Transit Villages in California:
Progress, Prospects, and Policy Reforms

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1.  California's Transit Village Movement

1.1  Transit and Growth

The State of California has staked a tremendous investment in rail transit systems. Over the last 25 years, more than $14 billion has been invested statewide in metropolitan light rail, heavy rail, and commuter rail transit systems. This amount far exceeds capital investments in rail of any other state. Many new projects, moreover, are in the pipeline, including a proposed high-speed rail system that would traverse the Central Valley, linking Southern California and the San Francisco Bay Area.

The emphasis given to mass transit reflects growing concerns over the acute traffic congestion and air quality problems faced by all metropolitan areas in the state.\(^1\) The only region in the country with worse traffic congestion than the Bay Area is metropolitan Los Angeles. Los Angeles County has consistently ranked number one in terms of traffic delays per mile of freeway every year since 1982, when national statistics on congestion were first compiled.\(^2\) Los Angeles County is also the nation's only extreme non-attainment area for ground-level ozone, a product mainly of tailpipe emissions and meteorological conditions that lead to the formation of photochemical smog. Some observers warn that unchecked traffic congestion poses a serious threat to the state's economy. Traffic delays raise the cost of hauling commercial goods and products, jeopardizes just-in-time manufacturing since parts cannot be punctually delivered, and dissuades new businesses from locating in the state.

Despite the huge investment in rail in California, mass transit continues to serve a declining share of total motorized trips. Every metropolitan area in the state saw transit's share of work trips fall during the 1980s – in the San Francisco Bay Area from 11.9 to 10 percent and in Sacramento, the recipient of a new light rail line, from 3.7 to 2.5 percent. In the six-county SCAG region, transit ridership has fallen in absolute numbers over the last 12 years from 570 million annually to 470 million currently, a loss of 100 million riders.\(^3\) There are many reasons for

\(^1\) Recent statistics underscore the scope of the problem. Bay Area commuters lose more than 90,000 hours a day sitting in traffic jams along congested highways and freeways. The number of congested directional miles throughout the Bay Area increased from 208 to 284 between 1994 and 1996. Sources: Association of Bay Area Governments, Bay Area Futures: Where Will We Live and Work?, Oakland, ABAG, 1997; Bay Area Council, Transportation in the Bay Area: A Call to Action, San Francisco, Bay Area Council, 1998;


\(^3\) The SCAG (Southern California Association of Governments) region comprises the Counties of Los Angeles, Orange, San Bernardino, Riverside, Ventura, and Imperial. Source: Southern California Association of Governments, CommunityLink 21: 98 Regional Transportation Plan, Los Angeles, SCAG, 1998.
these declines, however toward the top of the list has been the fact that development has turn its back on transit in recent times, focused on freeway-served suburban corridors instead. Since the 1973 opening of the Bay Area Rapid Transit (BART) system, over 55 million square feet of private office space has been built along freeways in parts of Alameda and Contra Costa Counties unserved by BART, compared to only 9 million square feet within a half mile of East Bay BART stations (mostly limited to downtown Oakland, Walnut Creek, Pleasant Hill, and Concord).\(^4\)

Among the many strategies being considered to reverse these trends, and thus help reduce traffic congestion and improve environmental quality, coordinated transit and land development has gained increasing attention in recent years. Transit-oriented development (TOD), research suggests, can reduce the demand for automobile travel and, under the right conditions, help curb urban sprawl.

1.2 Rationales for State Involvement

There are several compelling reasons why the State of California should seriously consider promoting transit oriented development. One, there is a tremendous sunk investment in rail capital facilities statewide. To ignore the potential for intensifying land uses and promoting redevelopment would be imprudent. Every effort should be made to capitalize on these costly investments. The most important benefit of TOD is increased ridership. To the degree new riders are former motorists, this removes cars from crowded streets and improves air quality. In financial terms, fewer cars relieves the pressure to build new roads and expand existing ones. Reducing capital outlays for highway infrastructure not only saves tax dollars but also reduces environmental and social risks associated with road expansion. Thus, a stronger state commitment to transit-supportive development is important, if for no other reason than fiduciary responsibility -- i.e., to ensure reasonable return on state taxpayers’ investments.

A second rationale for encouraging TOD is to increase the supply of affordable housing. Many Californians cannot afford to own a home. According to the National Homebuilders Association, four of the ten least affordable metropolitan areas are in the state -- San Francisco, Los Angeles, San Jose, and Orange County. Presently, California has one of the lowest home ownership rates in the country -- only 56 percent of all housing is owner occupied, compared to a national average of 66 percent.\(^5\) Transit stops are natural habitats for concentrating higher density, and thus more affordable, housing. The high accessibility afforded by living near a rail


transit stop can reduce transportation expenditures, such as the need to own a second car. It is for this very reason that efforts are under way to promote efficient location mortgages as a means of incentivizing the development of housing near transit stations.

The State legislature has, in the past, sought to promote TOD. The most substantial legislation passed to date has been the Transit Village Planning Development Act of 1994. The Act encourages cities and counties to build high-density housing and more concentrated development around rail stations throughout the state. The original bill sought to form “transit village districts”, similar to redevelopment districts, which would extend land assemblage and tax-increment financing powers and privileges to designated station areas, even if these areas are not blighted (and thus are not statutorily defined as redevelopment districts). Because of political opposition, these and other provisions were later stripped from the bill. The final legislation, signed by Governor Wilson, encouraged localities to prepare transit village plans, but failed to expand the authority of local jurisdictions over land development or provide earmarked funds to promote TOD.

1.3 Purpose of Study

Although the Transit Village Planning Act has been on the books for some four years, to date there has been no concerted effort to evaluate its impacts on station-area development or transit usage, or to investigate ways of strengthening the legislation. This study seeks to fill this gap. Through literature reviews and interviews, I assess the degree to which the Act has influenced planning and land development around rail stations throughout the state. Based on this assessment and opinions of various stakeholders and interest groups, recommendations are offered on the kinds of state initiatives that would be most effective in promoting TOD. An effort is made to define the proper role of state government in this arena. Ways of enhancing and potentially revising existing legislation for purposes of better achieving the original intentions of the Transit Village Planning Act are also suggested.

1.4 Transit Village: What Is It?

At the outset, it is important to clarify what is meant by “transit village” and distinguish it from the more generic term of transit-oriented development, or TOD. At its core, a transit village

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6The original bill sought to exempt Transit Village Planning Districts from the requirement of establishing physical and economic “blight”, thus granting redevelopment powers to areas, regardless if they are depressed or not, that have high TOD potential. Among the powers vested in California’s redevelopment authorities are: the authority to buy real property including, if necessary, the power to exercise eminent domain; the authority to develop properties; the authority to finance projects by borrowing from federal or state governments and sell bonds; and the authority to enact land use and development controls. See: D. Beatty, et al., Redevelopment in California, Point Arena, California, Solano Press Books, 1994.

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is “a compact, mixed-use community, centered around a transit station that, by design, invites residents, workers, and shoppers to drive their cars less and ride mass transportation more”.

Geographically, it extends anywhere between a quarter to a half of a mile from a transit station, a distance that can be covered in about five minutes by foot. The centerpiece of a transit village is the transit station itself and the civic and public spaces and activities that surround it. The transit station functions as the window to the region: it is what connects village residents and workers to the rest of the metropolis, providing convenient and ready access to downtown, shopping centers, employment sites, and other major destination.

The concept of a transit village, it is important to note, embodies not only land uses, but also normative principles of urban design and community development. Transit villages share many of the design features of traditional neighborhoods, today popularized by the New Urbanism movement, such as: well-connected streets, varying styles and densities of housing, a commercial core within walking distance of a majority of residents, and pedestrian-friendly designs, like internal pathways and tree-lined avenues. Transit villages also seek, in combination with other measures, to increase the social and cultural diversity of communities, and bind people more closely to where they live by instilling a sense of neighborhood pride and belonging. Transit villages can also serve as catalysts to economic and community redevelopment by spawning various co-ventures, like joint development (e.g., building a retail store adjacent to a transit station and generating lease revenues to a transit agency), station-area concessions (e.g., fruit stalls at farmers' markets), and community-based services (e.g., community-run jitneys that connect residents with a station).

Transit village design principles are not just the dreams of reform-minded planners. There is a growing market of people who want to live in well-designed and planning transit villages. According to a survey of 1,650 people shopping for homes in several states, 80 percent have “a nostalgia for communities with a distinct identity and character”.

Nearly three quarters of those surveyed said they would prefer to live “where I can walk or bicycle everywhere”. In the Silicon Valley, a survey revealed that a sizable portion of high-tech workers would be willing to live in attached homes or dwellings on smaller lots if it meant lower housing prices or shorter commutes.

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1.5 Study Approach

This research relied on a combination of literature reviews, informant interviews, and field visits in evaluating issues related to transit village development throughout the state. The aim was to gain insight into the breadth of concerns related to transit-oriented development from the perspective of different stakeholders. Discussions focused on current barriers to TOD, and the most promising ways -- including public policy initiatives -- of overcoming these barriers. While views differed somewhat among interviewees -- whether developers or state officials, local planners or building industry representatives -- areas emerged where there was a fair degree of consensus. In culling through interview notes, I tried to find common ground upon which a revitalized transit village development initiative could be designed around.

Field visits were made to all parts of the state with existing and planned metropolitan rail systems: Los Angeles, Orange County, Sacramento, San Diego, San Francisco-Oakland, San Jose-Santa Clara Valley, and San Mateo County. Among those interviewed from the public sector were staff from regional planning organizations, transit agencies, local governments, redevelopment authorities, air quality districts, congestion management agencies, and state offices. From the private sector, I met with developers with TOD experience as well as representatives from building industry and business associations. Through the course of contacting people who were in a position to respond to the Transit Village Development Planning Act, recommendations were made regarding other knowledgeable individuals to interview, providing a useful network of contacts for carrying out this research. Appendix A lists the individuals who took part in the interviews.

Most interviews were carried out over a half to one hour period. The format was open-ended; interviewees were allowed to elaborate on questions and topics as they saw fit. Among the questions posed during interviews were:

- Are you familiar with the Transit Village Development Planning Act and its provisions?
- Has the Act influenced TOD planning in your jurisdiction?
- Have Transit Village Districts (TVDs) been formed under the authority of the Act?
- What have been the most significant barriers to TOD planning and the formation of TVDs?
- What statutory and regulatory changes, if any, would you recommend to the Transit Village Development Planning Act?

Most interviews were conducted in person, one on one. In the cases of the Los Angeles Metropolitan Transportation Authority, Orange County Transportation Authority, Southern California Association of Governments, and San Diego Association of Governments, interviews took the form of a group meeting with five or more staff members. Because of scheduling conflicts, a few of the interviews were conducted by telephone.
2. Previous State Legislation on Transit Oriented Development

To date, there have been three key legislative initiatives to promote TOD in the state: Senate Bill 2559 of 1990; Assembly Bill 3152 (Transit Village Development Planning Act); and Assembly Bill 1338. This section reviews these initiatives with regard to legislative intent and current standing. Additionally, Senate Bill 45 -- which significantly altered the political landscape for the programming of transportation investments in the state -- is discussed in terms of its implications for transit village development.

2.1 Senate Bill 2559

Passed in 1990, this bill represents the state's first significant foray into the area of transit-oriented planning and development. The bill required Caltrans -- in cooperation with the California Transportation Commission (CTC) -- to select at least three demonstration sites to pilot-test the effectiveness of increasing residential densities within one-half mile of rail transit stations. The aim was to demonstrate the advantages of coordinating land-use and transportation planning in optimizing the public's investment in mass transit. One of the most important provisions of the bill was the requirement that localities, in conjunction with the demonstration program, grant density bonuses to developer of transit-based housing.

The requirements of the legislation, for various reasons, have not been implemented. One impediment was the passage of AB 2824 in 1992, which suspended requirements that state agencies prepare new reports for the legislature. This bill was interpreted to mean that Caltrans was relieved of the requirement to carry out a full-blown demonstration. More seriously, however, was the fact that AB 2559 appropriated no funds to either entice local governments to become demonstration sites or for state planners to evaluate the success (or failures) of the pilot efforts.12 Additionally, the bill never clarified what was meant by a "project" -- most notably, whether demonstration funding support would be directed at public agencies (i.e., transit agencies, redevelopment authorities) or private interests (e.g., non-profit housing corporations).

Caltrans prepared and issued a document, titled Preliminary Report on the High Density Housing Near Guideway Stations Demonstration Program, that listed 14 projects that local staff were willing to describe as part of a survey (and, implicitly, although not stated in the report, would constitute candidate demonstration projects).13 A final report was promised for January 1,
1996, but was never prepared.

In response to the spirit, if not the language, of SB 2559, the expectation was that the California Transportation Commission (CTC) would give extra “points” to transit capital projects that promote and leverage transit-oriented development (TOD) in allocating discretionary funds as part of the State Transportation Improvements Programming (STIP) process. While some Commissioners argued strenuously to formalize such a process, criteria were never defined. Evidently, as far as I could ascertain, this was a result of the following series of events that worked against including TOD projects as STIPs were being developed:

- **1990-91 STIP**: Local agencies were able to bid for STIP funds for projects conducive to TOD (e.g., through the Flexible Congestion Relief program), however since the TOD concept was in its infancy at the time, this did not happen. The absence of explicit criteria (then as well as now) as to what constitutes capital projects that are supportive of TOD was a further inhibitor. Reputedly, Commissioners did weigh matters like TOD when allocating funds through the Transit Capital Improvement Program, though how this was done was never explicit.

- **1992-93 STIP**: By this time, Caltrans was supposed to have established criteria, in response to SB 2559, for input into the preparation of the 1992-93 STIP. CTC maintains SB 2559 was a factor considered in funding two projects in the Bay Area (transit transfer centers in West Oakland and Newark) and one in Sacramento (a light rail extension to an intercity train station), in keeping the three project minimum of the bill. None, however, had anything to do with directly promoting or leveraging high-density station-area housing, which was focus of SB 2559. Rather, these funds went directly to capital facilities that were not tied to a Specific Plan committed to any form of transit-oriented development. And only in the case of the Sacramento project was reference made directly to SB 2559: “This project is one of the new transit stations to be included in the High Density Housing Demonstration Program authorized by Senate Bill 2559 (L. Green, 1990)”\(^1\). In the absence of clear definition on what constitutes a “demonstration”, interpretation was left in the hands of CalTrans. CTC purportedly considered projects

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Transportation Authority, Sacramento Regional Transit District, San Diego Metropolitan Transit Development Board, San Francisco Bay Area Rapid Transit District, San Francisco Peninsula Commute Joint Powers Board, and Santa Clara County Transit District.

