

September 12, 2018

Mr. Perter L. Hertan, Foreperson  
2017-18 Santa Clara County Civil Grand Jury  
191 North First Street  
San Jose, CA 95113

Dear Foreperson Hertan:

Thank you for your letter dated June 21, 2018, transmitting the Santa Clara County Civil Grand Jury's final report, "Affordable Housing Crisis—Density is our Destiny." Our City Council is very supportive of affordable housing and encourages a variety of housing options in our City. Every two years, the City Council identifies major goals to emphasize during the two-year period. It is not surprising that two of the Council's four goals are related to affordable housing. Our City will continue to strive towards providing affordable housing opportunities for all community members.

In accordance with California Penal Code § 933 (c) and 933.05, attached are the City of Mountain View's responses to the findings and recommendations contained in the Grand Jury's final report. The City of Mountain View appreciates the opportunity to respond to the Grand Jury's final report and the work of the Grand Jury members.

Sincerely,

Leonard M. Siegel  
Mayor

LMS/EA/5/CDD  
001-09-12-18L

## RESPONSE TO THE SANTA CLARA COUNTY CIVIL GRAND JURY REPORT, AFFORDABLE HOUSING CRISIS – DENSITY IS OUR DESTINY

### **Finding 1a**

*Lack of housing near employment centers worsens traffic congestion in the County and increases the urgency to add such housing. Cities to respond are Campbell, Cupertino, Gilroy, Los Altos, Los Gatos, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.*

City Response: The City of Mountain View agrees with this finding.

Residents are increasingly seeking shorter commutes and commutes by alternative modes, and locating new housing near employment centers can facilitate those lifestyle choices. With large parcels, aging buildings, and few residents to displace, the City believes that employment centers can be development opportunity areas. The City of Mountain View continues its work through Precise Plans and rezoning to add significant new housing to the City's major commercial and employment areas, including San Antonio, El Camino Real, North Bayshore, and East Whisman. These endeavors would allow for up to 15,000 units to the City.

However, employment centers may also pose challenges for residential development, such as less access to schools, parks and services, contamination and hazardous materials, and other health/safety and quality of life issues. In addition, office development may be easier than residential development to leverage into community benefits, TDM programs, and other measures that may have a positive effect on traffic. Lastly, additional housing close to employment centers may not improve the problem of local traffic congestion, but it does improve the problems of job access, housing equity, roadway infrastructure costs, vehicle miles travelled, and greenhouse gas emissions, and it may improve regional traffic.

### **Finding 1b**

*Mass transit stations (Caltrain, VTA, BART) create opportunities for BMR units. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.*

City Response: The City of Mountain View agrees with this finding.

Transit areas in Mountain View continue to have development opportunity sites. As congestion increases, TOD is more appealing to market-rate developers who can be required to provide affordable units through inclusionary requirements. However, the cost of land in transit areas is increasing, making it more difficult for affordable housing developers to compete for sites.

The City of Mountain View has several affordable housing sites located close to transit stations or major bus lines, including the Franklin Street Family Apartments, 1585 Studios, and Eagle Creek Apartments. In addition, the City is continuing to work to redevelop a City-owned surface parking lot, Lot 12, located within walking distance of Caltrain, to include affordable housing. The City is also developing policies for significant new affordable units in the East Whisman area, along the VTA light rail line, and has developed policies in the El Camino Real Precise Plan prioritizing affordable housing creation. Lastly, the City is also working to improve transit access to North Bayshore, where a significant number of new housing units and affordable housing are planned.

### Finding 1c

*Density bonus programs are not being used aggressively enough to produce the needed BMR units within one-half mile of transit hubs. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.*

City Response: The City of Mountain View partially agrees with this finding.

