¹¹

AB 1279 also streamlines certain Opportunity Housing projects, but in more limited areas.¹² The bill would make certain residential projects, including Opportunity Housing, uses by right in state-designated high resource areas where residential uses are allowed. Eligible Opportunity Housing projects would be required to limit initial home prices or rents to at most 100% of Area

⁷ "The 'Missing Middle' Housing Affordability Solution," Karen Parolek, Missing Middle Housing, August 16, 2016, <https://missingmiddlehousing.com/the-missing-middle-affordable-housing-solution/>.

⁸ *How Housing Supply Shapes Access to Entry-Level Homeownership*, Elizabeth Kneebone and Mark Trainer, Turner Center for Housing Innovation, November 2019, http://turnercenter.berkeley.edu/uploads/How_Housing_Supply_Shapes_Access_to_Entry-Level_Homeownership_2019.pdf, 8.

⁹ San Jose Zoning Map.

¹⁰ SB 50, https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB50.

¹¹ "California Senate delivers final blow to SB 50," Elijah Chiland, Curbed, January 30, 2020. <https://la.curbed.com/2020/1/29/21114143/senate-bill-50-california-vote>

¹² AB 1279, https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1279.

Median Income (AMI), unless they paid a fee equal to 10% of the difference between the actual rents or prices and the amount affordable at 100% AMI. Like SB 50, AB 1279 excludes projects in natural resource and hazard areas, and it prevents projects from demolishing units occupied by tenants within the last 10 years. AB 1279 passed the Assembly in the 2019 session, but it has not advanced in the Senate.¹³

Within the past couple of years, several major North American cities and the State of Oregon have explored allowing Opportunity Housing in more neighborhoods. Three cities – Minneapolis, Vancouver, British Columbia, and Durham – have adopted these changes, and Oregon has as well. Allowed types range from just duplexes in Vancouver, to duplexes, triplexes, fourplexes, cottage clusters, and ADUs in Portland. Allowed areas vary as well, from just central neighborhoods in Durham, to the entire city in Minneapolis. Most of the jurisdictions use or propose using FAR to regulate density, and most include reductions or removal of parking requirements. Additional details and a comparison table can be found in the Opportunity Housing Case Studies section.

III. Case Studies

This section summarizes the changes that have been made or are proposed in these jurisdictions, and what processes were taken to achieve them. The table below provides a high-level overview of key changes in each jurisdiction’s initiatives:

¹³ AB 1279 Bill Analysis, https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201920200AB1279.

	Minneapolis	Vancouver	Durham	Oregon	Portland	Bloomington	Seattle
Approved?	Yes	Yes	Yes	Yes	No	No	No
Policy Change Type	Comprehensive Plan (i.e., General Plan)	Zoning code	Zoning code	State law	Zoning code	Zoning code	Zoning code
Allowable Types							
Density-specific	3-20 units	-	-	-	-	-	-
Duplex	-	Yes	Yes	Yes	Yes	Yes	Yes
Triplex	-	No	Certain zoning districts	Yes	Yes	Certain zoning districts	Yes
Fourplex	-	No	Certain zoning districts	Yes	Yes	Certain zoning districts	Yes
Additional ADU	-	No	No	No	Yes	Certain zoning districts	Yes
Allowable Area	Citywide	99% of single-family zoned lots	Central neighborhoods	Almost all single-family areas in Metro boundary or cities with at least 25,000 residents	Most residential lots	By zoning district	Near frequent transit, commercial districts, parks, schools, and other services
Technical Analyses							
Displacement Risk Analysis	No	No	No	No	Yes	No	Yes (Comprehensive Plan)
Economic Feasibility Analysis	No	No	No	No	Yes	No	No
Public Outreach	Yes	Yes	Yes	N/A (State legislation)	Yes	Yes	In progress

	Minneapolis	Vancouver	Durham	Oregon	Portland	Bloomington	Seattle
<i>Other Recommendations</i>							
Off-Street Parking	Removal of minimum	No change	Reduction of minimum		Removal of minimum	Reduction of minimum	Reduction/removal of minimums
Min. Lot Size Change	Yes	No	Yes	State law generally prohibits regulations that discourage development through unreasonable cost or delay	Yes	Yes	Yes - to 2,500 sq ft
Affordability Bonus	City financing	No	No		Density bonus	No	No
Building More than 1 Unit Bonus	No	No	No		No	No	Yes
Limit New SF Size	No	No	No		Yes	No	Yes
Develop Building typologies/design standards	No	No	No		No	No	Yes