\(^1\) In the 1992-93 STIP, the two Bay Area projects were programmed for a total of $1.3 million, however none was identified, in language, as a demonstration project in response to SB 2559. The $15.9 million programmed to extend a Sacramento light rail line to an intercity rail terminal was expected to “serve a redevelopment area that will included approximately 2,400 residential units in densities ranging from 50 to 100 units per acre in buildings with 3 to 15 floors”. California Transportation Commission, 1992 State Transportation Improvement Program: Commission Staff Recommendations, February 29, 1992.

\(^{13}\) *Ibid.*, “Sacramento County”, unpaginated.
viewed as favorable to TOD more positively in preparing the 1992-93 STIP, however applicable criteria were evidently never specified.

*1994-95: The failure of two state bond referenda in 1994 (Propositions 156 and 181) meant that no new capital projects were programmed in the 1994-95 STIP, precluding the ability to implement TOD under SB 2559. Purportedly, CTC adopted programming criteria in 1995 that gave priority to transit projects that incorporated high-density zoning near stations, however no documentation of this criteria could be found.

*1996-97: By 1996, the state faced a $600 million-plus capital shortfall for transportation projects, in the wake of an economic recession. Consequently, there was little programming of new transit capital projects that year.

As noted below in section 2.4, Senate Bill 45 substantially altered the political landscape for the programming of capital transportation projects in 1997 and thereafter. Prior to this time, CTC had the ability to “cherry pick” projects, using residual discretionary funds, that supported TOD. With SB45, these powers have substantially devolved to the local and regional levels.

2.2 Assembly Bill 3152: The California Transit Village Development Planning Act

The Transit Village Development Planning Act,16 enacted in 1994, encourages local governments (municipalities, counties, special authorities) to develop transit village development plans, adopted in the same manner as general plans, in order to “direct new development close to the transit stations” and to “provide financial incentives to implement these plans”.17 The Act identifies a transit village as a mixed-use neighborhood conducive to transit riding that lies within a quarter mile of a transit station. Besides a mix of housing, transit villages also contain retail districts and civic uses, which might include, as stated in the Act, day care centers and libraries. The Act also identifies "attractively designed and landscaped pathways" that promote pedestrian and bicycle access to transit stops as prominent features of a transit village. It is noted that while a transit village contains many land uses, existing statutory law (e.g., redevelopment requirements; CEQA exemptions) is focused primarily on the production of affordable housing, certainly a worthy endeavor but only one of many elements that constitute a transit village.18

16 California Government Code § 65460.

17 § 65460.3.

18 Among the purported public benefits, beyond the increase in transit usage, of a transit village that are identified in the Act are: reduced traffic congestion; improved air quality; increased transit revenue yields; more affordable housing; inner-city redevelopment; live-travel options for transit-needy groups; increased infill and preservation of natural resources; increased safety around transit stations; reduction in separate trips for shopping and consumer services; promotion of new job opportunities; increased sales and property tax revenues; and reduced energy consumption. Some of these purported benefits (e.g., increased sale tax...
Among the important provisions of the Act, a transit village plan may include sites where density bonuses of at least 25 percent are granted, at the discretion of local governments.\(^{19}\) Moreover, transit village district impacts can, at local discretion, be excluded from the determination of conformance with level of service standards required by the congestion management laws of California, thereby allowing greater density in infill areas than could otherwise be achieved without requiring additional transportation infrastructure.\(^{20}\) This is viewed as the most significant element of the existing Transit Village Development Planning Act and, all sides agree, should be retained in any subsequent amendments to the Act. Most other provisions of the Act, however, fail to extend existing state planning law and entitlements, and therefore their inclusion are of questionable value:

- Under the Act, a city or county establishing a transit village development district and preparing a transit village development plan is eligible for available transportation funding and will receive assistance in establishing an expedited permit process.\(^{21}\) Because planning and capital improvement funds are often restricted to specific purposes, and if they are not, they are by default “available” to programs like transit village planning, the Act’s “funding eligibility” provision offers no incentive. Similarly, cities and counties are already eligible to receive state assistance in designing a streamlined permitting process, whether for a transit village district, any other subarea, or the jurisdiction at large.

\(^{19}\) § 65460(2)(g). The draft Bill proposed a mandatory 50 percent density bonuses, however this was reduced to 25 percent and made optional, at the discretion of local governments, in the final Bill. Among the other provisions of the original bill, that were latter removed, were: extension of redevelopment powers of land assembly and tax increment financing, to transit village districts; the power to divert low- and moderate-income housing funds to transit village districts; and local underwriting and subordination of loans for financing multifamily rental housing construction.

\(^{20}\) Id. at § 65460.0. With the voter approval of Proposition 111 in 1990, Congestion Management Agencies were created for purposes of maintained specific levels of service on regional significant roadways. If a local government fails to comply with a County’s Congestion Management Plan, the State Controller is obligated to withhold that jurisdiction’s apportionment of the increased gas tax revenues generated by Proposition 111.

\(^{21}\) Id. at § 65460.5.
• No local public works project may be approved, no tentative map or parcel map for which a tentative map was not required may be approved, and no zoning ordinance may be adopted or amended within an area covered by a transit village plan unless they are consistent with the adopted transit village plan. This provision simply echoes current state land-use planning law.

In a recent article, Michael Bernick and Amy Freilich, two land-use lawyers, interpreted the Act as a more narrowly defined version of concurrency legislation, as found in states like Florida and Washington. Concurrence laws mandate investments in adequate public infrastructure to accommodate planned growth. An alternative interpretation is that the Transit Village Act works oppositely; instead of mandating that new growth be accommodated by existing or planned transportation facilities, the Act promotes growth near existing or planned transportation nodes. As such, it encourages localities to capitalize upon the development potential afforded by regional transit investments as opposed to solely investing in new infrastructure.

2.3 Assembly Bill 1338

Realizing that limited funding for advanced planning was inhibiting transit village development, this bill, sponsored by Assembly member Sweeney in the Spring of 1995, would have established a revolving loan account (drawn from federal and state planning monies) for preparing specific transit village plans. The bill was passed by the Legislature, but subsequently vetoed by the Governor. The veto, most observers agree, had more to do with the general fiscal mood of the time than with opposition to the principle of transit village development. Still, the veto underscores the reality that transit-oriented development remains far down the priority list of many politicians and that transit villages must still win over a lot of political converts in California and elsewhere.

2.4 Senate Bill 45

A watershed in state transportation funding, this Bill, enacted in 1997, substantially shifts the responsibility to selecting and programming transportation capital improvements to the regional and local levels. Among its most important features, the bill establishes two funding programs: (1) the regional program, constituting 75 percent of new state transportation funds that are apportioned to counties (based on population and roadway mileage) (i.e., RTIP -- Regional Transportation Improvement Program funds); and (2) the interregional program, making up 25

\[22\] 65460.9.

percent of the total (i.e., ITIP -- Interregional Transportation Improvement Program funds), targeted at interregional projects nominated to CTC by Caltrans. (Portions of the interregional pot are available for inter-city rail capital projects.) In adopting a STIP, CTC must accept the entire list of regional projects either in full or not at all. This all-or-nothing provision has, de facto, forced the state to accede to the wishes of localities for three-quarters of the statewide capital funding of transportation projects.

Institutional arrangements for preparing RTIPs vary across the state (under the 1998-99 STIP process). In Southern California, RTIPs are controlled by counties, whereas in the Bay Area, the Metropolitan Transportation Commission (MTC) allocates funds (provided that county apportionments deviate no more than 15 percent from the statewide formula for county distributions).

3. Impact of the Transit Village Planning Act to Date

3.1 Awareness and Familiarity With the Act

Public Sector

From the interviews, it was evident that very few transportation professionals and planners, including those who work directly in the transit development field, were very familiar with the Transit Village Planning Development Act. A number of individuals were vaguely familiar with the Act, however in the case of all interviews, I had to review specific provisions of the Act at the outset. Interviewees stated that they were not inclined to learn about the Act and its provisions because of its shortcomings.

Private Interests

None of the ten developers who were interviewed knew much about the 1994 Act. This is understandable in that the Act was written mainly to promote TOD planning at the municipal and county levels.

3.2 Projects Influenced by the Act to Date

Based on interviews with key staff members from rail transit agencies across the state, it appears that no Transit Village Planning Districts have been created to date in response to the Act. No instances could be found where districts have been formally established or where efforts have been made to apply or exploit provisions of the Act. In fact, no one -- whether from regional transit agencies, state agencies, or local governments -- could cite an instance where the Act was acknowledged or referenced to by elected officials or others to leverage or more broadly promote TOD planning, such as in the application of federal Livable Communities grants. Some
attributed this to a lack of marketing and the pre-occupation of local officials with other pressing matters, however most interviewees attributed inaction to the Act’s meager incentives.

The very fact that the Act is little known and has never been applied speaks volumes. In its current form, the Act appears to have little to offer. Among the adjectives used to describe the Act among interviewees was “toothless”, “perfunctory”, and “worthless”.

The current Act’s weaknesses, however, has not stood in the way of transit-oriented development in California. As discussed in the next section, a fair amount of housing and office development has been sited near rail stops throughout the state over the past decade, however a good amount of this would likely not have been built without the powers and privileges conferred by redevelopment law.

4. Recent Transit-Oriented Development in California

All transit agencies operating rail systems in the state promote integrated transit and urban development in one way or another. All have embraced transit-supportive site design and welcome public-private joint development opportunities. Design documents and guidelines that promote and market the concept of transit-oriented development are today commonplace throughout the state. San Diego’s Metropolitan Transit Development Board has even created a videotape, Cities in Balance: Creating the Transit Friendly Environment, as a complement to its design guidelines.

California’s transit-oriented developments, notably housing projects, have been described and inventoried in a series of studies and reports over the past decade. For the most complete inventory of statewide transit-based housing, up to 1995, see the report, Transit-Based Housing in California: Profiles. This section briefly describes some of the largest TOD projects recently built in the state.

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4.1 San Francisco Bay Area

The presence of BART -- whose 1973 opening marked the first regional rail system built in the United States in over a half century -- has provided more opportunities for TOD in the Bay Area than anywhere in the state. Several localities have been particularly pro-active in promoting mixed-use development near BART stations. In all, some 10,000 transit-based housing units have been built in the San Francisco Bay Area since 1985.26

BART

To date, the most noteworthy concentrations of TOD have been built around these BART stations, in most instances relying to some degree on the powers of California redevelopment law.

- **Pleasant Hill**: More than a million square feet of class A office-commercial space and 2,000 housing units have been built near the Pleasant Hill station, transforming a once-dormant unincorporated part of Contra Costa County into what is arguably the most substantial transit-village-like development so far in the state. Three factors account for Pleasant Hill’s success: one, the creation of a Specific Plan in the early 1980s that served as a blueprint for guiding growth over the ensuing 15 years; second, the existence of a pro-active redevelopment authority whose staff aggressively pursued the plan by assembling irregular plots into developable parcels and issuing tax-exempt bonds to finance supportive infrastructure; and third, having a local elected official who became the project’s “political champion”, working tirelessly to shepherd the project through to implementation. Plans to convert two BART parking lots into a large-scale entertainment center was recently stopped because of strong neighborhood opposition.

- **Walnut Creek**: The BART station area around Walnut Creek has emerged as one of the Bay Area’s premier edge cities. Nearly 4 million square feet of modern office space has been built nearby, more than around any station outside of downtown San Francisco. Unlike elsewhere in the East Bay, a strong market for office development in the early 1980s obviated the need to form a redevelopment district around the station. By the late 1980s, however, Walnut Creek’s office boom had petered out, partly because of a community backlash against escalating traffic congestion (which led to the passage of a growth moratorium, since repealed).

- **Concord**: Today, around 2.7 million square feet of office development surrounds the Concord station, aided the city’s redevelopment office that assisted through land assemblage and tax-increment financing of complementary public improvements.

- **El Cerrito Del Norte**: Using tax-increment financing to underwrite the cost of assembling land, the city of El Cerrito’s redevelopment authority worked closely with a

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developer to complete a 135-unit apartment complex with 19,000 square feet of ground-floor retail. As in the case of Pleasant Hill, a proposal to build a large-scale mixed-use center on BART parking at the Del Norte station has stalled because of neighborhood opposition and financing difficulties.

• Fruitvale: With assistance from the federal government, the city of Oakland, private foundations, and redevelopment planning, a model urban transit village is today taking from at and around the Fruitvale station. The first stage of development features 67 units of low-income senior housing. An intermodal facility is currently being constructed. The village station area is to have a child care center, senior center, public library, office and retail space, and medical facility. Alameda County is providing new parking to replace surface BART parking removed by the development.

• Fremont: Some 350,000 square feet of offices, 125,000 square feet of retail, and 800 condominium units have been since BART first appeared some 25 years ago, forming what by all appearances is the city’s pre-eminent center.

• Castro Valley: The newest addition to BART’s stock of transit-based housing, the Strobridge housing complex, built by the Bridge Housing Corporation next to the Castro Valley station, provides 96 affordable units targeted at seniors and families.

Santa Clara Valley

In the South Bay, over 3,000 apartments and condominium units have been built near light-rail stops over the past five years. As part of Santa Clara County’s Housing Initiative Program, plans call for an additional four to five thousand units of moderate-density housing (at 12 to 40 units per acre) near light rail stations over the coming five years. San Jose recently created a “Transit Corridor High-Density Residential” zone for properties along the city’s light rail corridor.

Among the area’s most significant TOD projects completed or nearing completion are:

• Almaden light rail station: Currently, the Almaden Lake Village project, consisting of 250 units of high-density apartments, is under construction on portions of the park-and-ride lot for the Almaden Station. Slated for late-1998 occupancy, the projects is being built at a density of 47 units per net acre, high by county standards.

• Ohlone-Chynoweth light rail station: Using redevelopment tools, a 195-unit apartment complex is currently being built atop underutilized parking at an in-city station, to be complemented by a small retail component and on-site child care center.