Density Bonus programs can help facilitate mixed-income developments, spreading the benefits of location and neighborhood quality (including transit access) to a broad range of incomes. They incentivize market-rate developers to provide low-income units, and help affordable developers to increase the number of units they can build on a site. One caveat is that the state density bonus has structural issues:

- It is biased in favor of very low-income units, making it less successful in creating affordable housing in other income categories;
- It is difficult for ownership developments (i.e., condominiums and rowhouses) to implement, especially at the very low-income level; and
- Cities lose the ability to enforce some common-sense standards, for example, the Zoning density standard cannot be used in the density bonus calculation if it is more specific than the General Plan density standard (which is often expressed as a range).

However, cities like Mountain View are increasingly developing their own density bonus programs. Mountain View is directing growth to transit-oriented locations like San Antonio, El Camino Real, and East Whisman, and creating more affordable units, through programs that allow additional density in exchange for community benefits like affordable housing.

The City has recently approved several transit-oriented projects using the state density bonus and/or local community benefits programs to provide affordable housing. These include 400 San Antonio Road (583 units, of which 48 are very low income), 2700 West El Camino Real (211 units, of which 11 are very low income), and other developments along El Camino Real. The City is also studying a range of affordable housing programs in the East Whisman Precise Plan, including City-administered bonuses, and policies to, among other things, encourage office developers to donate land for affordable housing.

### Recommendation 1a

*To improve jobs-to-housing imbalances, the cities of Palo Alto, Santa Clara, Milpitas, Mountain View and Sunnyvale should identify, by June 30, 2019, parcels where housing densities will be increased. The identification should include when projects are expected to be permitted and the number of BMR units anticipated for each parcel.*

City Response: The recommendation has been implemented, see below and Exhibit A.

The City has been rezoning areas for new residential development over the last several years. Rezoned areas for increased residential densities include El Camino Real (from 43 to 70+ DU/ac), San Antonio (from 0 to 90+ DU/ac and from 43 to 70+ DU/ac), and North Bayshore (from 0 to 100+ DU/ac). The City is preparing the East Whisman Precise Plan, expected to be adopted prior to summer 2019, which will introduce new housing to the area at densities over 100 DU/ac. Lastly, the City is studying the potential for new housing in the Terra Bella area, located between North Bayshore and downtown.

### Recommendation 1b

*Cities should identify parcels within one-half mile of a transit hub that will help them meet their LI and moderate-income BMR objectives in the current RHNA cycle, by the end of 2019. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.*

City Response: The recommendation has been implemented, see Exhibit B.

The map in Exhibit B shows areas within one-half mile of a transit hub or corridor, and identifies RHNA sites from the City's last Housing Element and sites from Exhibit A that include BMR units within that area.

### Recommendation 1c

*Cities should revise their density bonus ordinances to provide bonuses for LI and moderate-income BMR units that exceed the minimum bonuses required by State law for parcels within one-half mile of a transit hub, by the end of 2020. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.*

City Response: The recommendation has been implemented.

In 2014, the City adopted the El Camino Real and San Antonio Precise Plans, which include community benefit programs that, when combined with the State density bonus, may augment the number of affordable units provided in new residential development. For example, the 1701 West El Camino Real project would have only been allowed approximately 40 units without any bonuses, but the affordable housing project was able to build 67 using the combination of City and State bonuses (an increase of 68 percent). In 2017, the City adopted the North Bayshore Precise Plan, which includes a density bonus program that far exceeds the State density bonus, and new infrastructure improving transit access to and from North Bayshore (which has not historically been a transit hub). In North Bayshore, residential development can receive a bonus of up to 450 percent with the provision of 20 percent affordable units or land dedicated for affordable development. The City is also considering similar programs as a part of the East Whisman Precise Plan, along the VTA light rail line. Lastly, the City code already includes the following language (SEC 36.14.15), which explicitly allows the City to exceed minimum density bonuses:

“Nothing in [the Density Bonus division of the City Code] shall be construed to prohibit the city from granting a density bonus greater than what is described in this division for a development that meets the requirements of [the Density Bonus division of the City Code]....”