Minneapolis, Minnesota

In October 2019, the Minneapolis City Council approved a new comprehensive plan, which has received national notoriety for making Minneapolis one of the first major cities in the United States to allow multiple homes on every residential lot.¹⁴ Under the plan, lots throughout the city are permitted to have up to at least three homes, inclusive of ADUs, that are at most 2.5 stories tall.¹⁵ The plan also calls to seek the elimination off-street parking minimum requirements citywide for all developments, acknowledging that demand for parking will dictate the amount of parking provided and to revise parking maximums that would be consistent with City goals.¹⁶

Legalization of triplexes on all residential properties came from interest in addressing housing affordability, counter segregation, and greenhouse gas emissions.¹⁷ The October 2019 approval capped off a three-year process starting in April 2016.¹⁸ A priority of the community engagement process was engaging populations that have been underrepresented in civic processes, including people of color, renters, and low-income residents. Staff held meetings in underrepresented communities and partnered with cultural organization for meetings. Minneapolis established a Division of Race & Equity and a Racial Equity Community Advisory Committee in 2017 with the aim of helping city departments set goals to reduce and eliminate racial inequity in city government which was an essential resource in the comprehensive plan outreach effort.

Vancouver, British Columbia

In September 2018, the Vancouver City Council voted to add duplexes as a permitted use on 99% of lots zoned for single-family houses. The remaining lots are generally comprised of large, irregular lots with a significant stock of historic houses, where the complexity of changes would delay implementation in the rest of the city.¹⁹ Floor area Ratio (FAR) and parking requirements are unchanged from those for detached houses, and duplexes on lots greater than 5,500 square feet are required to also include two ADUs.²⁰ The Council's action is intended to be an interim regulation, with more relaxed standards potentially replacing it in the future.

The goal of the zoning change was focused on providing a variety of housing options to homeowners, rather than to boost production of housing although it is a potential outcome –

¹⁴ “Minneapolis 2040 plan gets final approval,” Martin Moylan, MPR News, October 23, 2019, <https://www.mprnews.org/story/2019/10/23/minneapolis-2040-plan-poised-for-final-approval>.

¹⁵ *Minneapolis 2040*, https://lims.minneapolismn.gov/Download/File/1945/2040%20Comprehensive%20Plan_Dec%207%202018.pdf, 67.

¹⁶ *Ibid.*, 119.

¹⁷ “How Minneapolis Ended Single-Family Zoning,” Richard D. Kahlenberg, The Century Foundation, October 24, 2019, <https://tcf.org/content/report/minneapolis-ended-single-family-zoning/>.

¹⁸ “Planning Process,” *Minneapolis 2040*, <https://minneapolis2040.com/planning-process/>.

¹⁹ “Amendments to the Zoning and Development By-law for Most RS Zones to Allow Two-Family Dwellings (Duplexes) to Increase Housing Choice,” City of Vancouver, June 27, 2018, <https://council.vancouver.ca/20180724/documents/p6.pdf>, 5.

²⁰ *Ibid.*, 6.

since 2018, just 88 applications for duplexes have been submitted to the city.^{21,22} By American standards, the timeline from starting the policy work to the passage of the item was remarkably quick; City staff were directed to advance work on amendments to allow duplexes on lots zoned for single-family houses as part of the Making Room Housing Program in June 2018, just three months before City Council approval.²³

Durham, North Carolina

In September and October 2019, the Durham City Council and County Board of Commissioners approved zoning amendments to allow duplexes throughout the city's central neighborhoods.²⁴ The ordinance also allows townhomes in additional types of subdivisions, expands the city's density bonus to include triplexes and fourplexes along arterials, and creates an option for smaller duplexes on smaller lots than currently allowed.²⁵

Primary motivating factors for the initiative included accommodating more growth in existing neighborhoods and addressing the role of zoning in racial segregation.²⁶ The process started in spring 2018 when planning staff convened housing practitioners to discuss barriers to building different housing types at varying price points.²⁷ That was followed by a survey and development of a discussion draft with stakeholder input.²⁸