• Mountain View commuter rail station: The city of Mountain View has managed to successfully recycle a failed shopping mall by transforming the site into a compact, mixed-
use neighborhood clustered near the CalTrain commuter rail station. The Crossings features 540 single and multi-family homes, catering to middle- and upper-middle income households. The project’s residential density of 30 units per acre is well above the citywide average of 8 units per acre. Also nearby are a supermarket, several retailers, and a daycare center. To leverage this development, the city created a new Transit Overlay Zone that allows higher densities, up to a maximum of 50 percent, within 2,000 feet of transit stations.

* Tamien multimodal station: On what used to be a parking lot at the Tamien Caltrain station, which also serves as a light rail and bus stop, the Tamien Child Care Center recently opened. Funded partly by ISTEIA intermodal funds, the project aims to allow parents dropping off kids en route to work to consolidate their trip destinations. Surveys show that 17 percent of parents and 30 percent of center employees commute via transit.

Elsewhere

Elsewhere in the Bay Area, efforts are underway to create transit villages along the BART airport extension in San Mateo County and a planned light rail system in central Marin County. Appendix B discusses planning activities taking place at the Millbrae station.

4.2 San Diego County

During the 1990s, the San Diego region has embraced TOD planning and design more aggressively than any part of the state. The regional planning organization, the San Diego Association of Governments (SANDAG), has maintained a high profile in promoting transit-supportive development. In 1995, SANDAG approved a “Land Use Distribution Element” that encourages mixed-use, infill development oriented toward rail transit. To support urban rail services, the policy calls for minimum residential densities of 20 units per acre and job sites with at least 45 workers per acre. Figure 1 shows the “Rail Transit Focus Areas” of the distribution element.

Several cities are in the process of implementing recommendations of the Land Use Distribution Element by creating specific plans that embrace transit-oriented designs. Leading the way is the city of San Diego, which has incorporated its Transit-Oriented Design Guidelines into several specific plans. A few years ago, the city replaced Euclidean zoning with a novel land guidance system that rewards mixed-use, infill development near Trolley stops. Also, a “floating” Urban Village Overlay Zone has been created wherein developers can apply TOD principles to any site adjacent to a planned or existing transit station. The zone specifies minimum percentages of land development to a mixed-use core (10 percent), residential use (20 percent), and public use (10 percent). Recently, the 4S Ranch project on the northern edge of the city was allowed to increase from 5,000 to 10,000 proposed housing units in return for a design commitment to pedestrian-friendly, transit-oriented development.

Figure 1. Rail Transit "Focus Areas", Under SANDAG's Land Use Distribution Program
The region's transit authority, the Metropolitan Transit Development Board (MTDB), has also been a leader in transit-supportive projects. The MTS/Mills Building and One America Plaza are distinguished by trolley stops built directly into their structures. As the downtown Broadway-Kettner station's flagship project, the 900,000 square foot mixed-use structure, San Diego's tallest, features office space, a 272-room hotel, an art museum, and ground-level specialty retail and restaurants. Also active in the downtown has been the Centre City Development Corporation (CCDC), responsible for redeveloping the core. Through CCDC efforts, a revitalized in-city retail-entertainment-residential district has formed along the San Diego Trolley corridor.

Outside of downtown, most land-use changes around trolley stops have occurred in two cities: La Mesa and San Diego. In both cases, pro-active planning and redevelopment assistance paved the way for TOD. The most prominent projects have been the following:

- **Villages of La Mesa**: This 384-unit apartment complex adjacent to the Amaya Avenue trolley station was underwritten by tax-increment financing. Prior to project occupancy in 1989, the MTDB relocated the original station site and traded land with the developer to ensure better station access for nearby residents.

- **La Mesa Village Plaza**: This mid-rise project of 99 condominium units, ground-floor retail, and upper-level offices was leveraged by the La Mesa Redevelopment Agency agreeing to discount land costs.

- **Barrio Logan**: The colorful 144-unit Mercado Apartment complex was recently built in this low-income, predominantly Latino community. A creative financing package was crafted to make the project work, involving both private lenders and four different public agencies. A large commercial center anchored by a supermarket and cultural museum is also planned for the area.

- **Creekside Villas**: This 144-unit garden-style, below-market-rate apartment complex is adjoined by a child care, one of five trolley station areas with a nearby day care facilities.

As San Diego aggressively extends new trolley lines, many new opportunities for TOD have surfaced. The city has high hopes for the new Mission Valley line, which crosses the San Diego River three times in order to maximize development potential. The design guidelines for one of the largest planned projects, Rio Vista West, call for a traditional, pedestrian-friendly mixed-use village of some 60 units per acre. Recent construction, however, has taken on a decidedly traditional suburban appearance. The master-developer now calls the project a "semi-TOD". Other areas in the region committed to TOD include Chula Vista, Coronado, Lemon Grove, San Marcos, and the planned Otay Ranch development (slated for 24,000 residential units that, developers hope, will one day be directly served by new trolley extensions). Moreover, two affluent cities in the north county, Oceanside and Carlsbad, are currently crafting specific plans that incorporate TOD design principles for large open tracts near Coaster commuter rail stops.
4.3 Los Angeles County

The city of Los Angeles, under its Neighborhood Initiatives, has approached TOD from a bottom-up perspective, encouraging small-scale, community-based involvement in everything from local planning to owning and operating smart shuttle services to rail nodes. Current policy calls for 75 percent of new residential growth to be on 5 percent of city land, primarily within a half mile radius of rail stations and bus stops. Also, the Los Angeles Metropolitan Transportation Authority (MTA) aggressively pursued joint development during the early 1990s, however because of budget pressures, has shifted its focus almost entirely to capital investments and strengthening bus services.

Among the largest TOD projects in Los Angeles County either built or under way are the following:

- **Union Station Gateway**: Surrounding the region’s inter-modal rail hub are several high-rise towers that serve as headquarters for MTA and the Department of Water & Power, with plans in the works for developing 16 other parcels into high-end commercial uses in coming years.

- **Grand Central Market Project**: Across from the downtown Pershing Square Red Line station, this ambitious mixed-use project is being supported by $44 million in bonds issued by the Community Redevelopment Agency.

- **Pacific Court**: As much a redevelopment project as a transit-based housing one, this 142-unit apartments complex sits above two retail floors in downtown Long Beach. Mello-Roos bond financing was critical in reviving this strategic downtown parcel.\(^{27}\) Adjacent to housing is the Pine Court project which features a 16-screen movie theaters, restaurants, and small shops.

- **Holly Street Village**: Portions of this 374-unit apartment sits above tracks reserved for the Blue Line extension to Pasadena. The Pasadena Redevelopment Agency contributed $6.9 million in low-interest loans, as well as $7.2 million in tax-exempt bonds, to underwrite the project. Financial troubles currently facing MTA cast some doubt over whether the Blue Line extension will get built in the foreseeable future.

Elsewhere in the region, relatively little has happened around rail stations. TOD plans have been proposed for several stations in south-central Los Angeles, including Slauson, Florence, Firestone, and Imperial. At the planned Hollywood/Highland station, construction of a massive entertainment-retail complex is moving forward.

\(^{27}\) Under the Mello-Roos Community Facilities District Act of 1982, communities may sell bonds secured by and payable from an annual tax levied on property owners within an established district.
4.4 Sacramento

Sacramento County was one of the first jurisdictions in the country to adopt a mixed-use TOD ordinance. Over the past year, however, the county has scaled back the ordinance, an acquiescence to market pressures that favor traditional suburban patterns of development. The city of Sacramento, however, has recently reaffirmed its commitment to TOD. Several new state office buildings recently opened near the 29th Street station, in part because of a legislative mandate that all new state offices built within the city must be sited near rail stops. Near the Granite Park light rail station, some 3.6 million square feet in mixed-use development has been programmed. Plans call for an adaptive re-use of historic industrial buildings for residential and commercial purposes near four light-rail stations along the R Street Corridor. The Sacramento Metropolitan Air Quality Management District (SMAQMD) has also entered the scene as of late, sponsoring a demonstration project that applies a “what-if” GIS-based computer package, called “Index”, for testing the impacts of TOD proposals for neighborhoods surrounding the 59th and 65th Street light-rail stations.

4.5 Auto-Oriented Development in Transit Settings

Despite these successes, the track record with TOD in California has not always been positive. As noted, far more growth in the Bay Area has been auto-oriented than transit-oriented, despite BART’s 25 year presence. A number of stations along Sacramento’s light rail line have attracted big-box retail projects; despite repeated efforts by the Sacramento Regional Transit Authority to promote TOD, in the final analysis, the prospect of localities receiving large sums of sales tax revenues won out over regional concerns, like TOD. Similar pressures for auto-oriented development (mainly big-box retail) have recently surfaced at the South San Francisco BART station.

4.6 Summary

It is noted that much of the TOD activity to date in the state has occurred within, and by applying the special powers of, redevelopment districts. Each successful project benefitted from a unique set of circumstances. What is common in all instances is some level of public involvement and support, without which the project would not have been completed. Where governments prime the pump, sometimes impressive land-use changes occur. Where they sit idly, waiting for the marketplace to run its course, little often happens.

So far, little in the way of TOD has occurred in infill or greenfield sites outside of redevelopment zones. Accordingly, one could argue that special legislation is needed to promote more efficient patterns of development around suburban transit stops and other areas outside of “physically and economically blighted” areas. The need seems all the more imperative given that state law has stiffened the requirements for forming redevelopment districts. In fact, many of the
state’s TODs (e.g., Pleasant Hill, Holly Street, La Mesa Village) would not qualify as redevelopment districts under current statutory law.

5. Initiatives to Encourage Transit-Oriented Development

Virtually all of the tools applied to date in California to promote and leverage transit-oriented development are residual powers granted by state government to localities and other sub-state jurisdictions, like special transit authorities. As creatures of state governments, localities and special authorities rely upon enabling legislation that defines the legal domain and parameters around which they can carry out their responsibilities. Many local actions, like special zoning, are legally defined as police powers that enable cities and counties to protect the public health, safety and welfare of their residents. Most other powers, especially those of special authorities, rely on the passage of enabling legislation and statutory law.

Based on the experiences reviewed in the previous section, the three key players in promoting TOD in California have been redevelopment authorities, transit agencies, and municipalities, roughly in that order of importance. Table 1 summarizes the key tools applied to date to bring about some form of TOD around the state’s rail systems. Ultimately, any successful TOD will require local buy-in. Land use is and will always remain a local prerogative, thus the future of transit villages will, in the final analysis, depend on bottom-up initiatives. Particularly important will be commitments and pro-active involvement of localities, to match some of the strides already made to date by the state’s redevelopment agencies and rail transit operators.

The following sections expands upon Table 1 by briefly reviewing the key roles played by each of the key public entities to date, and what most likely will be required in the future, to promote TOD.

5.1 Redevelopment Agencies

As noted, redevelopment agencies have been the catalysts to much of the TOD that has occurred in the state to date. They have not only donated land, but have also assisted with its assemblage - e.g., Villages of La Mesa, La Mesa Village, and Mercado at Barrio Logan in San Diego, and Del Norte Place (El Cerrito), Atherton Place (Hayward), and Park Regency (Pleasant Hill) in the Bay Area. Small-lot, multiple ownership of land can deter transit oriented development, since a single landowner can hold out, dooming a proposed project.

Redevelopment agencies have also been provided financial assistance to projects, largely through tax-increment financing. In the case of the Pleasant Hill BART station, for example, the Contra Costa County Redevelopment Agency applied tax-increment financing to install new drainage and water systems and pay for the undergrounding of utilities to jump-start private investment.
Table 1
Policy Tools for Promoting and Leveraging Transit-Oriented Development

<table>
<thead>
<tr>
<th>Redevelopment Agency</th>
<th>Use of Agency Land</th>
<th>Underwriting Land Costs</th>
<th>Help with Land Assembly</th>
<th>Financial Incentives</th>
<th>Fast-tracking Reviews</th>
<th>Sharing of Parking</th>
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While tax-increment financing (TIF) has been the most widely used fiscal incentive, other techniques applied by redevelopment agencies in the state have included the issuance of tax-exempt bonds, low-interest loans, loan guarantees, and grants as well as direct equity participation. All of these initiatives make funds available for public-private development at below market rates. For the Mercado Apartments next to San Diego’s Barrio Logan station and the Apartments at Almaden Lake in Santa Clara County, local redevelopment agencies granted developers below-market rate loans. For the 121-unit Grant Central Market in Los Angeles, LAMTA agreed to guarantee $2 million tax-exempt bonds for the project.

For some of the more depressed areas where transit-oriented redevelopment has occurred, more direct financial participation and risk-taking has been needed. At the Del Norte Place, the redevelopment agency leased the land to the developer for $1 per year and 15 to 20 percent of gross income. In the case of La Mesa Village Plaza in San Diego, the redevelopment agency discounted land costs by nearly $600,000 and reduced the amount of money required of the developer up-front. The BRIDGE-built Strobridge Apartments near the Castro Valley BART station depended on the redevelopment agency accepting below-market rents in return for a percentage of revenues.

5.2 Transit Agencies

The state’s four largest rail transit agencies -- BART, MTDB, LAMTC, and SCVTA -- have applied many of the same techniques as redevelopment authorities, with the exception that their authority to make financial deals and pass on incentives, such as through TIF, have been far more limited. However, within their statutory limits, some innovative financial incentives have been introduced. Los Angeles has pursued forms of value-recapture as aggressively as any transit agency in the country. LAMTA has formed special assessment districts that collect nearly $11 million annually from commercial property owners within a half mile of Red Line (subway) stations. Income goes to cover interest and principal payments on approximately $162 million in assessment district bonds sold in 1992. LAMTA also receives about $3.5 million each year in the form of land- and air-rights leases.
Several transit agencies in the state have also sought to off-load costs as a development incentive. The Santa Clara Valley Transit Authority has opted to absorb some of the front-end costs associated with the interface between transit stations and private projects (like sidewalks and bus staging areas) that developers would otherwise have to have covered through municipal development fees. At the Ohlone-Chynoweth station, SCVTA secured a $250,000 federal grant to redesign bus bays in order to accommodate a planned mixed-use project containing two- and three-story townhouses.

The one tool that transit agencies have that other public entities do not to leverage TOD is the efficient management of station-area parking. Increasingly, as land prices around rail stations increase, the pressure mounts to convert surface parking into garage parking, and thus free up property for more intensive, higher end uses. The conversion of park-and-ride space to housing in the East Bay and South Bay has been a de facto form of land-banking – i.e., surface parking has functioned as a reservoir of land that is available for TOD if and when the market demands the conversion.