### Finding 2a

*Employers in the County have created a vibrant economy resulting in an inflated housing market displacing many residents. Agencies to respond are all 15 cities and the County.*

City Response: The City of Mountain View agrees with this finding.

The strong economy has created thousands of jobs, but the supply of housing has not increased at the same rate to meet the need. The City of Mountain View has progressive programs which include tenant relocation assistance for tenants displaced by redevelopment, a rent stabilization program, and a housing impact fee program collecting millions of dollars from new office development. The City continues to be supportive of housing production of both market rate and affordable units in an

attempt to meet the demand for housing. Also, the City Council has placed a revenue measure on the ballot that would increase the City's business license tax to fund critical City transportation services and improvements, which will improve local and regional access to jobs.

### Finding 2b

*Contributions to BMR housing from employers in the County are not mandated nor evenly shared. Agencies to respond are all 15 cities and the County.*

City Response: The City of Mountain View partially agrees with this finding.

The City of Mountain View has implemented a housing impact fee program on new employment-generating development (such as office and R&D), which has raised over \$41 million for affordable housing. Impact fees on new employment-generating development are designed to address the housing needs of new employees and growing companies by charging the fee only when growth occurs. Employers often ultimately pay the fee through higher rents for their office space. However, employers are not directly taxed for affordable housing. A tax could provide a more continuous income stream and may help address the existing shortage of affordable housing, but may have negative consequences on the region's economy.

### Recommendation 2a

*The County should form a task force with the cities to establish housing impact fees for employers to subsidize BMR housing, by June 30, 2019. Agencies to respond are all 15 cities and the County.*

City Response: The City of Mountain View believes this recommendation is not warranted.

The purpose of this task force may be too narrow, since so many jurisdictions already have housing impact fees that affect employers, directly or indirectly. The City of Mountain View would be a willing participant in a regional task force to consider additional ways to fund affordable housing, which would also include other stakeholders, such as employers from a range of industries.

### Recommendation 2b

*Every city in the County should enact housing impact fees for employers to create a fund that subsidizes BMR housing, by June 30, 2020. Agencies to respond are the County and all 15 cities.*

City Response: The City of Mountain View believes this recommendation is not warranted.

Many cities, including Mountain View, have already enacted housing impact fees, which, directly or indirectly, are paid by employers. While a housing impact fee is one tool, other opportunities for employers to participate in addressing the region's affordable housing needs may exist and could be explored.

### Finding 3a

*RHNA sub-regions formed by several San Francisco Bay Area counties enable their cities to develop promising means to meet their collective BMR requirements. Such sub-regions can serve as instructive examples for cities in the County. Agencies to respond are all 15 cities.*

City Response: The City of Mountain View partially agrees with this finding.

Subregions could provide the mechanism for cities within a County to facilitate meeting regional housing needs, but the success of a subregion towards that goal is not automatic. Policies, programs, and/or requirements from a subregion must be well-designed, address the underlying causes of limited/uneven housing production, and have buy-in from participating jurisdictions to facilitate housing production across income categories in all jurisdictions.

### Finding 3c

*More BMR units could be developed if cities with lower housing costs form RHNA subregions with adjacent cities with higher housing costs. Responding agencies are all 15 cities.*

City Response: The City of Mountain View partially agrees with this finding.

The analysis in the report focuses on land cost as a limiting factor on affordable housing development, but land cost is not the only factor in high-cost cities. Other factors include the availability of or the need for infrastructure, lack of funding, and political constraints. Mountain View has partially mitigated the issue of land cost by allowing higher-density development.

Some overall efficiency may occur with cooperation on affordable housing production. For example, cities may be able to take advantage of opportunities of scale, by, for example, generating a large amount of units on a key opportunity site. However, this must be done with care, because location equity and access to jobs are such key issues with affordable housing production (as emphasized in Finding 1a and Recommendation 1a). If low-cost cities in the County were also jobs centers, this

solution would benefit that issue. Since higher-cost cities in this County have better access to jobs, affordable housing in lower-cost cities would exacerbate that issue.