State of Oregon

In the 2019 legislative session, the Oregon Legislative Assembly passed, and the Governor signed, House Bill (HB) 2001. The bill requires every city in the state with between 10,000 and 25,000 residents to allow duplexes – and cities with over 25,000 residents to allow duplexes, triplexes, fourplexes, cottage clusters, and townhouses – in areas zoned for residential use within an urban growth boundary.²⁹ Cities can regulate siting and design, but those regulations cannot make the development infeasible.³⁰ A state commission is also tasked with developing a model ordinance, which will apply if a city does not adopt an ordinance implementing HB 2001.³¹

The bill was preceded earlier in the year by SB 608, which caps rent increases at the growth in the consumer price index plus 7% for units at least 15 years old.³² Proponents of HB 2001 have

²¹ “Vancouver’s new duplex rules explained,” Karin Larsen, CBC, September 20, 2018,

<https://www.cbc.ca/news/canada/british-columbia/vancouver-s-new-duplex-rules-explained-1.4831741>.

²² “Making Room Housing Program,” City of Vancouver, <https://vancouver.ca/people-programs/making-room.aspx>.

²³ Ibid., 8.

²⁴ “Expanding Housing Choices,” City of Durham, <https://durhamnc.gov/3679/Expanding-Housing-Choices>.

²⁵ “Unified Development Ordinance Text Amendment, Expanding Housing Choices (TC1800007) Attachment C: Summary Tables of Proposed Changes,” City of Durham, September 3, 2019,

<https://durhamnc.gov/DocumentCenter/View/27606/Attachment-C-Summary-Tables-of-Proposed-Changes>.

²⁶ Ibid. 3-4.

²⁷ Unified Development Ordinance Text Amendment, Expanding Housing Choices (TC1800007), City of Durham, September 3, 2019, https://durhamnc.gov/DocumentCenter/View/27597/CC_EXPANDING-HOUSING-CHOICES-MEMO?bidId=, 2.

²⁸ Ibid., 2-3.

²⁹ HB 2001, <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2001/Enrolled>, 1.

³⁰ Ibid., 2.

³¹ Ibid.

³² SB 608, <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB608/Enrolled>, 4-5.

stated that SB 608’s passage laid the groundwork for HB 2001 by helping to address concerns about gentrification and displacement.³³

Portland, Oregon

Before HB 2001, Portland, Oregon had been developing its own zoning proposal to allow Opportunity Housing in more parts of the city. In August 2019, the city Planning and Sustainability Commission voted to forward a package of recommendations to the City Council. The package includes allowing duplexes, triplexes, fourplexes, and ADUs on the vast majority of residential lots (lots within landslide or flood hazard areas, or fronting unpaved streets, are excluded), providing a density bonus to encourage affordability, requiring at least one unit in a triplex or fourplex to be partially accessible, requiring at least two units on larger lots, allowing divisions of existing homes and the creation of flag lots where feasible, adjustments in height and other design requirements, and the removal of parking minimums.³⁴

In addition to addressing housing affordability and providing more housing options, a major goal of the project was preventing the replacement of existing houses with oversized ones.³⁵ The process to create the package began in summer 2015, involved a stakeholder advisory committee, and had multiple rounds of revision and public comment.³⁶ The project was also accompanied by economic and displacement risk analyses, which were published with the revised draft approved by the commission.^{37,38}

Bloomington, Indiana

Bloomington is currently updating its zoning code to allow Opportunity Housing in more neighborhoods. In September 2019, Bloomington’s Plan Commission voted to forward amendments to the Common Council.³⁹ The amendments allow duplexes in all residential areas, triplexes in all but the lowest density zoning district, and fourplexes in central neighborhoods.⁴⁰ The amendments also create a new zoning district where minimum lot size is lower, and they reduce parking requirements for all homes.⁴¹

³³ “Taking Action on Zoning Reform: Lessons for California,” October 30, 2019, <https://www.youtube.com/watch?v=tyGYYaBG9Q4>,

³⁴ *Residential Infill Project Summary*, City of Portland, <https://www.portlandoregon.gov/bps/article/738842>, 2-3.

³⁵ *Ibid.*, 1.

³⁶ “About the Residential Infill Project,” City of Portland, <https://www.portlandoregon.gov/bps/76592>.