Transit agencies are also in a position to share parking. San Diego’s MTDB entered into an agreement with a theater owner to share transit agency parking at the Grossmont station in return for an annual lease revenue of $40,000. Shared-parking was pivotal in attracting investor interest in building large-scale entertainment complexes at BART’s Pleasant Hill and El Cerrito Del Norte, although both projects are in abeyance because of local opposition. Transit stations and entertainment centers are complementary uses from a parking standpoint: theater-goers can use park-and-ride lots on evenings and weekends when demand is often low.

5.3 Local Governments

Municipalities are in a position to provide financial and land-related incentives to leverage TOD, however, beyond what redevelopment agencies do, TOD has been far down the priority list of local governments, especially in this post-Proposition 13 era. Zoning and general plan making remain among the strongest powers of local governments. Cities and counties can grant density bonuses to reward TOD, however, as discussed later in this report, these are not always panaceas, either because of neighborhood resistance to intensification or a lack of market demand.

In healthy real estate markets experiencing strong growth pressures, expediting development review and entitlement processes can be a boon to TOD. The city of Los Angeles has committed itself to simplifying, fast-tracking, and giving priority to permits (e.g., for sewer or water) that are within walking distance of Metro stations as a development incentive.
6. Past Research on Impacts of Transit Oriented Development

California has no shortage of studies demonstrating the benefits of compact, mixed-use transit-oriented development.\textsuperscript{28} Using data (including smog-check odometer readings) from 28 neighborhoods throughout the state, John Holtzclaw showed that population densities matter a lot: typically the number of automobiles and vehicle miles traveled (VMT) per household fell by one-quarter as densities doubled and by 8 percent with a doubling of transit service levels.\textsuperscript{29} Several other independent studies of travel behavior in California have reached similar conclusions: all things being equal, a doubling of residential densities will reduce vehicle miles traveled per capita in the 25 to 30 percent range and potentially increase transit usage at a similar rate.\textsuperscript{30}

Neighborhood design also matters. A series of studies reveal Californians living in neighborhoods with traditional design features average far higher rates of walking, bicycling, and transit usage than their suburban peers who reside in more auto-oriented settings.\textsuperscript{31} Matched-pair comparisons showed that transit-oriented neighborhoods (e.g., higher densities, gridded streets, mixed uses) in the Bay Area averaged 70 percent more transit trips and 120 percent more pedestrian-bicycle trips per capita than nearby auto-oriented neighborhoods with similar income.

\textsuperscript{28} For overview of these studies, see: Robert Cervero and Sam Seskin, The Relationship Between Transit and Urban Form, Washington, D.C., Transportation Research Board, Transit Cooperative Research Program, Research Results Digest, No. 15; and JHK & Associates, Transportation-Related Land Use Strategies to Minimize Motor Vehicle Emissions: An Indirect Source Research Report, Sacramento, California Air Resources Board, 1995.


profiles.32

Studies have also focused on how California’s employment centers affect travel. Suburban job sites with higher densities and on-site retail outlets, research shows, are conducive to transit riding and alternatives modes of commuting.33 A study of 330 companies in the Los Angeles region that had introduced transportation demand management measures in response to Regulation XV air quality mandates revealed mixed land uses are particularly important: transit captured 6.4 percent of commute trips in “diverse-mix” employment areas versus 2.9 percent of commute trips in “no-mix” areas.34

6.1 Ridership Impacts of Transit-Oriented Development

Several studies over the past few years have examined the ridership impacts of development near California’s rail transit stops for three major land uses: residential, offices, and commercial-retail. The key findings from these studies are summarized below.

Transit-Based Housing

A research project I headed revealed that workers who live near stations in the San Francisco Bay Area were, on average, five times more likely to commute by rail transit compared to the average worker of Bay Area cities served by rail transit. However, 42 percent of rail commuters living in transit-based housing commuted by public transit before they moved into their current residences, suggested by a predisposition toward transit commuting among those who elect to live near rail stops.35 The two most important determinants of rail usage were trip destination and free parking. Among those living in multi-family projects near BART stations and heading to San Francisco job sites with no free parking, nearly 9 out of 10 work trips were by BART. If they can park free in downtown San Francisco, around 60 percent were by rail. For commutes to secondary urban centers like Oakland and Berkeley, around half of commutes were by BART. For all other destinations where workers can park free, only 6 percent of commute trips by station-area residents were by rail.

32 Cervero and Gorham, op cit.


34 Cambridge Systematics, Inc., op cit.

Several other studies have produced similar results. From recent surveys, the Valley Transit Authority found that residents within walking distance of I.R.T stations commuted by transit at five times the countywide rate.\(^{36}\) Surveys of tenants of transit-based housing in San Diego, Los Angeles, and Sacramento show similarly high ridership capture rates.\(^{37}\) At San Diego's Villages of La Mesa, 12 percent of residents got to work by Trolley, and at Creekside Villas, a lower-income apartment complex, the share was 35 percent. In 1990, by comparison, fewer than one percent of all work trips were by rail transit.

**Transit-Based Offices**

Concentrating employment sites near California's rail stops, studies show, also increases ridership. An analysis of 18 rail-served office buildings sited between 50 and 2,500 feet from a suburban transit station in three metropolitan areas of California showed that one out of ten employees got to work by transit. This is considerably more than the 1 to 2 percent of trail trips made by all suburban workers in these areas. In the case of BART, 17 percent of those working near a suburban East Bay station commuted by rail, appreciably above the 1990 rail commute share of 5 percent for Alameda and Contra Costa Counties as a whole.\(^{38}\)

The tendency to ride transit among suburban office workers rises with proximity and convenience. Figure 2 plots rail modal splits against walking distances from offices to stations for office buildings in California as well as Washington, D.C. and two Canadian cities. Experiences across these settings were remarkably similar. Within around a quarter-mile radius, the relationship was moderately elastic – every 10 percent increase in distance from an office to a station was related to an approximate 6 to 8 percent decline in rail modal splits.

**Transit-Based Retail**

Location and site design appear to play a big part in influencing whether shoppers take transit. A study of five regional shopping centers in different parts of California, conducted for the state's Air Resources Board, concluded that centers well-served by transit average significantly higher shares of shoppers who patronize bus and rail services -- e.g., a suburban center in a compact setting with good transit connections averaged a 21 percent transit modal split, compared to 4 percent for a suburban shopping center in low-density surroundings with


meager transit services.\textsuperscript{39}

Several studies have focused specifically on the effects of proximity to California rail stops on shopping trips. Over 60 percent of 300 customers surveyed at Horton Plaza in 1996, the highly successful multi-level shopping center in downtown San Diego, arrived by transit or on foot, compared to only 5 percent of customers surveyed at a suburban shopping center off of a freeway with poor bus and pedestrian connections.\textsuperscript{40} At the San Francisco Centre near BART’s busiest station (Powell Street), around one in five shoppers arrive by BART and one in three by foot. Around two East Bay shopping centers near BART stations, both surrounded by great expanses of asphalt, fewer than one in twelve shoppers arrive by BART.\textsuperscript{41}


\textsuperscript{40} California Air Resources Board, \textit{The Land Use-Air Quality Linkage: How Land Use and Transportation Affect Air Quality}, Sacramento, California Air Resources Board, 1997.

6.2 The Market for Transit Oriented Development

The pent-up demand for living near transit stops is reflected by rent premiums. Comparisons were made between 1994 rents at multi-unit projects within a quarter mile of the Pleasant Hill BART station versus otherwise similar projects (in terms of age, size, and construction quality) in Pleasant Hill but beyond walk distance of a rail stop. Pleasant Hill’s transit-based projects enjoyed rent premiums of 10 to 15 percent. Another study showed proximity to BART even gets translated into single-family home sales prices. For every meter an Alameda County home was to the nearest BART station, its 1990 sales price increased by $29, all else being equal. Smaller levels of housing-value capitalization were found light rail systems in San Diego, Sacramento, and San Jose.43

Who resides in California’s transit-based housing? Predictably, tenants tend to be young professionals, singles, and empty-nesters, often with just one car per unit. For 12 projects near BART stations, surveys over the 1993-1995 period found an average of 1.66 persons and 1.26 cars per household, compared to an average of 2.40 persons and 1.64 vehicles for all other households in the same census tracts.44 A more recent survey of 778 residents living near light-rail stops in Santa Clara County revealed smaller average household sizes and lower car ownership rates than countywide averages. More than 40 percent of the respondents who moved to their present address after the start of light rail were influenced in their move by the presence of light rail.45 For the light-rail-served Capitol area of downtown Sacramento, surveys show those moving into new housing are predominantly young professionals without children who are attracted by the advantages and conveniences of in-city living.46

Because rail-based households own relatively few cars and frequently patronize transit, a compelling argument can be made for relaxing zoning standards to allow just one parking space per unit for complexes near rail stops. The concept of efficient-location mortgages also makes sense for those living in rail-based condominiums and townhouses. To the degree that rail-based


45 Gerston and Associates, Transit-Based Housing, San Jose, Survey prepared for the Santa Clara County Transportation Agency and the Santa Clara County Valley Manufacturing Group, September, 1995.

housing lowers transportation costs (mainly in the form of only having to own one car), more income is freed up for housing consumption. This needs to be recognized when qualifying residents of transit-based housing for loan mortgages. Several demonstrations under a federally sponsored efficient-location mortgage program seek to pilot-test this concept.

6.3 A Caveat: What If Prices Were Right?

Some contend that TODs in California and other parts of the United States have failed to yield significant mobility and environmental dividends. On balance, they are probably right. However, we must keep in mind that the evaluations of how TODs impact travel demand are taking place in a distorted marketplace of cheap automobile travel and a failure to price externalities. It is no surprise that the effects of built environments on travel have been suboptimal in a world of suboptimal pricing. This is not so much an indictment against transit villages or any other design movement as it is an indictment of how we currently price and manage our transportation and land resources. Surely, if fuel cost $4 per gallon, as in most of Europe, and workers had to pay $5 or more for parking to cover true costs, the commuting impacts of TOD in California and elsewhere would be far greater.

We should also be reminded that even in the TOD neighborhoods that have been studied in California, drive-alone automobile travel still captures far more trips than other modes. A region’s overall form and settlement pattern probably has a greater impact in influencing modal choices than the design or layout of a particular neighborhood or employment center. Islands of transit-oriented development in a sea of freeway-oriented suburbs will do little to change fundamental travel behavior. TOD will likely only reap significant benefits if coordinated at a regional level.

7. Barriers to Transit Oriented Development in the State

In principle, transit stations should be growth magnets, attracting new development, especially in buoyant economic times like now. The gift provided by new rail investments is enhanced accessibility - connecting station-area properties to the region at large with fast, efficient services. In the best of worlds, little government intervention would be needed to prod developers into building near rail stops. Many would be aggressively racing each other to build at these choice sites.

The reasons theory does not always happen in practice are outlined in this section. These discussions draw from the feedback received during interviews as well as several recent studies focused on this topic.\textsuperscript{47} It is partly because of these reasons that government interventions are

\textsuperscript{47} E. Deakin et al., 1992; Robert Cervero, Michael Bernick, and Jill Gilbert, Market Opportunities to Transit-Based Development in California, Berkeley, University of California Transportation Center,
necessary, as are state policies which help and enable local entities to pursue transit-oriented development.

Two classes of barriers loom large as deterrent to transit village development in California: (1) fiscal: factors that detract from the financial feasibility of transit-oriented projects, such as lack of conventional financing and municipal zoning aimed at maximizing tax yields; and (2) political: land-use policies and neighborhood protest that impede multi-family housing construction. Both set of factors stand out when barriers to TOD are outlined from the perspective of each stakeholder group. Below, barriers are discussed from the viewpoint of private developers, neighborhood interest, and the public sector.

7.1 Developer and Private Sector Perspective

- Costs and Risks: Compact development increases costs and risks to investors. As multi-unit buildings become taller, the cost for design, construction, and liability insurance increase commensurately. Beyond 40 units per acre, podium or other expensive parking often becomes necessary. Once construction goes above four stories, more expensive steel-frame construction, elevators, and lobby areas drive up costs. Public costs are also often disproportionately loaded onto infill and high-rise developers. While, in theory, denser housing near rail stops should produce less traffic than if the same number of units were built as single-family homes, in practice denser projects pay the highest impact fees per square foot. And, of course, bureaucratic reviews pile on costs. Each month of delay in approving a housing project adds $500 per home per month to the cost of a home in California. And, of course, bureaucratic reviews pile on costs. Each month of delay in approving a housing project adds $500 per home per month to the cost of a home in California.

Added to this are the risks of building a largely untested product – transit-based housing – in the suburbs. Californians’ affinity for low-density living are firmly rooted. A 1993 survey by the Building Industry Association of Northern California found that 82 percent of surveyed


48 While high rises might increase spot congestion at intersections near a project, they should contribute to a lowering of ambient, area-wide congestion levels to the degree they encourage transit trips in lieu of automobile travel. The anti-density bias of impact fees reflects the tendency of traffic engineers to examine the level-of-service impacts of projects on an intersection-by-intersection basis. Regional impact fees, as opposed to local ones, would encourage compact, infill growth. For these reasons, some cities – notably, Orlando, Florida -- have abandoned intersection-by-intersection level of service analysis in favor of area-wide assessments.

households preferred a single-family home over all housing types.\textsuperscript{50} Coming off the heels of the savings and loans crisis of the late-1980s and several widely publicized bankruptcies of neotraditional projects in the state, banks and lenders are understandably squeamish about risking capital on transit-based housing. The reality is there are often many less risky development opportunities. Developers and lenders know they can make money from auto-oriented development (AOD); they have been doing so for nearly a century. Contemporary TOD, however, has a spotty track record. And, of course, brownfield sites are inherently riskier than greenfield sites. One is never sure what is in store when unearthing abandoned sites. Ground contaminants and expensive clean-up bills are always a possibility.

- \textit{Lack of market sensitivity among local planners and policy-makers}. In the course of interviews conducted for this research, a number of developers complained that many local planners, when making TOD demands, are blind to market realities. For instance, New Urbanism design principles call for combining ground-floor retail and upper-level housing into a single unit -- a European village type of design. Yet experiences (such as the Del Norte Place project near the El Cerrito BART station) show that mixed-use concepts do not always work outside of downtowns. Often, the ground-floor retail component suffers: it is perceived by the general populous as catering to on-site residents, who alone are typically too few in number to support neighborhood retail establishments. Similarly, many prospective office tenants -- especially in high-technology settings where security and privacy are highly valued -- eschew ground-floor retail. Also, some developers are quick to note, planners’ insistence upon amenities, like open space, can work against land-use densification. One developer who was interviewed opined that “civic places should be funded by civic agencies, not private land developers”. Moreover, minimum parking requirements imposed by planners can inflate development costs.