### Finding 3e

*High-cost/low-cost RHNA sub-regions could be attractive to high-cost cities because they could meet their BMR requirements without providing units in their cities. Cities to respond are Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Santa Clara, Saratoga and Sunnyvale.*

City Response: The City of Mountain View partially agrees with this finding.

While some “high-cost” cities may find this arrangement attractive, the City of Mountain View is interested in creating mixed-income neighborhoods close to jobs, and has strong and effective policies to encourage the creation of affordable housing. While, like almost every other city in the region, Mountain View has not met its RHNA quota for affordable housing, it is not for lack of trying. The City is committed to continue working toward more housing opportunities for workers and families in the area, and would make good use of compensation to help support the services and infrastructure needed to serve that population. In addition, the City is willing to work with neighboring jurisdictions on housing solutions that lower housing costs, improve regional housing equity, shorten commutes, improve sustainability, and support other City and regional goals.

However, regional housing inequities and disparities could be exacerbated if higher-cost jurisdictions are simply able to buy their way out of their housing needs. Additionally, jurisdictions that accept additional housing allocation should be allowed to count that production towards meeting their RHNA, not the jurisdictions that buy their way out of their own housing needs. Finally, if jobs are primarily located in high-cost jurisdictions, then shifting housing from high-cost locations would reduce access to jobs and increase regional traffic congestion.

### Recommendation 3a

*Every city in the County should identify at least one potential RHNA sub-region they would be willing to help form and join, and report how the sub-region(s) will increase BMR housing, by the end of 2019. Agencies to respond are all 15 cities.*

City Response: The City of Mountain View believes this recommendation is not warranted.

The Cities Association of Santa Clara County is considering the formation of a RHNA subregion. This process will provide the opportunity to determine whether a subregion is appropriate.

#### Recommendation 3b

*A RHNA sub-region should be formed including one or more low-cost cities with one or more high-cost cities, by the end of 2021. Agencies to respond are all 15 cities.*

City Response: The City of Mountain View believes this recommendation is not warranted.

The Cities Association of Santa Clara County is considering the formation of a RHNA subregion. This process will provide the opportunity to determine whether a subregion is appropriate.

#### Recommendation 3c

*High-cost cities and the County should provide compensation to low-cost cities for increased public services required for taking on more BMR units in any high-rent/low-rent RHNA subregion, by the end of 2021. Agencies to respond are Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Santa Clara, Saratoga, Sunnyvale and the County.*

City Response: The City of Mountain View believes this recommendation is not warranted.

The Cities Association of Santa Clara County is considering the formation of a RHNA subregion. This process will provide the opportunity to determine whether a subregion is appropriate, and what the terms of compensation and RHNA allocation may be. It would be premature to agree to any specific terms at this time.

The City of Mountain View would like to stress, however, that compensation for providing affordable units should go to cities that build them (like Mountain View), not just low-cost cities.

#### Finding 5a

*Uneven BMR achievements among cities is caused in part by varying inclusionary BMR unit percentage requirements. Agencies to respond are all 15 cities and the County.*

City Response: The City of Mountain View partially agrees with this finding.

BMR achievement is primarily based on overall housing production, and setting BMR requirements too high may have negative effects on housing production. The City has regularly reviewed BMR requirements to see if they are on target: high enough to get a significant number of BMR units, but not so high that it affects housing production or the cost of market-rate units.

### Finding 6

*In-lieu fees, when offered as an option, are too low to produce the needed number of BMR units and delay their creation. Cities to respond are Campbell, Cupertino, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.*

City Response: The City of Mountain View partially agrees with this finding.