³⁷ *Appendix B: Revised Economic Analysis on the Proposed Changes to the Single-Dwelling Zone Development Standards*, City of Portland, December 5, 2018, <https://www.portlandoregon.gov/bps/article/711669>.

³⁸ *Appendix H: Displacement Risk and Mitigation Analysis*, City of Portland, February 2019, <https://www.portlandoregon.gov/bps/article/711707>.

³⁹ “Unified Development Ordinance (UDO) Update,” City of Bloomington, <https://bloomington.in.gov/planning/udo/update>.

⁴⁰ *Unified Development Ordinance Summary of Significant Changes from Current Regulations*, City of Bloomington, September 2019, https://bloomington.in.gov/sites/default/files/2019-10/Bloomington%20UDO_Council%20Adoption_Significant%20Changes%20Memo_clean.pdf, 3.

⁴¹ *Ibid.*, 2, 5-6.

The primary motivation for the update was addressing the city’s housing shortage in a context-sensitive manner.⁴² The amendment process was initiated in early 2018 with an assessment of the existing zoning ordinance.⁴³ That led to focused review periods that were edited with feedback into a consolidated draft, which was sent to the Plan Commission for adjustment and adoption. The public had opportunities to comment during focus periods and on drafts, and an advisory committee provided feedback during development of the ordinance.

Seattle, Washington

In December 2018, Seattle’s Planning Commission released a report recommending zoning changes to allow more housing options in neighborhoods where only single-family houses are currently allowed. It recommends allowing Opportunity Housing meeting existing neighborhood form and scale near frequent transit, neighborhood commercial districts, parks, schools, and other services.⁴⁴ Accompanying this change would be either a reduction in minimum lot size to 2,500 square feet, or the replacement of minimum lot sizes with FAR limits.⁴⁵ The recommendations also include a reduction or removal of parking minimums, allowing subdivision of existing single-family houses (provided at least one unit has two or three bedrooms), and allowing additional homes on corner, alley-abutting, arterial-adjacent, and zoning district edge lots.⁴⁶

Since the release of the report, Planning Commissioners have been presenting the report at community discussions and the meetings of community and neighborhood-based organizations.⁴⁷

⁴² “Are Changes To Single Family Zoning Rules The Answer To Bloomington’s Housing Shortage?”, Tyler Lake, Indiana Public Media, August 1, 2019, <https://indianapublicmedia.org/news/bloomington-looks-at-loosening-some-single-family-zoning-rules.php>.

⁴³ “Unified Development Ordinance (UDO) Update,” City of Bloomington, <https://bloomington.in.gov/planning/udo/update>.