Local officials, developers complain, are also insensitive about timing issues. TODs require tremendous up-front investments in anticipation of downstream rewards, which can pose a serious cash-flow problem. This can be particularly problematic when planners insist on TOD designs for greenfield sites where rail services might be a good decade or two away. More and more, planners are insisting upon transit-friendly designs well in advance of actual services. In this regard, transit is fundamentally different from other infrastructure, like roads, sewer, and water, which must be in place before the first home goes on the market.

Perceptions even differ about the value of being close to rail transit. Some developers, especially owners of upper-end suburban projects, view nearness to transit as a disadvantage. Even in inner-city areas, the value of transit is questioned. Officials with San Diego’s Centre City Development Corporation (CCDC) believe the Trolley has been a deterrent to redevelopment in marginal sections of downtown. Operating in the middle of the street, the Trolley gobbles up the streetscape, removing parking (which is vital to retailers), increasing noise, eliminating curbs, and forming movement barriers. For this reason, CCDC has applied for federal funding to finance the relocate portions of the downtown Trolley tracks.

\textsuperscript{50} Cervero, California's Transit Village Movement, \textit{op cit.}, 1996.
• **Product Liability Laws.** In California, the current 10-year liability protection to consumers against defective condominium construction has effectively choked off the market for attached, for-sale units. Because TOD presumes significant amounts of owner-occupied, attached units, this has formed a huge barrier to compact, residential development around rail stops. In expensive housing markets like the Silicon Valley, condominiums and town homes are the most affordable products.\(^5\) Indeed, the concept of “trandominiums” first advanced in Santa Clara County is premised on linking condominium and transit development along light-rail corridors. A series of lawsuits holding condominium builders liable for faulty construction, often ten years after completion, have frightened many developers away from this market.

### 7.2 The Neighborhood Perspective

Not-In-My-Backyard (NIMBY) resistance remains a huge barrier to compact, infill development in California, whether near transit stations or elsewhere. To many, transist-based housing carriers with it the specter of more crowded schools and traffic congestion, the stigma of low-income projects, and the prospect of tarnishing the image and character of established neighborhoods, thus lowering property values. Because TOD is sometimes of a different scale and density than surrounding areas, it can be a lightning rod for community opposition to land-use changes. The parochialism in where “locally unwanted land uses”, or LULUs, are sited is seen in a recent Bay Area Council Poll. Eight-two percent of respondents recognized the importance of affordable housing to the region’s economy, yet only 44 percent supported new housing in their locality.\(^6\) One developer noted, however, that people generally understand the value of directing growth to neighborhoods with transit stations. If more compact development is necessary, then the average citizen can appreciate that transit station areas are the best places to put it -- of course, as long as it is not close to where they live. Still, the logic of promoting transit-based housing is sufficiently compelling to help fend off NIMBY opposition to infill development.

As noted earlier, NIMBY resistance eventually doomed two of the Bay Area’s most ambitious transit village development efforts – the El Cerrito del Norte and Pleasant Hill station areas. In both cases, proposed commercial-entertainment centers were shot down by vocal and outspoken residents concerned about neighborhood impacts. The delays and uncertainties associated with defending against these protests invariably add to the cost of projects, even if NIMBY opposition is eventually overcome.

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7.3 Public Sector Perspective

Public entities also face, and sometimes create, significant barriers to TOD. These are outlined below from the perspective of transit agencies, local governments, and metropolitan planning organizations.

**Transit Agency**

- **Legitimacy and Mission.** The greatest barrier to transit agencies engaging in TOD are doubts over whether land development issues fall within their purview. Transit agencies in the United States tend to be conservative organizations with narrowly defined missions -- namely, to run trains and buses. Unlike as in Europe and even Canada, U.S. transit agencies have no explicit charter to engage in land development. To some, development may be viewed as a peripheral, and potentially distracting, issue. To most, it is not a high priority. LAMTA has been consumed by other more pressing issues in recent years, such as securing a full-funding agreement for its long-range investment program and responding to the Consent Decree regarding improved bus services. As a result, its joint development program has been all but abandoned.

- **Parking policies.** Many transit agencies find themselves in a Catch-22 when it comes to rationalizing parking policies. Parking is needed so that suburbanites can conveniently reach stations, yet parking itself reinforces spread-out growth (and in so doing, deters transit-oriented development). Because near-term concerns usually take precedence over longer term ones, most transit agencies in the state are reticent to reduce suburban parking supplies. In the case of BART, its board has enacted a firm replacement parking policy: any new development that consumes existing parking must provide at least enough funds for building an equivalent amount of replacement (often structured) parking. As a result, many projects have not been pursued because they could not cover the cost of replacing parking. The policy has meant that ground lease payments for joint development sites have to equal or exceed the debt service costs of a replacement parking structure. The policy has all but shut off joint development possibilities at stations where land values are less than $25 per square foot, because no one wants to pay BART $25 per square foot if nearby sites are available for less.\(^3\) One developer described BART's one-for-one replacement policy a "deal breaker".

**Local Governments**

- **Limited planning resources.** Presently, there is no ready source of funds to support creative and forward-looking planning for transit village development. Most localities are stretched to the limit in attending to day-to-day chores, like updating General Plans, administering

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\(^3\) Replacement parking in the East Bay costs a minimum of $25 per square foot, based on an assumed price tag for an above-ground structured parking space of $9,000. Sedway Kotin Mouchly Group, *Joint Development Entrepreneurial Study*, prepared for the Bay Area Rapid Transit District, Oakland, California, 1996.
rezoning requests, reviewing subdivision applications, and responding to legislative mandates.

- Fiscalization of land use. California's Proposition 13, the 1978 initiative that reduced local governments' capacities to increase property taxes, is often blamed for prompting communities to be competitive rather than cooperative. In an era of escalating service demands, localities have made the rational decision to zone predominantly for commercial and office land uses: activities that produce the highest property tax proceeds per square foot as well as sales tax income. At the time, many are inclined to shun proposals for high service-demanding and low tax-yielding activities -- in particular, apartments (that burden already overburdened schools and city services).

But what's good for a city is often not in the best interest of the region at large. Examples of fiscally motivated zoning and development approval abound. The number of approved units in a recently proposed rail-based housing project in Mountain View was cut in half, after some 40 emotionally charged public hearings. One station away, a proposal to double the floor-area-ratio (FAR) for a new office complex that will house some 10,000 employees was approved after just one public meeting. Because the the area is very job-rich and housing-poor, these land-use choices only worsen the jobs-housing mismatch (currently at 12-to-1 along the Tasman LRT corridor). Experiences suggest that concentrating a single land use -- namely offices -- along a rail corridor will generally provide few mobility benefits. If trains go close to where people work, but not near their residences, relatively few (especially well-paid, high tech workers) will patronize rail transit. As demonstrated by Scandinavian cities, like Stockholm and Copenhagen, a balance of jobs and housing along rail lines not only increases ridership, but also leads to more balanced, bi-directional flows. Efficient jobs-housing balance can yield efficient ridership patterns.

Sales-tax revenues, in particular, have been highly sought over the past two decades since Proposition 13's passage. In many California communities, sales tax revenues actually exceed proceeds from property taxes. Because the local portion of sales tax is returned to the jurisdiction of sale, the competition for big retailers -- shopping malls, big-box wholesalers, and auto rows, in particular -- is intense. The California Planning Roundtable recently put it this way:

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54 Between 1980 and 1990, jobs-housing imbalances worsened more in Santa Clara County than anywhere in the Bay Area. In more recent years, the situation appears to have deteriorated even more. From 1995 to 1997, the number of jobs in Santa Clara County increased by 15.2 percent while the number of housing units increased by only 1.3 percent, despite ambitious efforts among both public (e.g., City of San Jose Housing Action Plan) and private (e.g., Silicon Valley Manufacturer's Association Housing Action Coalition) to promote affordable housing production. Sources: R. Cervero, Revisiting Jobs-Housing Balance: Trends and Experiences in the San Francisco Bay Area, 1980-1990, Journal of the American Planning Association, Vol. 62, No. 4, 1996, pp. 492-511; ABAG, op cit., 1997, pp. 38-39.


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Many local governments have no incentive to approve much-needed housing projects -- especially affordable housing -- because they are money-losers for the local budget. While rejecting housing, cities and counties have engaged in destructive competition for retail development.\footnote{1}

Rail station areas have not been immune to these biases. A recent study of zoning around 232 rail stations in Southern California revealed a strong bias toward commercial development, motivated primarily by the promise of increasing sales tax returns.\footnote{2} Around quite a few suburban rail stations throughout California, big-box retail development is far more prominent than any semblance of transit-oriented development.

**Metropolitan Planning Organizations**

With the notable exception of San Diego County, transit-oriented development is not a high priority among the state’s metropolitan planning organizations (MPOs). Most see such matters as the prerogatives of their constituent local government members. Since a principal charge of MPOs is to prepare and program Regional Transportation Improvement Programs, these organizations tend to focus their attention on capital investments (i.e., mobility planning) as opposed to land-use management (i.e., accessibility planning).

So far, no MPOs in the state has explicitly included transit-supportive development as a criterion for allocating funds among competing projects. The San Diego Association of Governments (SANDAG) is considering the possibility of formalizing such a criterion in the future. Most large MPOs, such as the Southern California Association of Governments (SCAG), have sponsored workshops to familiarize local planners and elected officials with TOD design concepts. The Association of Bay Area Governments is currently producing a short promotional video on TOD. Beyond these modest steps, however, TOD planning is typically viewed as a local matter.

- **Institutional inertia and conflicts.** Simply coordinating activities among so many different entities -- local planning offices, redevelopment authorities, transit agencies, advocacy organizations, neighborhood groups -- complicates TOD. With different missions, jurisdictions, budgets, and “world views”, conflicts often arise in planning and implementing TODs. In San Diego County, several developers of neotraditional projects have been caught in a Catch-22

\footnote{1}{The California Planning Roundtable, “Restoring the Balance: Managing Fiscal Issues and Land-Use Planning Decisions in California, 1997.}

between traffic engineers and fire marshals who complain that planned streets are too narrow (for safety and liability reasons) and planners who contend they are too wide (and thus auto-friendly). Public agencies themselves often face institutional resistance. In Los Angeles, MTA proposed density bonuses of 25 percent around several Metro stations; since this would have increased the fire code rating and construction costs beyond what the market could bear, however, the agency had to back off.

Institutional inertia has plagued TOD planning along proposed BART extensions in recent times. Appendix B presents a case study that underscores the difficulties and challenges of implementing a transit village around a proposed multi-modal transit center in the city of Millbrae.

7.4 Site Constraints

Besides the economic and political factors discussed above, physical site features can also constrain TOD opportunities. Many rail stations sit in unattractive areas, often along former freight rail lines (e.g., San Diego’s South Line). Others have been built in the medians of freeways (e.g., the 20-mile Los Angeles Metro Green Line, in the middle of the Century Freeway). The need to follow the path of least resistance (and costs) sometimes means siting rail stops in areas with the least development potential.

8. Potential State Initiatives

This section presents various initiatives that hold promise for encouraging and leveraging transit village development in the state. The initiatives represent areas of reasonable consensus among the informants who were interviewed. Also, the degree to which these initiatives are important to different respondents and constituencies -- namely, those representing the public sector and private interests -- is discussed.

In general, state governments can influence local decision in two ways: through promotion and/or through regulation. Promotion typically involves introducing “carrots”, like financial incentives, whereas regulation imposes requirements and, if conditions are not met, sanctions (e.g., “sticks”).

From interviews and field investigations, a number of common themes emerged that provide some guidance and framework for designing future transit village legislation:

• There was general agreement that direct financial aid would do the most in promoting TOD. From public sector perspective, it is essential that “transit village” funds be earmarked, otherwise cash-strapped capital projects will consume any and all available funding.
• New statutes or legislation should build off of existing programs as opposed to establishing brand-new programs with new administrative requirements.

• Developers are generally more interested in regulatory relief than financial assistance. This stems largely from the state’s current strong economy. Builders feel they can make TOD financially remunerative in today’s marketplace. What they most ask for are rules and procedures that expedite and simplify the development process. Many mentioned that clarity of the “game rules” -- i.e., unambiguous policy statements on what they can and cannot do -- is easily as important to them as financial aid, like tax credits. Uncertainties and time delays discourage compact, infill development -- whether near transit stops or not.

• With Senate Bill 45, control over the purse strings for incentivizing TOD is today largely in the hands of local and regional governments. Short of earmarking substantial funds for transit village planning and development, what the state most has to offer these days is regulatory relief. The state can also provide a more permissive authorizing environment for creative financing and land assembly, such as by extending redevelopment powers outside of blighted districts. Also, the state can set good examples, such as by siting government office buildings near rail stops.

• The constituency for transit-oriented development needs to be enlarged. In particular, any new legislation should expressly mention that the concept is appropriate not only for urban rail stops, but also for areas around high-speed rail stations (such as in the Central Valley) and ferry terminals (in view of planned expansion of ferry services in the Bay Area).

• State policies regarding transit villages need to extend beyond the current emphasis on affordable housing. Existing statutes that promote high-density housing -- such as special density bonuses, waivers of environmental review requirements, streamlined permit reviews, and development credits -- should explicitly be extended to non-residential uses within a transit village district as well. Giving importance to other activities, in addition to housing, acknowledges that a transit village is, at heart, just that -- a village encompassing a variety of activities.

8.1 Financial Assistance to Public Entities

There is all-around consensus that the most important action the state could take would be to pass legislation that provides substantial financial incentives -- both to the public and private sectors -- to form and build transit villages. Ideally, this would take the form of a categorical grant, modeled after the Federal Livable Communities Initiative. Earmarked funds -- whether from the general treasury, special bonds, or budget surplus -- would need to be appropriated by the legislature and approved by the governor.
Two earmarked pot of funds are needed – one for planning, the other for development:

- **Planning and Pre-Development.** Before transit villages can take form, there must be a specific plan that provides a blueprint for development. Funds need to be set aside for this purpose, as intended with vetoed Assembly Bill 1338 of 1995; a minority view of some planners who were interviewed, however, was that how funds are used -- whether for planning or capital improvements -- should be up to local governments and regional planning organizations. On possibility would be for the state to provide matching grants. Presently, localities match state dollars for the planning of bikeways and trailpaths. A parallel planning program could be considered for TODs.