Mountain View is working on alternate mitigations for some developments that address the delay in affordable-unit development, such as prepaying fees. Currently, the City is reserving funding for affordable developments based on projected revenue and not collected revenue which also times the development of affordable units closer to the development of the paying market-rate development. It is also important to note that the Mountain View in-lieu fees for its current rental BMR (inclusionary) program are intended to be at a level to generate an equivalent number of units as the inclusionary requirement. Finally, Mountain View's current BMR (inclusionary) policy limits when developers can pay fees in-lieu of development.

In the case of the City's ownership BMR program, the in-lieu fees could generate more units than inclusionary requirements since the money is often leveraged with other funding sources. For example, in a development with 10 market-rate units selling for \$2 million each, the in-lieu fee, 3 percent of the sale price, generates \$600,000, which could be leveraged with other funding sources to develop three affordable units, three times more than the 10 percent inclusionary requirement of one unit. The City is also in the process of reevaluating the BMR ownership program fees and inclusionary requirements.

### Recommendation 6

*Cities with an in-lieu option should raise the fee to at least 30% higher than the inclusionary BMR equivalent where supported by fee studies, by the end of 2019. Cities to respond are Campbell, Cupertino, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.*

City Response: The City of Mountain View believes this recommendation is not warranted.

The City of Mountain View is reevaluating its BMR in-lieu fees. Currently, it has some of the highest housing impact fees in the County. It is a balance to set the BMR in-lieu fees high enough to get a significant number of units, yet not so high that it affects housing production.

### Finding 7

*NIMBY (Not in My Backyard) opposition adversely affects the supply of BMR housing units. Agencies to respond are all 15 cities and the County.*

City Response: The City of Mountain View partially agrees with this finding.

It is important to note that many Mountain View residents are very supportive of affordable housing development (often, market-rate housing receives more opposition). Overall, the number of residents in support of affordable housing development has outnumbered those speaking in opposition at City Council hearings for affordable developments. This support has generated political will to build more affordable housing in the City.

NIMBY opposition may have an effect on whether mixed-income developments are proposed by market-rate developers; however, some developers may fear that new residents may not pay as high of a market rent if the development is mixed income.

### Recommendation 7

*A task force to communicate the value and importance of each city meeting its RHNA objectives for BMR housing should be created and funded by the County and all 15 cities, by June 30, 2019.*

City Response: The City of Mountain View believes this recommendation is not warranted.

Other county groups advocate for affordable housing production and counter NIMBY sentiment through direct outreach. Limited City resources may be better utilized to implement affordable housing programs and continue to provide the community with high-quality development.

Also, NIMBY concern about development is often related to issues other than affordability, such as the size and scale of the development, traffic, parking, infrastructure, schools, and displacement. Therefore, any outreach must also address

those issues, either by putting them in the context of the overall need for housing, or by listening to the concerns and designing projects and policies appropriately.

### Finding 8

*It is unnecessarily difficult to confirm how many BMR units are constructed in a particular year or RHNA cycle because cities and the County only report permitted units. Agencies to respond are all 15 cities and the County.*

City Response: The City of Mountain View agrees with this finding.

Housing reporting includes entitled units (to VTA as the Congestion Management Association), permitted (to the State Department of Housing and Community Development as a part of RHNA), and constructed (to the State Department of Finance), among others. Jurisdiction staffs would appreciate coordination among the different reporting requirements.

### Recommendation 8

*All 15 cities and the County should annually publish the number of constructed BMR units, starting in April 2019.*

City Response: The recommendation has already been implemented.

The location of all the City of Mountain View's affordable and BMR (inclusionary units) is available on the City's website and is updated as necessary.

<https://www.mountainview.gov/depts/comdev/preservation/homebuying/subsidizedrental/default.asp>

<https://www.mountainview.gov/depts/comdev/preservation/homebuying/bmrhousing/units.asp>

EA/5/CDD  
899-09-04-18Res

## Exhibit A

## List of Sites Where Densities Are Increasing

The following list includes all development sites where density is increasing. In most cases, the housing development is replacing commercial or industrial existing uses. The table is organized by status in the permitting process.