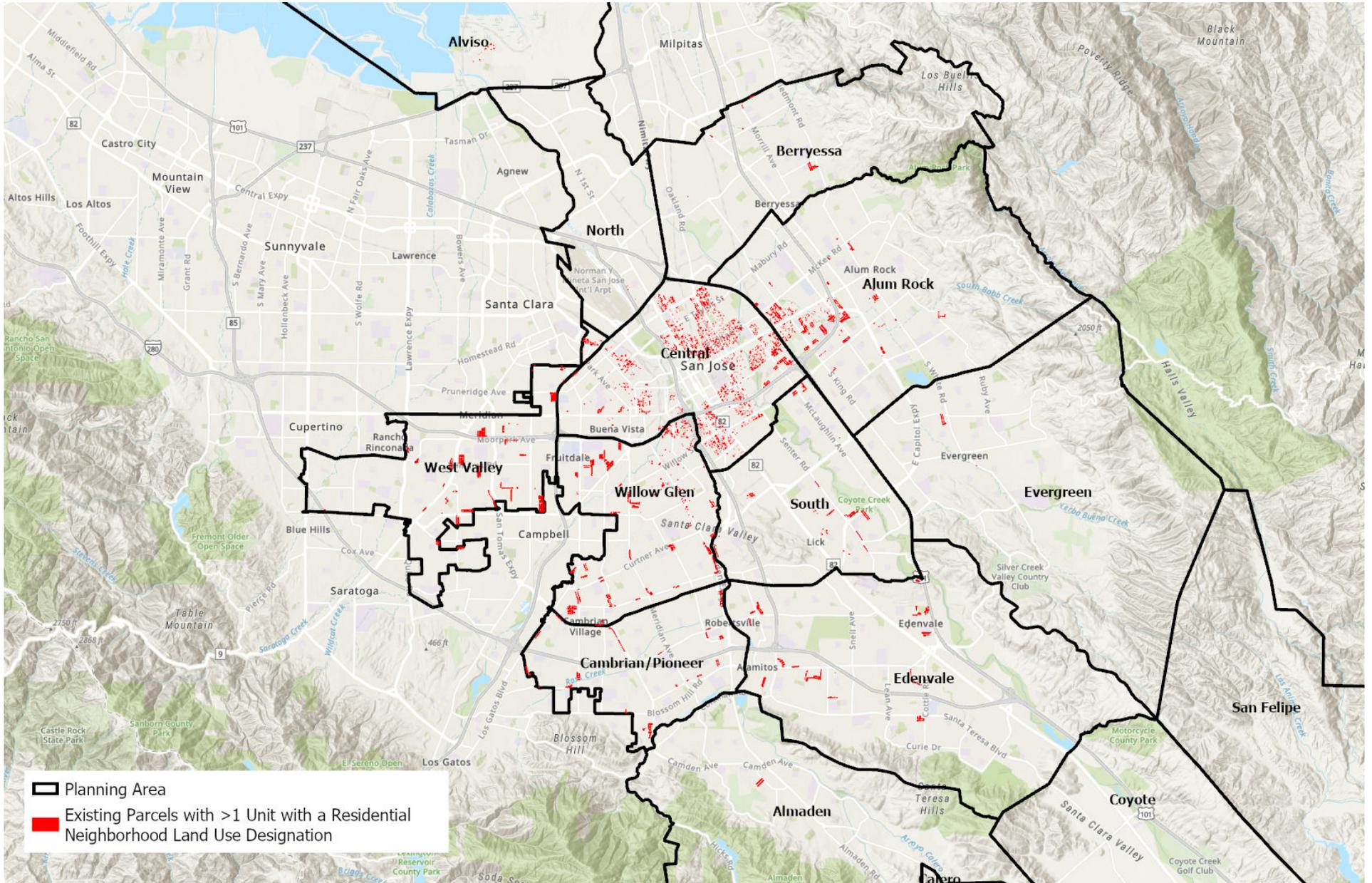
⁴⁴ *Neighborhoods for All*, Seattle Planning Commission, Fall 2018, <https://www.seattle.gov/Documents/Departments/SeattlePlanningCommission/SPCNeighborhoodsForAllFINALdigital2.pdf>, 34.