- **Capital Grants.** For purposes of rewarding transit agencies that actively promote transit-village development (e.g., through joint development, public-private co-ventures), state capital grants for transportation and potentially other infrastructure could be targeted at transit village developments. This might take the form of outright grants or, as discussed later, loans tied to a State Infrastructure Bank (that perhaps give priority to transit projects linked to TOD). With an Infrastructure Bank, cities would have to commit funds on a matching basis and eventually repay loans in order to keep the account solvent. Consideration should also be given to extending the definition of what represents transit capital projects to include not only a transit station, but also its armature -- i.e., the many elements that connect a station to its surroundings, like bus staging areas, public squares, pathways and sky walks, lighting improvements, and important complementary facilities, like child-care centers and police sub-stations (perhaps better marketed as “protection services”).

Short of appropriating a new pot of monies, the state might consider establishing funding criteria that reward transit agencies seeking capital funds for new starts, extensions, or enhancements for commitments to transit-supportive planning and development. This, however, is complicated by Senate Bill 45, which devolves many of the funding responsibilities for capital projects to the regional level. Transit programs rely heavily on federal pass-through funds from ISTEA (and its successor, TEA-21) that are now principally controlled by MPOs. Earmarking funds, moreover, goes against the grain of initiatives like Senate Bill 45 which consolidate what previously were fragmented categorical funding programs for transportation.

Of course, regions are in a position to reward those capital projects in which transit agencies and local governments have coordinated development programs. In practice, however, this is not done because, as discussed previously, transit oriented development, while supported in principle, is not a high priority among cash-starved transit agencies and localities focused on near-term project building. In the early 1990s, the Metropolitan Transportation Commission (MTC) sought to apply a complex scoring system to promote multi-modal transportation, wherein land-use criteria were part of the allocation formula. Because the approach was so complex, however, it was abandoned.

The state could set a precedent for regions to follow by tying inter-regional TIP (ITIP)
fund allocations to TOD efforts. Funding for inter-city rail (e.g., high-speed rail proposals, inter-city commuter rail) projects could, for instance, be tied to demonstrated commitments to coordinated station-area planning and development. This might prove helpful in enlarging the base of support for the transit village concept to include rural and exurban interests. MTC has taken some steps in this direction through their “Transportation for Livable Communities” (TLC) program which seeks to fund innovative community-based transportation projects and planning. The agency has committed $300,000 a year over the next five years for planning and $5 million annually for capital projects, drawn from TEA-21 funds, to support transportation and land-use integration. MTC views this as a local-choice, bottom-up approach to TOD, in contrast to the failed top-down, macro approach embodied in the controversial Bay Vision 2020 initiative that sought to mandate regional land-use controls. To date, funds have gone to finance community design improvements near the 16th Street BART station in the Mission District, neighborhood planning in West Oakland, and a police substation at the Castro Valley BART station. The San Diego Association of Governments has taken a similar stance, setting aside $100,000 per year from TEA-21 planning funds for TOD planning. Among the factors SANDAG weighs in prioritizing competing projects is that they conform to the region’s Land Use Distribution Element and that local plan amendments be introduced to implement TOD projects. Orange County has also opted to dedicate planning funds to TOD. Using a combination of federal funds and dedicated sales tax monies (Measure M), the Orange County Transportation Authority (OCTA) has set aside some $1.5 million so far to support TOD workshops and advance land-use planning in support of planned light-rail investments.

It should be noted that while allocation formula might be designed to reward transit agencies that promote TOD, capital dollars themselves are off limits to non-transit facility improvements, like station-area landscaping or open space acquisition. State transportation funds are highly restricted in their use. One state source that is eligible for off-site and ancillary improvements is the Environmental Enhancement & Mitigation Fund, which generates around $10 million statewide per year. To date, these funds have gone exclusively to projects like highway landscaping and roadside recreational areas. Also, funds for bicycle and pedestrian paths

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58 This effort builds upon a broader set of technical studies carried out by MTC over the past several years that promotes stronger regional integration of transportation and land use. Most notable was the issuance of a resource guide, titled: Moving Toward More Community-Oriented Transportation for the San Francisco Bay Area, Metropolitan Transportation Commission, Oakland, 1996.


60 State revenues from the following sources could be used for transit projects, but not to support ancillary transit-oriented development: Proposition 111 state gas tax; State Transportation Improvement Funds (state and federal gas taxes); Interregional Transportation Improvement Program (SB45); Proposition 108 State Rail Bonds (funds are depleted); Proposition 116 (funds are depleted); Transportation Development Act: State Transportation Fund; State/Local Transportation Partnership Program (until 1999); State PUC Grade Separation Project Fund; and Air Quality Vehicle Registration Fee.
are eligible through the Local Fund account of the state Transit Development Act (Article 3), however this source generates only around $4 million annually statewide.

At the federal level, the most substantial funding pot available to support TOD is through the Congestion Management/Air Quality (CMAQ) program under ISTEA (designed to help local governments implement the federal Clean Air Act Amendments of 1990). Any jurisdiction in a non-attainment area can apply for CMAQ funds to support TOD planning, though in practice these funds tend to get exhausted by capital programs. The Bay Area Clean Air Plan, for example, embraces high-density zoning around transit stations as a mitigation strategy. However, the Metropolitan Transportation Commission reserves three-quarters of CMAQ funds for highway maintenance and rehabilitation projects, foreclosing any chance of funds being available for transit village planning and development. Air quality funds are also available to support TOD planning activities from the state motor vehicle registration fee surcharge (Assembly Bill 2766). San Diego’s Air Pollution Control District provided $150,000 from this pot to the city of Oceanside to support TOD planning around six stations along the Coaster commuter rail corridor. In most instances, however, these dollars also typically go to non-planning, more action-oriented activities (e.g., retirement of older vehicles and bikepaths).

Currently, locally controlled funds are the most flexible. In Los Angeles County, for example, 40 percent of the half cent sales tax (Proposition A) can be used for any transit purpose. However, the severe capital funding shortfall facing the County has effectively shut off funds to everything but bus capital and operations.

8.2 Financial Assistance to Developers and Private Interests

Transit villages could also be leveraged by providing direct assistance to developers through tax credits, tax abatements, and development fee waivers.

Tax Credits

Credits against income taxes to those who build in transit villages, particularly those in depressed areas, would be one way of attracting private capital. Two tax credit programs are currently available. The federal program allows low-income housing sponsors and developers to raise project equity by selling tax credit benefits to investors. The state program augments the federal one, providing additional credit to projects which have previously received, or are currently receiving, federal credits. Only rental housing projects are eligible for federal and state

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61 Health and Safety Code, §44220. This bill authorized regional air quality management district to impose an additional fee, up to four dollars, on annual motor vehicle registrations. Air management districts distribute portions of the funds to cities and counties. At their discretion, funds can be used for local planning efforts.
tax credits.62

The Tax Credit Allocation Committee (TCAC) could increase credits for affordable housing projects within Transit Village Districts. Ideally, extra credits would be revenue-neutral, in that it would not reduce the amount of credit available outside of transit village districts.

According to some of the developers interviewed for this research, current state tax credit programs are encumbered by strings and red tape. Some criticize state tax credit for their hidden costs, such as the administration of credits (which eventually gets pass on to all taxpayers) and new requirements (e.g., labor protection provisions). Tax credits, some complain, are also too complex and difficult to obtain. Among developers who were interviewed with experience in transit-based housing, federal tax credits are seen as far more attractive than state credits.

While private land developers were not that enthusiastic about state tax credits for transit-based housing, non-profit housing developers -- who often work on the margin -- liked the idea. In general, every little bit helps in providing fiscal relief for the production of affordable housing, thus any extra credit for building units within transit village districts is something non-profits would support.

**Tax Abatement**

Reduced property taxes can also promote affordable housing around transit stops. Developers can use abatements to underwrite housing costs and increase the amount of debt (and risk) they are willing to take on.

Currently, low-income housing projects that qualify for federal tax credits are statutorily eligible for local property tax abatement. Proposition 13, however, has suppressed interest in property tax relief. Regardless, the state could consider enacting a law similar to Oregon’s House Bill 3133, which enables cities and counties to grant property tax abatements for multifamily housing built near transit.

**Waivers of Development Fees**

Cities and counties routinely require developers to pay impact fees or provide land or services (exactions) to support their projects. Mixed-use, infill projects are often encumbered by costly fees even though the infrastructure costs to serve them, on a per square foot basis, are usually less than for outlying, single-use developments. Lower fees would reward, and thus promote, efficient projects like TOD.

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62 Credits must be allocated on a competitive basis so that those meeting the highest housing priorities have first access. Credit programs have both rent and income restrictions. Two levels of state tax credit – 4 percent and 9 percent – are available to low-income housing projects.
The reality is that most financial incentives to developers remain the prerogatives of local governments. According to developers who were interviewed, credits and waivers against impact fees and exactions could promote TOD more than state tax credits, as would greater flexibility in deciding upon how much parking is built at transit-based complexes.

8.3 Expansion of Existing Land-Use Laws

Money alone is not enough to bring about more transit-oriented development in the state. What would also help are various amendments to existing statutes that expand the abilities of local governments and transit agencies to efficiently plan for and co-develop transit villages.

Clarifying General Plan

Statutory amendments are needed that clarify the relationship between Transit Village Plans and General Plans. The adoption of a Transit Village Plan should automatically trigger an amendment to the General Plan and related zoning codes to ensure new developments conform with the General Plan. Once the General Plan is amended to incorporate the Transit Village District Plan, land-use changes consistent with the revised General Plan should be spared of any kind of lengthy review.

It would also help if all Transit Village Plans were statutorily equated with a Specific Plan, defined as “a step below the General Plan in the land use approval hierarchy .... used for the systematic implementation of the General Plan for particular areas”. To encourage localities and developers to prepare Specific Plans, Government Code §65457 exempts residential projects from further environmental review requirements (under CEQA) if they are consistent with a Specific Plan for which an Environmental Impact Report has been certified. Because transit villages are inherently mixed-use developments, this provision should be extended to other, non-residential uses.

It is noteworthy that the existing Transit Village Act (§65460.9) requires local officials to deny projects that are inconsistent with the Plan, but does not require approval when they are consistent. Only in the case of affordable housing are localities required to accept projects that comply with a General Plan. Extending this requirement to transit villages would not only promote TOD but would also allow environmental review to be expedited for projects within a

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61 Under state planning law, each city must adopt a comprehensive, long-term General Plan that guides physical development. Notably, a city’s zoning and subdivision approvals must be consistent with an adopted General Plan. The California Supreme Court held that the General Plan represents the “constitution for all future development”. See: D. Curtin, Jr., Curtin’s California Land Use and Planning Law, Point Arena, California, Solano Press Books, 1998.

64 Curtin, op cit., p. 25.
Transit Village District and possibly eliminated altogether.

**Density Bonuses**

Under existing law (§§65918-65925), cities are required to grant density bonuses or other incentives of equivalent value to developers who agree to construct housing that is affordable to persons of very low income, or low to moderate income, with some exceptions. If a developer agrees to construct housing with 20 percent or more of the units reserved for occupancy by lower-income households, or 10 percent of the units affordable to those of very low income, a city must grant a density bonus (of at least 25 percent) and at least one development concession or incentive (e.g., reduction in site development standards, reduced parking, allowance of mixed-use commercial, etc.). Bonuses are also granted to commercial, office, and industrial projects that provide on-site child-care facilities. As such, density bonuses function as a *quid pro quo* to promote affordable housing.

To date, there has been a fair amount of non-compliance with the density bonus statute. Several developers interviewed noted that density bonus allowances around transit stations are rarely used because of insufficient market demand. In San Diego, the mixed-use Rio Vista project along the Mission Valley Trolley line opted not to use available density bonuses for this very reason. Additionally, density bonuses can push development to a different construction type (e.g., to steel-frame structures above podium parking) that ends up raising costs and compromising affordability.

Several measures could make density bonuses more attractive to developers of transit-based housing. One, bonuses could be exempted from environmental review or the calculation of development impact fees, as discussed in the next section. Also, extra bonuses might be reserved for commercial projects that are directly connected to rail stations.

**8.4 Regulatory Relief**

Relaxing regulatory requirements would also aid TOD. While developers would reap the immediate benefits, as cost savings are passed on, ultimately the tenants of transit villages would

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65 §65917(5).


benefit as well.

**Development Review**

Complicated and lengthy reviews can deter TOD proposals. San Diego’s Rio Vista project took three years to complete the master-planning, review, and entitlement process.

A bold initiative would be for the state to mandate procedural certainty and limit local discretion over all development proposals with Transit Village Districts. Similar to the more permissive standards set for affordable housing projects, state law might limit the ability of localities to request changes to TOD projects for health and safety reasons.

The current Transit Village Planning Act promotes, but does not mandate, expeditious reviews. More important is the Permit Streamlining Act, which requires cities to follow a standardized review process and to complete reviews within strict time limits. In the case of any housing proposal that complies with a General Plan, a city cannot disapprove it (or approve it at a lower density) without explicit conditions that clarify why. Any amended Transit Village Planning Act should extend this streamlining provision to non-residential uses within Transit Village Districts.

**Environmental Review**

Under the California Environmental Quality Act (CEQA), both pubic and private projects which may have a significant environmental effect require the preparation of, by a public agency, an Environmental Impact Report (EIR). Because of the multiple levels of review involved, the environmental review process is widely viewed as one of the most difficult hurdles to overcome in building projects in the state. TOD projects often look bad when traditional traffic impact analysis approaches are applied. As it now stands, opponents of TOD can easily stonewall and tie up a proposal through the CEQA review process.

The Transit Village Planning Act (Assembly Bill 3152) does not speak to CEQA exemptions. In a May 5, 1994 amendment to the Bill, it was stated that “nothing in this section shall be construed to relieve the city, county, or city and county from complying with the provision of any other applicable state or federal laws, including, but not limited to, the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.” This language, however, never made it to the final Bill.

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64 §§ 65920-65963.1.
65 § 65589.5.
70 Public Resource Code §§ 21000-21177
Everyone interviewed – from the public and the private sectors – strongly supported the idea of exempting projects within transit villages from CEQA review, either in full or in part. This could happen in several ways.