Project Address	Estimated Permit Date	Existing Use or Units (Density if Residential)	New Units (Density)	BMR Units
<b><i>Under Construction</i></b>				
779 E Evelyn Avenue*	October 2016	Commercial	116 (60 units/ acre)	116
100 Ferguson Road***	January 2017	Industrial	198 (11 units/acre)	0
2025 San Luis Avenue	April 2017	17 (9 units/acre)	33 (18 units/ acre)	0
1998 Montecito Avenue	May 2017	4 (4 units/acre)	17 (18 units/acre)	1
1701 West El Camino Real***	June 2017	Commercial	67 (137 units/ acre)	67
500 Ferguson Road***	June 2017	Vacant	394 (51 units/acre)	0
2296 Mora Drive	August 2017	Industrial	75 (15 units/acre)	0
400 San Antonio Road***	September 2017	Commercial	583 (101 units/acre)	48
394 Ortega Avenue***	November 2017	1 (<1 unit/acre)	144 (89 units/acre)	5
2268 West El Camino Real***	Early 2018	3 (1 unit/acre)	204 (78 units/acre)	10
277 Fairchild Drive	Mid 2018	Motel	26 (18 units/acre)	0
<b><i>Approved</i></b>				
460 N Shoreline Boulevard	Early 2019	120 (22 units/acre)	170 (32 units/acre)	170
2700 West El Camino Real***	Early 2019	Commercial	211 (93 units/ acre)	11
2580 California Street***	Mid 2019	Commercial	632 (73 units/acre)	14
<b><i>Under Review</i></b>				
1411 West El Camino Real***	Late 2019	Commercial	50 (40 units/acre)	(a)
1313 West El Camino Real***	Late 2019	Commercial	24 (55 units/acre)	(a)
759 W Middlefield Road	2020	Vacant	75 (20 units/ acre)	(a)
1255 Pear Avenue***	2020	Industrial	635 (37 units/acre)	(a)
1696 Villa Street*	2020	19 (6 units/acre)	226 (69 units/acre)	(a)
2645 Fayette Street*	2020	7 (10 units/acre)	44 (66 units/acre)	(a)

<b>Project Address</b>	<b>Estimated Permit Date</b>	<b>Existing Use or Units (Density if Residential)</b>	<b>New Units (Density)</b>	<b>BMR Units</b>
525 E Evelyn Avenue*	2020	Industrial	471 (80 units/acre)	(a)
1001 N Shoreline Boulevard*	2020	Industrial	303 (39 units/acre)	(a)
777 W Middlefield Road*	2020	208 (21 units/acre)	716 (73 units/acre)	(a)
555 W Middlefield Road*	2020	402 (28 units/acre)	743 (51 units/acre)	(a)
355 E Middlefield Road**	2021	Industrial	450 (75 units/acre)	(a)
400 Logue Avenue**	2021	Industrial	412 (165 units/acre)	(a)
500 Moffett Boulevard*	unknown	126 (7 units/acre)	~1,000 (~60 units/acre)	(a)

Notes:

- \* These projects are associated with site-specific rezonings
- \*\* These projects are within a proposed Precise Plan (East Whisman), and will be approved soon after Plan adoption.
- \*\*\* These projects are within a recently adopted Precise Plan (North Bayshore, El Camino Real, San Antonio, South Whisman)
- (a) Under Review projects have not identified final totals of BMR units. All projects will be required to comply with City requirements, including 15% inclusionary for rental projects (or equivalent mitigation) and 10% inclusionary for ownership projects (or equivalent mitigation).