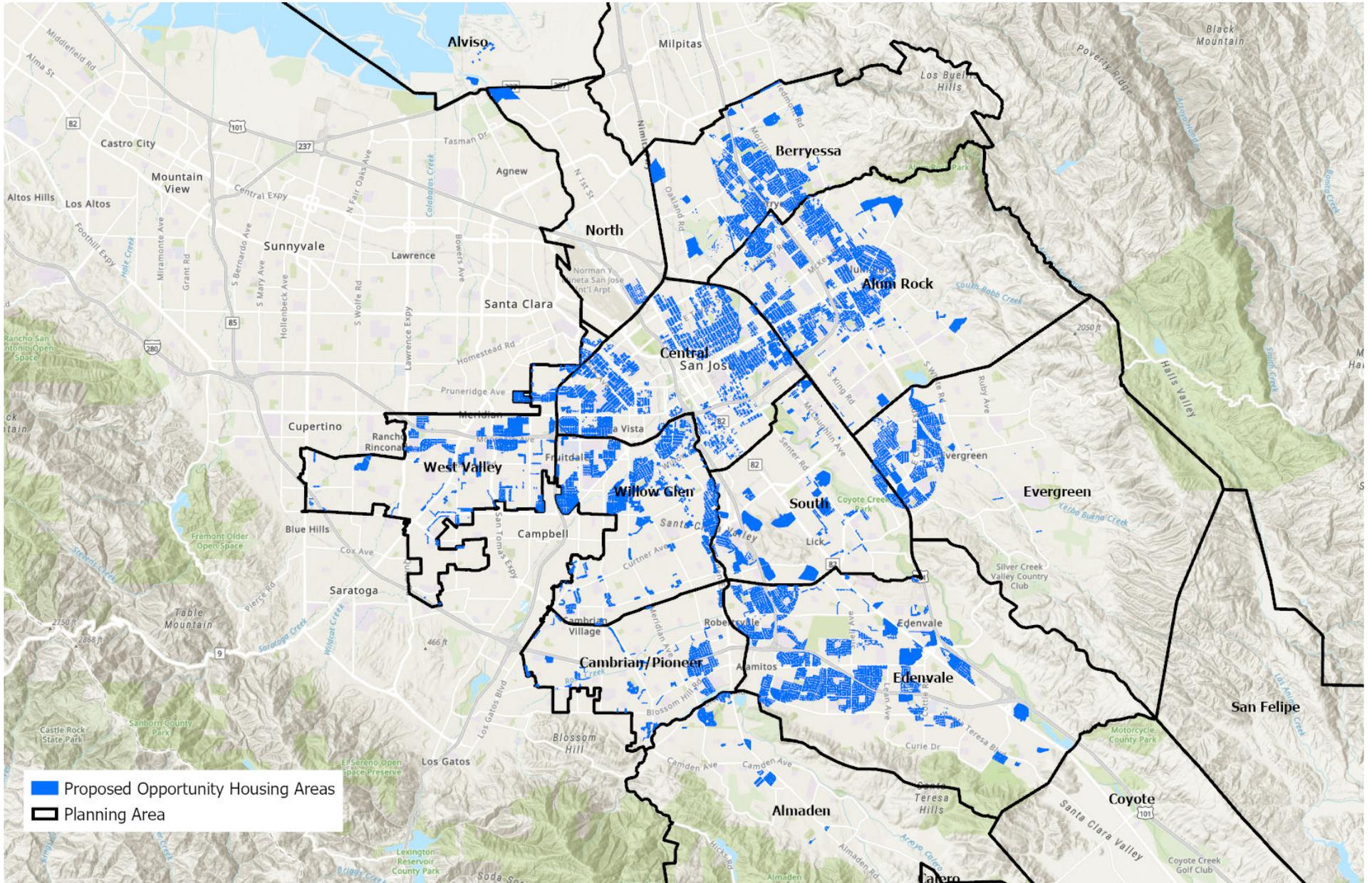
⁴⁵ *Ibid.*, 39.

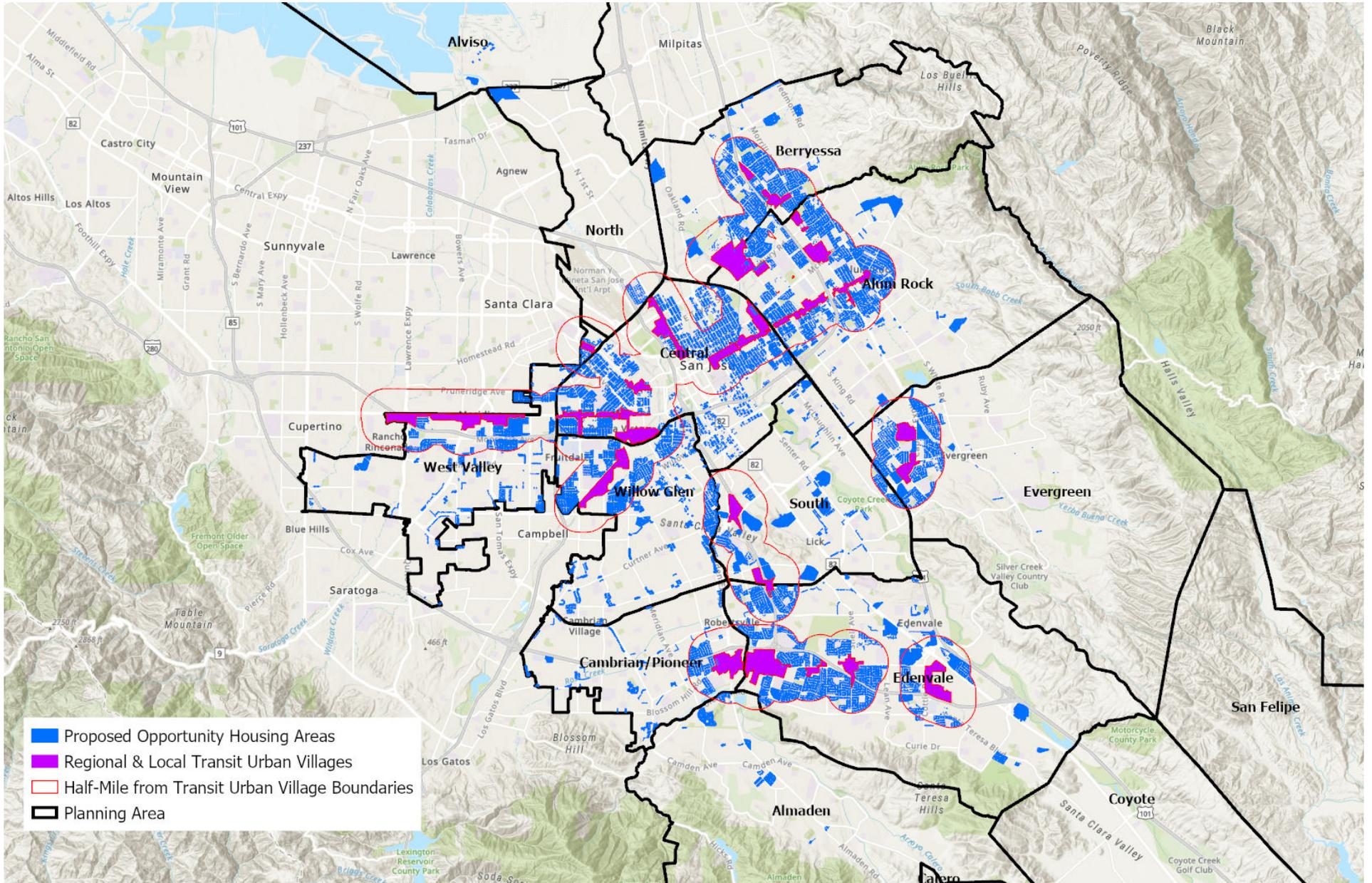
⁴⁶ *Ibid.*, 35-37.