- **Categorical exemption.** The boldest stance would be to exempt projects from CEQA review carte blanche. Most interviewees doubted there would be the political support for this.

- **Partial exemption.** Alternatively, projects within Transit Village Districts could be exempted from specific types of environmental review -- notably, impacts on land use, circulation, and housing -- for which transit villages are known, based on the best available evidence, to make positive societal contributions. Consideration might also be given to exempting transit village projects from ambient noise requirements. While insulation, double-pane windows, and other design treatments can reduce interior noise levels, it is often difficult to achieve exterior standards (typically 65 dBA) for areas that are exposed to elevated or surface tracks.

- **Uniform adjustments to impact estimates.** A different approach would be to uniformly lower estimated environmental impacts of TOD projects. This would invoke a presumption of "overriding consideration" wherein all TOD projects are assumed to reduce, say, traffic impacts by a minimum set percent. Similar to Santa Clara County’s Congestion Management Program (see below), lower trip generation rates could be adopted for the traffic impact assessments for all TODs in the state.

- **Streamlined review.** Related to the above measures, projects within Transit Village Districts could be treated like redevelopment projects under the tiering concept set forth in Chapter 1130 of CEQA, entitled “Streamlined Environmental Review”. The idea is to permit the general environmental effects of a policy, plan, or ordinance to be followed by narrower, site-specific assessment, thereby avoiding redundant analyses.

While all of these actions would greatly aid TOD projects, equating a Transit Village Development Plan to Specific Plan, I believe, would be the simplest and most effective means of providing CEQA relief. Doing so would place Transit Village Districts under domain of Assembly Bill 1888, passed in 1993, which states that a master EIR may be prepared for a variety of projects (including a General Plan amendment or Specific Plan) for assessing the cumulative, growth inducing impacts and environmental effects of anticipated projects. By preparing a Master EIR, a jurisdiction can streamline the development application process for developers who comply with the new plan and regulation. A Master EIR assesses the impacts of a plan, a program, or a set of policy changes, and recommends mitigation measures (Public Resource Code § 21157). Once a Master EIR is prepared as part of a Specific Plan, any project that is allowed by right within the Specific Plan, and that complies with all regulations, does not require a separate
environmental document.\textsuperscript{71}

It should be noted that while CEQA relief could streamline or eliminate environmental reviews of private TOD projects, large-scale public-sector investments, like planned rail extensions, still fall under federal requirements (e.g., the National Environmental Protection Act and the Endangered Species Act). For projects such as new rail extensions, the environmental documentation required by NEPA and CEQA could be lessened to the extent that transit-oriented development is expected to reduce traffic congestion, improve air quality, and promote affordable housing.

\textit{Congestion Management Act}

The exemption of projects from level of service (LOS) requirements under the existing Transit Village Act (§ 65460.6) is widely viewed as the statute’s strongest incentive. However, the exemption is optional, not mandatory. The state Congestion Management Act\textsuperscript{72} itself, however, does statutorily exempt from conforming with Congestion Management Program (CMP) standards all traffic generated by:

- High-density residential development located within one-fourth of a mile of a fixed rail passenger station; and

- Any mixed-use development located within one-fourth of a mile of a fixed rail passenger station, if more than half of the land area, or floor area, of the mixed-use development is used for high-density residential housing, as determined by the agency.\textsuperscript{73}

These exemptions would likely cover the majority of projects within a transit village district, but not necessarily all. It important to realize that the trip-reduction advantages of TOD accrue from proximity to transit stations, and not necessarily density. A low-rise housing project near a rail stop will likely capture as many transit riders per capita as a high-density one a comparable distance away. At least one congestion management agency in the state adjusts trip generation rates for all projects close to transit. Under Santa Clara’s County Congestion

\textsuperscript{71} Based on the 1996 Planning, Zoning, and Development Law, Article 8, §65457(a), it is unclear whether these streamlining provisions apply just to housing projects or all other uses. A legal interpretation might be required to apply this provision to Transit Village Districts.

\textsuperscript{72} §65088 et seq.

\textsuperscript{73} §65089.3(c) was added to the Congestion Management Act under Assembly Bill 3093 in the 1992 legislative session. The amendment defined terms as follows. “High density” means residential density that is equal to or greater than 120 percent of the maximum residential density allowed under the local general plan and zoning ordinance. “Mixed-use development” means development that integrates compatible commercial or retail uses, or both, with residential uses and that, due to the proximity of job locations, shopping opportunities, and residences, discourages new trips.
Management Program (SCCCMP), estimated trips generated by housing within 2,000 feet of rail stops are lowered by 9 percent and employment by 3 percent.\textsuperscript{74} The city of Los Angeles has adopted a slightly different approach, awarding “credits” to TOD projects when assessing level-of-service impacts.\textsuperscript{75}

Short of exempting TOD projects (that do not necessarily comply with the above-stated CMP exemptions), consideration should be given to mandating trip-generation adjustments similar to those applied in Santa Clara County for all TODs in the state. Additionally, the Congestion Management Act itself could be amended to require the inclusion of “high-density housing or mixed-use development within a half mile of a station” as a land-use performance standard.\textsuperscript{76}

\subsection*{8.5 Enlarge Enabling Authorities}

Another set of initiatives would provide greater flexibility and latitude to leverage transit-oriented development. Expanding the powers of transit agencies, in particular, to pursue real estate development would promote entrepreneurialism and public-private co-venturing.

Minimal land ownership by transit agencies was cited by at least one out-of-state developer as to why transit-based housing is financially difficult in California. This is all the more so in light of new federal legislation that enables transit agencies to sell off land acquired using federal funds if the resulting development promotes ridership (see section 8.6). Restricted land ownership stands in contrast to experiences in Europe, Canada, and East Asia, where transit agency ownership of land has been pivotal in leveraging private real estate projects. However, one needs to look no further than the east coast of the United States to find an example where a public transit agency is empowered to acquire land for development purposes. The New Jersey Transit Corporation is statutorily allowed to purchase land for development purposes, write-down land values, and issue tax-exempt development bonds.

Three areas that might be considered for expanding local authority are joint powers agreements, redevelopment law, and transit-agency powers.


\textsuperscript{75} The city applies a fairly elaborate scoring system of credits and debits in assessing traffic impacts under the Congestion Management Program. Because localities are statutorily able to circumvent requirements imposed under a Congestion Management Program, level-of-service standards have, according to those interviewed, lost some of their clout as an enforcement tool in Los Angeles County.

\textsuperscript{76} In addition to requiring that traffic level-of-service standards be set, the Congestion Management Program mandates that “land use” performance standards be applied in evaluating projects. Since all California counties with rail systems already promote transit-oriented development under their land-use performance criteria, the value of such an amendment would mainly be promotional.
Joint Powers Arrangements

Joint powers authorities have gained popularity as forums for building transportation systems across multiple jurisdictions. Historically, their focus has been on financing capital project, not coordinated development.

One way to promote TOD would be to expand joint power laws to allow binding agreements between transit agencies and local governments. Agreements might pertain to such matters as: (a) development of transit-agency-owned property; (b) development of other publicly owned land within the Transit Village District; and (c) development of private properties within the District. Any party that violates an agreement might jeopardize losing discretionary state funds.

Binding joint powers agreements would facilitate plan-making and coordination between the transportation and land-use elements of a Transit Village District. Importantly, agreements would force an explicit set of tasks and missions to be articulated among constituent members of the District. Commitments to joint planning among transit agencies and local governments might even be used as a factor in distributing funds under a Regional Transportation Improvement Program (RTIP).

Technically, a Transit Village District can be formed under California’s existing joint powers statute. This statute entitles a joint powers entity to exercise the powers of eminent domain. However, a joint powers authority has no tax increment financing authority. Joint powers authorities, however, can issue tax-exempt bonds and enter into other creative financing arrangements.

The use of joint powers agreements to coordinate development is not without precedence. The Capital Area Development Authority (CADA) was formed through a joint powers agreement between the State of California and the City of Sacramento to administer a plan for residential and state office development in a 40-block, rail-served area around the State Capitol.

In a recent “entrepreneurial” study of BART, the following language was offered as an amendment to the state’s Public Utilities Code (under §29080 and §29081):

Any subsidiary or other entity created pursuant to a Joint Development Powers Agreement for the purpose of carrying out transit station area development pursuant to Government Code section 65460 et seq. shall have the right to exercise the power of eminent domain for the purpose of

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§ See §6500 et seq.

If a Transit Village District was formed as a joint powers agency, the district would have the powers of its constituent members, with the notable exception of the tax increment financing authority of a local redevelopment agency. New authorizing legislation extending tax increment financing powers outside of redevelopment agencies would be required.
carrying out such projects; provided that the subsidiary or other entity has been authorized to create such power by the parts to the Joint Powers Agreement.\textsuperscript{79}

**Redevelopment Law**

Redevelopment law creates privileged areas. Consideration could be given to extending many of the same privileges to Transit Village Districts under the logic that increasing transit ridership is comparably important to increasing the supply of affordable housing. The following redevelopment reforms would go a long way to promote transit village development, although all could be expected to face stiff political opposition.

- **Redevelopment agencies as development partners.** Redevelopment law could be amended to allow redevelopment agencies to enter into agreements with cities, counties, and transit districts to create Transit Village Districts, such as through joint powers agreements (as discussed above). The agreements would help coordinate respective planning and development activities of all participants.

- **Expanding the definition of “blight.”** A condition of “economic blight” could include the underdevelopment of transit station areas. This would extend redevelopment powers to Transit Village Districts that are not necessarily physically or economically blighted.\textsuperscript{85}

- **Relaxation of affordable housing and tax expenditure requirements within Transit Village Districts.** State law requires that Redevelopment Authorities (RDAs) spend at least 20 percent of tax-increment funds to increase, improve, or preserve a community’s supply of low- and moderate-income housing. Thirty percent of new housing built by an RDA and 15 percent of all new housing must be affordable. Assembly Bill 1290 established an alternative means to satisfy the affordable housing requirement, called the 2-for-1 rule. Instead of providing units within the project area, the agency may meet its inclusionary housing requirement by providing, through regulation or agreement, two units of housing affordable to persons of low or moderate income outside the project area.

\textsuperscript{79} Sedway Kotin Mouchly Group, *op cit.*, p. 22. Whether this proposed legislative authorization would conflict with the constitutional prohibition against condemning private property for non-public purposes, it should be noted, is unclear.

\textsuperscript{85} The extension of tax-increment financing to entities beyond redevelopment agencies would likely prompt a constitutional challenge. Article XVI, Section 16 of the California Constitution gives redevelopment authorities the right to use tax increment financing, and some legal opinions hold that all other jurisdictions are prohibited from applying this fiscal approach. At the extreme, if all neighborhoods could apply tax increment financing, property taxes would cease to exist as a source of local general-purpose government financing. The Infrastructure District Act (§ 53395 et seq.) allows for the use of tax increment financing, but so far this power has not been exercised because of this lingering constitutional issue.
for each housing unit that otherwise would have to be available inside the project area.\(^{81}\)

Consideration might be given to relaxing these requirements within Transit Village Districts. The 20 percent minimum expenditure on affordable housing might be waived under the premise — embodied in the efficient location mortgage concept — that living near and riding transit frees up more income for housing consumption, thereby making housing more affordable. Redevelopment agencies within a Transit Village District could be allowed to pool surplus housing set-aside funds to finance housing as well as community-supportive infrastructure (e.g., libraries, public parks). Also, a one-for-one match might be allowed for affordable housing built outside of redevelopment districts but within TVDs.\(^{82}\)

Any of the amendments outlined above would represent a marked departure from Assembly Bill 1290 of 1993 which introduced some of the most sweeping changes California’s Community Redevelopment Law ever. Notably, the Bill restricted the purse-string powers of RDAs and tightened the definition of blight. The biggest barrier to extending redevelopment powers to Transit Village Districts would likely be concerns over the financial repercussions — namely, lost general-fund proceeds from property tax as well as reduced income to the state’s cash-strapped school districts.\(^{83}\)

**Expanded Powers to Pursue Joint Development**

Rail transit agencies, as creations of state law, are often highly regulated. A common lament among transit planners involved with real estate and joint development is their inability to be more entrepreneurial in bringing about TOD. Many feel hamstrung by vague legislation and an absence of political leadership in this area. Statutory amendments that clarified and expanded the

\(^{81}\) According to §33412(b)(2)(A)(ii), redevelopment agencies are allowed to transfer monies from their Low and Moderate Income Housing Fund provided that they at least double their expenditures on affordable housing (in addition to transfers that are permitted under Health & Safety Code §33334.17) and the agency adopts a finding that the transfer will not exacerbate racial, ethnic, or economic segregation within the territory of the transferring agency.

\(^{82}\) In a staff consultant review of Assembly Bill 3152, it was observed that the Bill allows a redevelopment authority to spend its low- and moderate-income housing funds to support housing production within a transit village district even though it is outside a redevelopment project area. Whether this would obligate the redevelopment authority to meet the 2-for-1 requirement was not stated, however in the absence of explicit statutory language to this effect, it must be presumed that the 2-for-1 requirement would hold. See: P. Detwiler, “Transit Village Development Planning Act”, Sacramento, Senate Local Government Committee, July 15, 1994.

\(^{83}\) For a critique of California redevelopment policies and the heavy subsidies they require, see: Michael Dardia, *Subsidizing Redevelopment in California*, San Francisco, Public Policy Institute of California, 1998.
authority of transit agencies to pursue joint development would further promote transit villages.

The Federal Transit Administration defines joint development projects as: “commercial, residential, industrial, or mixed use developments that are undertaken in concert with transit facilities”. Joint development both encourages efficient land-use arrangements around stations and provides a potential source of revenue to transit agencies (e.g., through air and ground leases).

Existing governing statutes are vague regarding joint development. In general, California’s transit agencies infer their ability to carry out joint development from statutory language which was crafted prior to joint development coming in vogue. Legal offices of transit agencies interpret enabling legislation differently, leading to some confusion over what can and cannot be done. In comparing the authority of BART and the Los Angeles MTA, Bernick and Freilich observe:

The governing statute for BART invests in the governing board general powers to operate a transit system, including the powers of acquiring and disposing property and of eminent domain, which BART relies on to carry out joint development. By contrast, the governing statute for the MTA clearly articulates MTA’s joint development authority, designating “joint development” as one of the agency’s primary rights along with acquisition, construction, development, maintenance, operation, and leasing.