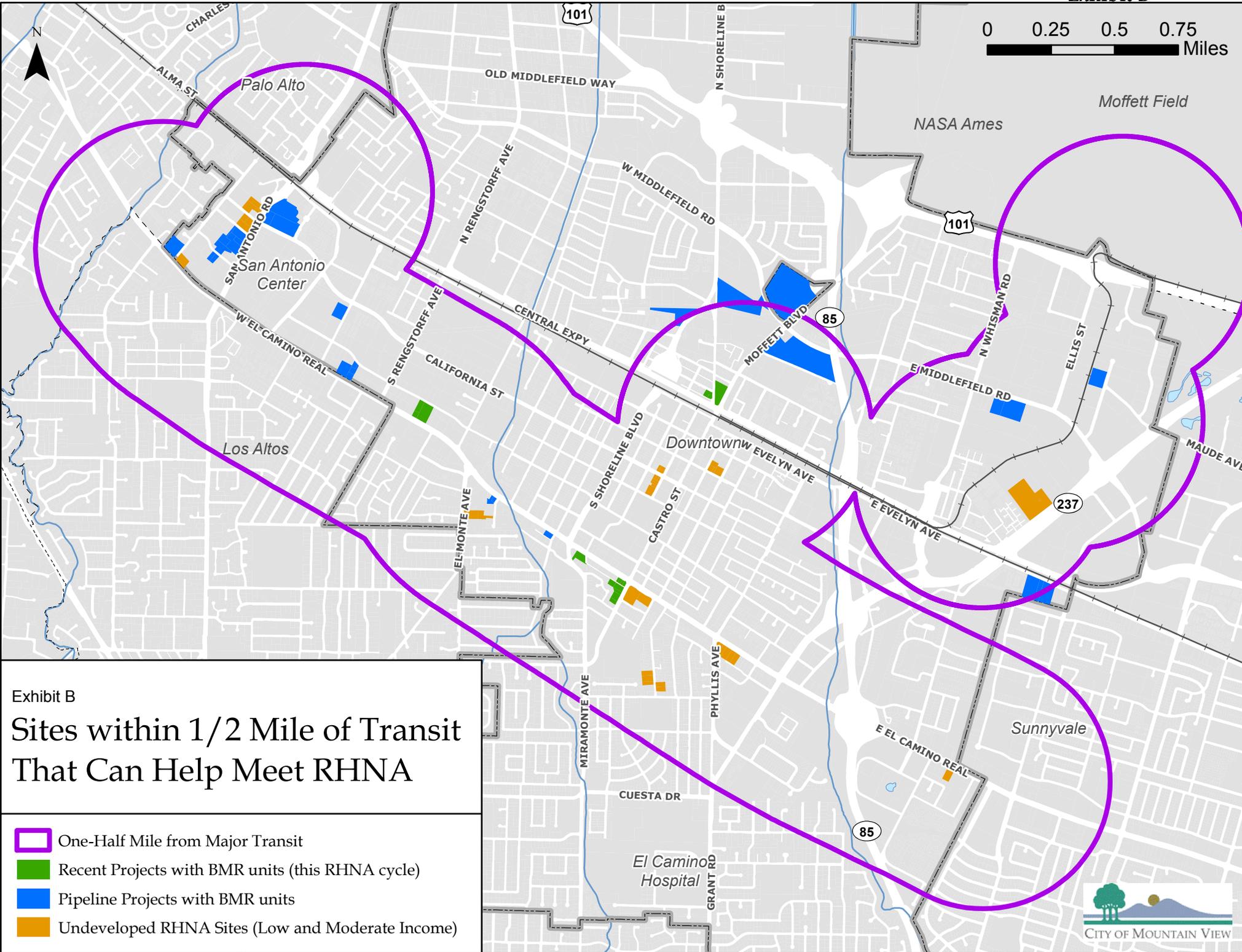


Exhibit B  
Sites within 1/2 Mile of Transit  
That Can Help Meet RHNA

-  One-Half Mile from Major Transit
-  Recent Projects with BMR units (this RHNA cycle)
-  Pipeline Projects with BMR units
-  Undeveloped RHNA Sites (Low and Moderate Income)