⁴⁷ “Neighborhoods for All,” Seattle Planning Commission, <https://www.seattle.gov/planningcommission/our-work/neighborhoods-for-all>.

ATTACHMENT D
Proposed Opportunity Housing Maps







ATTACHMENT E
Apartment Rent Ordinance (ARO) Fact Sheet

APARTMENT RENT ORDINANCE FACT SHEET

ABOUT THE ORDINANCE

The Apartment Rent Ordinance (ARO) may be found in San José Municipal Code (SJMC) Chapter 17.23, Parts 1-9. The ARO covers most rental apartments built before September 7, 1979, limits rent increases to 5% once every 12 months, and allows landlords to receive a fair return. All ARO properties must post a City-approved notice indicating that the ARO applies to the units contained within the property and posted in a conspicuous location within each building that has one or more ARO units.

Covered Buildings Include (SJMC Section 17.23.167 (A)):	Buildings Not Covered Include:
<ul style="list-style-type: none"> ▪ Apartments, with three or more units, built or rented on or before September 7, 1979 ▪ Units with rent that is fully or partially paid for by a government subsidy (including Section 8), where the unit was built or rented on or before September 7, 1979 	<ul style="list-style-type: none"> ▪ Units built after September 7, 1979 ▪ Duplexes ▪ Single-family Condominiums ▪ Townhouses ▪ Single-family homes

The above is not a complete list of ARO covered and uncovered units. To see if your building is covered under the ARO, call 408-975-4480.

ARO SUMMARY

The actual amount paid by the tenant at the commencement of tenancy is the “Initial Rent Rate.” Rent can be increased **ONLY** for the following reasons:

1. **Annual Allowable Rent Increase**
A 5% annual increase is allowed under the ARO. A landlord may increase rent only once every 12 months provided that the tenant is given a written notice in accordance with Civil Code Section 827 (SJMC Section 17.23.310).
2. **Vacancy Decontrol**
When a unit covered by the ARO is vacated as a result of a tenant voluntarily leaving or a for cause termination (See FAQ on the City’s just cause eviction ordinance), the landlord may set the new initial rent for a new tenant at her/his discretion. (SJMC Section 17.23.300(A))
3. **Fair Return Rent Adjustment**
The City may authorize a special fair return rent adjustment if the landlord demonstrates that their current year net operating income was lower than their base year net operating income adjusted for inflation. (SJMC Section 17.23.320(A))
4. **Specified Capital Improvement Adjustment (in addition to Rent)**
The City may authorize a specific capital improvement pass through to tenants. A list of these improvements can be found in Appendix B of the Regulations. The improvement must have been completed within the 12 months prior to the petition being filed. These pass throughs are capped at 3% of rent. (SJMC Section 17.23.320(B))
5. **One-time Payments for New Additional Housing Services**
A tenant may file a petition with their landlord' for a one-time payment or increase in security deposit for providing a new service or a service that was expressly prohibited by a written rental agreement. (SJMC Section 17.23.320(C))
6. **Voucher Holders (Section 8)**
Tenants with vouchers are covered by the ARO. However, rent increases are determined by program guidelines. (SJMC Section 17.23.310(D))

The ARO allows the Landlord to collect certain fees. The charges must be listed as a separate line item and are not rent:

Fees Allowed	Fees Not Allowed
<ul style="list-style-type: none"> ▪ Replacement fees for key or security card: Maximum charge is actual cost of replacement plus \$10. (SJMC Section 17.23.315(B)(1)) ▪ Bounced check service fees: Fee must comply with California Civil Code Section 1719(a)(1). (SJMC Section 17.23.315(B)(2)) ▪ Late payment of rent fees: No more than 5% of monthly rent. (SJMC Section 17.23.315(B)(3)) ▪ Application screening fees: Fee must comply with California Civil Code Section 1950.6(b). (SJMC Section 17.23.315(B)(4)) 	<ul style="list-style-type: none"> ▪ Additional rent increase for tenant’s dependent child, foster child, spouse, domestic partner, parent, or minor in tenant’s care ▪ Other monthly charges such as storage and/or pet rent.



Rent Stabilization Program
City of San José Housing Department
200 East Santa Clara St, 12th Floor, San José, CA 95113
408-975-4480 • www.sanjoseca.gov/rent • RSP@sanjoseca.gov

PETITION PROCESS

Landlords and Tenants may submit a petition to the Rent Stabilization Program office on the following grounds:

Tenant (SJMC Section 17.23.350(A))

- **Improper Rent Increase or Improper Pass Through of a Charge**
To allege a rent increase in violation of the ARO or to contest a fee or charge as an unauthorized or excessive pass-through.
- **Housing Service Reductions or Housing Code Violations**
To request a reduction in Rent based on a reduction of Housing Services or a violation of the City's Housing Code.
- **Violation of ARO**
To allege any other violation of the ARO.

Landlord (SJMC Section 17.23.350(B), 17.23.315)

- **Fair Return**
To request a rent increase in excess of the annual general increase to obtain a fair return.
- **Specified Capital Improvements**
To request the ability to pass-through portion of the cost of a Specified Capital Improvement that is listed in Appendix B of the Regulations.
- **Ratio Utility Billing System (RUBS) Offset**
To request a one-time rent increase that to rent for landlords with written pass through agreements for water, sewer, and/or garbage, gas and electricity.

Joint Petition (SJMC Section 17.23.350(C))

Where a written lease expressly prohibits a desired service that is not considered a Basic Service Level as defined by the ARO Regulation Section 7.03.1, tenants may file a petition together with their Landlord requesting certain new or additional housing services. The landlord may request either a one-time fee, an increase in security deposit, or an increase in rent, depending on the type of new or additional Housing Service being requested. Below is a list of new or additional housing services and the corresponding fee:

Requesting New or Additional Housing Services

- **Payment of a one-time fee:** Not to exceed 5% of the monthly rent or increased security deposit, in accordance with Civil Code Section 1950.5(ARO Regulations Section 10.01)
- **Increase rent up to 5% for Additional Tenant:** Increase does not apply where additional tenant is the Tenant's spouse, domestic partner, parent, dependent or foster child or minor child in Tenant's care. Such increases will terminate when additional occupant leaves. (ARO Regulations Section 10.02)
- **Parking space fee:** Fee cannot exceed \$50 a month (ARO Regulations Section 10.03)

Please note that this document is intended for informational purposes only, not legal advice. The fact sheet may be incomplete as it is a brief summary of the ARO. Please visit our website at www.sanjoseca.gov/rent for the most up to date fact sheet and complete details of the ARO.