Notably, explicit language in the California Public Utilities Code entitles MTA to be far more entrepreneurial in the area of joint development than its counterpart to the north, BART. The Code authorizes MTA to “contract with any person, firm, corporation, association, organization or other entity, public or private, for the acquisition, construction, development, joint development, maintenance, operation, leasing, and disposition of facilities of the district”. Bernick and Freilich maintain that the chief reason more recent statutes grant wider authority is that they build upon their predecessors. Enabling legislation for more recently formed California

16 Federal Register, Vol. 50, Id. at 12268.
15 Bernick and Freilich, op cit.
16 Op cit., p. 11.
17 In contrast to the BART governing ordinance, section 30600 of the California Public Utility Code, which provides MTA its property-related authority, states: “The district may take by grant, purchase, gift, devise, or lease, or by condemnation, or otherwise acquire, and hold and enjoy, real and personal property of every kind, within and without the district necessary or incidental to the full or convenient exercise of its powers. That property includes, but is not limited to, property necessary for, incidental to, or convenient for joint development and property physically or functionally related to rapid transit service or facilities. The board may lease, sell, jointly develop, or otherwise dispose of any real or personal property within or without the district when, in its judgment, it is for the best interests of the district to do so.” (Emphasis added.)
transit agencies (Sacramento Rapid Transit District, Orange County Regional Transit District, and the Los Angeles Metropolitan Transit Authority) explicitly define joint development powers that are permissive and expansive in their scope.

The California Public Utilities Code should be amended to provide consistent and multilaterally applied language that clarifies the range of authority vested in transit agencies in pursuing joint development. Without such consistent language, a transit agency’s inclination to pursue TOD lies largely with the interpretation of legal counsel. BART’s joint development activities have been constrained by a more conservative view of its joint development authority in recent times. MTA, on the other hand, has entered into a number of public-private partnerships partly because it enjoys expressed statutory authorization. In the absence of such enabling legislation, MTA would have likely felt far more constrained in negotiating real-estate deals with developers.

8.6 Counter-part Initiatives

The state should also consider enacting “counterpart legislation” that complements and builds upon recent federal initiatives. In light of the fact that California is emerging as one of the nation’s most rail-oriented states, it would be in the state’s interest to provide assistance that aids localities in leveraging available federal funding programs. Many of these approaches involve financial promotion, thus could have been included in section 8.1, however in view of the fact they aim to mimic federal legislation, they are treated here as a separate set of strategies.

Reinterpretation of the Ground Rule

In the past, the sale of land acquired from federal fund required the monies to be returned to the United States treasury. This discouraged land sales. New federal joint development policy allows transit agencies to retain proceeds from the sale of land, acquired through federal grants, that yields transit-supportive development. It encourages “transit systems to undertake transit-

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88 Public Utility Code, §102284

89 Public Utility Code, §130240.1

90 Public Utility Code, §30364

91 BART's legal staff has raised questions over whether any acts “necessary or convenient for rapid transit service” (PUC §29031) would be in conflict with court rulings (e.g., Golden Gate Bridge and Highway District v Leuhring [4 Cal. 3d 204, 84 Cal. Rptr. 291 (1970)] that restricts extra-jurisdictional taking in support of “the public interest”.

92 MTA recently eliminated its joint development office as part of a staff reorganization, in addition to board concerns over the fiscal soundness of some of the development deals the office had entered into.
oriented Joint Development projects either under new grants or with property acquired under previous grants, whether the property is associated with a rail, bus, or other transit facility. The purpose of this joint development should be both to secure a revenue stream for the transit system and to help shape the community that is being served by the transit system". The guidelines state that "transit-oriented joint development can be accomplished through a sale or lease of federal funded property, or through direct participation of the transit agency in the development". 

Several California transit properties have already taken advantage of this new policy. The Santa Clara Valley Transit Authority applied the policy to three light station areas to transform park-and-ride lots, paid for partly through federal grants, for affordable-housing projects. A market impact analysis demonstrated that the resulting higher ridership would generate farebox returns that in turn would reduce federal operating assistance by more than the amount of the federal grant used to acquire land for the park-and-ride lot.

Allowing state-funded land acquisitions to be brokered, as under the new federal joint development law, would further promote transit-oriented development. California should consider following this important federal precedent.

**Expanded permissible use of transit grant funds to include TOD**

The 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) added section 3(a)(1)(f) authorizing the Secretary of Transportation to make grants and loans for "other non-vehicular capital improvements that the Secretary may decide would result in increased mass transportation usage in the corridor". The new federal joint development guidelines define joint development as an eligible activity for capital grants under section 3(a)(1)(f). State transportation grants could be similarly defined.

**Creation of the Livable Communities program**

The concept of livable communities has gained prominence in recent years on several policy fronts. Most noteworthy has been the Federal Transit Administration’s Livable Communities Initiative. As noted earlier, this program funds community facilities located

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94 This provision effective replaces the notion of “highest and best use” (criterion in the Federal Common Ground Rule) in valuing property with the new concept of “highest and best transit use”. Thus, if a multi-family housing unit promises to generate more ridership, but less lease revenue, than an office, the transit agency can sale federally funded property to the housing developer as the “highest and best transit use”.

95 The federal Livable Communities Initiative earmarked about $32 million national for funding community-oriented transit projects throughout the country.
adjacent to rail and bus stops that hold promise for increasing transit ridership. The initiative, launched in 1996, brings together several funding sources [the Block Grants and Surface Transportation Program, Congestion Mitigation and Air Quality (CMAQ) funds] that promote transit usage. The Fruitvale BART station was among the first group of projects funded under the Livable Communities Program, receiving $2.3 million for station-area enhancements. A matching state program would further stimulate in-city transit villages like Fruitvale.

**New Rail Starts Evaluation**

New federal guidelines, issued in September 1997, identify “transit supportive existing land use policies and future patterns” as a new criterion for evaluating proposed rail starts. The demand for new capital rail funds, both nationally and within California, is escalating. California would improve its standing in the competition were it to embrace federal land-use criteria in its own funding of new interregional new starts (e.g., commuter and high-speed rail lines funded through the ITIP).

**State Office Building Locations**

The state could be a positive role model by legislating that new state offices sited within transit districts be located within a prescribed distance, like a half mile, of transit stops. This would not only promote similar actions by localities, but would also help reduce transit operating subsides (to the extent more jobs sited near rail stops increase farebox revenues.) This would mimic federal legislation that requires all federal offices located within the Washington, D.C. metropolitan area be located within close proximity to Metrorail stations.

8.7 **Other Possible Initiatives**

While state and federal governments may create a supportive legislative climate for TOD, ultimately the decision to move forward lies at the local level -- with municipalities, transit authorities, redevelopment agencies, and developers. A principal objective of state legislation should be to create a less constrained environment around which desirable land-use changes can take place.

Some of the items listed in this section are more peripheral to the topic of transit villages,

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96 The new Section 5309 New Starts Criteria were published in the Federal Register, Vol. 61, No. 245, December 19, 1996, ID 67093-67106.

97 The existing Transit Village Act vaguely promotes this policy in stating that “state plans should direct new development close to transit stations” (§ 65460.3). This language could be strengthened. More explicit language that mandates such actions would help strengthen the employment base (and thus the mixed-use character) of rail stations throughout the state.
however introducing them would nevertheless promote the cause of TOD. These initiatives would unlikely be tied to specifically to transit village legislation, but rather to other programs that promote alternative transportation and more efficient patterns of urban development.

**Infrastructure Development Bank**

The Federal Highway Administration recently selected California as one of ten states to participate in a State Infrastructure Bank (SIB) pilot program. The Bank will use federal transportation funds as initial deposits, then provide loans to transportation projects that generate revenues. To the degree that a TOD could be tied to development fees and other forms of income that could in turn be used to repay loans, it would be eligible for SIB funding. Monies could be used, among other purposes, to acquire land, provide co-lateral loans, and write-down land acquisition costs.

**Location-Efficient Mortgage Programs**

California’s legislature could encourage location-efficient mortgages through existing state housing programs. As noted earlier, location-efficient mortgages acknowledge that households living near rail transit stops can substantially reduce outlays for owning and using automobiles, freeing up money for housing consumption. One of the nation’s first location-efficient mortgages is being implemented at a 186-unit housing project near the Sylmar Metrolink commuter rail station in Los Angeles’s San Fernando Valley.

**Gasoline Tax Reforms**

How transportation funds get allocated could have some bearing on future TOD in the state. Rather than on the basis of population and center-lane miles alone, other criteria could be added to the allocation formula for gas tax funds, including population density and land development around transit stations. The state could also authorize that regional gasoline taxes be collected, perhaps with a condition that some of the additional funds be set aside to support alternative modes. (Higher gasoline prices, themselves, would encourage this to a certain degree.) The Metropolitan Transportation Commission and the Bay Area Council have co-sponsored Senate Bill 877 that would allow Bay Area voters to consider a regional gas tax to fund transit improvements.

**Transit Village Districts as Enterprise Zones**

Several individuals who were interviewed for this research recommended the formation of enterprise zones around transit stations that would suspend taxes, environmental regulations, and General Plan requirements. This would augment the incentives already embodied in redevelopment law. It would also expand the scope of enterprise zones beyond their original anti-
poverty mandates.  

**Fair-share programs**

While the need to minimize the fiscalization of land development extends well beyond transit-development issues, transit village legislation provides an opportunity to point out the dilemmas posed by imbalanced growth. Tax-based sharing would remove the incentive to fiscally zone. Currently, the San Diego Association of Governments (SANDAG), in concert with several state representatives, has proposed legislative amendments that would, among other things, return sales tax receipts to localities partly on the basis of population (as a spur to housing construction). Currently, sales taxes are returned to counties on the basis of point of sale. This encourages localities to promote retail commercial development rather than housing. Adding a population component to the allocation formula would reduce this land-use bias. Another approach would be to designate Special Transit Overlay Districts which allow some degree of tax-sharing among land-uses within a district. This would likewise require statutory amendments.

**Construction Defect Liability Laws**

Today, class-action law suits are routinely filed against developers, builders, and insurers over claims of shoddy construction. Very few products in the marketplace carry a 10-year warranty, yet attached housing does. The situation has deteriorated to the point where the vast majority of housing developers in the state refuse to bid on jobs for attached housing units. Insurance companies, some claim, threaten to cancel the policy of any developer who attempts to build attached, for-sale units. While product defect liability laws are well-intended and necessary, they have been all too often abused by litigious lawyers and others motivated by personal gains. Consideration should be given to establishing a reasonableness and diligence standard for condominium and attached-unit construction that would reduce some of the risks inherent in transit-based housing. A current task force sponsored bill, Assembly Bill 1950, is seeking to

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*Enterprise zones aim to stimulate development in selected economically depressed areas. Since 1985, 34 Enterprise Zones have been created nationwide. Within Enterprise Zones, various incentives (e.g., tax credits, reduction or elimination of local permit fees) are offered to encourage business investment and promote the creation of jobs. Any local government can apply to the U.S. Department of Housing and Urban Development to have an economically depressed area designated as a federal Enterprise Zone, thereby providing tax breaks and priority funding for infrastructure upgrades. For example, Richmond, a BART terminus, is a federal Enterprise Zone. Local governments can themselves create enterprise zones that grant tax breaks. San Bernardino has formed its own enterprise zone, legislating a tax break program in its Municipal Code.*

introduce more accountability in current construction liability laws.\textsuperscript{109}

Subdivision Regulatory Amendments

The Subdivision Map Act\textsuperscript{101} could be revised to require the highest densities in a jurisdiction, outside of its Central Business District, be applied to parcels within a Transit Village District. Also, Transfers of Development Rights (TDRs) could be permitted and downzoning of properties prohibited within a District.

Conflict Resolution

NIMBYism remains a huge deterrent to compact, mixed-use development outside of redevelopment districts, whether near a transit station or not. Many actions taken by council members in response to NIMBY opposition -- like downzoning, lowering height limits, and increasing open space requirement -- run counter to transit village principles. The state should consider establishing a mediation board to resolve disputes over development issues within Transit Village Districts. The board might also negotiate agreements between public entities, such as transit agencies and localities, over development issues around transit stations, possibly through binding arbitration.

9. Preferences of Stakeholder Groups

This section summarizes the preferences expressed by different groups of stakeholders toward the various strategies reviewed in the previous section. While views and strength of convictions varied among those interviewed, there generally was a fair amount consensus among these stakeholder groups.

9.1 Developers

Developers consistently mentioned that what would help them the most in building TOD projects would be steps that simplify, clarify, and expedite the review and development process. Many also favor regulatory relief, especially as related to environmental review. Relief against Congestion Management Program level-of-service standards is also valued, especially among developers from Orange County and Santa Clara County, where congestion levels are continually worsening.

\textsuperscript{109} This bill is designed to resolve conflicts and settle disputes between developers and homeowners' associations by providing more information to involved parties and providing developers more time to inspect and test alleged defects.

\textsuperscript{106} §6640 et seq.
There is less consensus over the value of financial incentives. Tax credits and abatements received mixed reviews. Non-profit housing entities value them, in large part because they operate on tight margins. Many private developers are less enthusiastic because of the additional red tape, and potential delays, that might accompany such initiatives. More favored are financial incentives provided by localities, such as waivers against impact fees and lower parking requirements. Among housing developers, reforming construction liability laws is also a high priority.

9.2 Transit Agencies

What would aid transit agencies the most in pursuing TOD, according to interviewees, is direct and dedicated financial assistance. Popular among this group would be the formation of a statewide Infrastructure Development Bank, the earmarking of gas taxes for transit, and funding set-asides for TOD planning. Many stressed that funds had to be earmarked and supplemental to existing capital funds, in light of the fact that TOD remains a low priority in competition with capital projects. This reflects the political reality that transit boards concentrate on programs that provide near-term payoff (e.g., in terms of congestion relief, construction jobs) as opposed to initiatives like transit village development whose benefits often accrue gradually over time.

Some interviewees felt that transit agencies should be empowered to behave like entrepreneurs. This view was most strongly held by agency staff directly involved with joint development, although there was not always support this for among their own boards. In the case of Los Angeles, land development has become a low priority.

All transit agency representatives supported the original language of the draft Transit Village Planning Act of 1994, particularly as related to extending tax increment financing and land acquisition powers to Transit Village Districts, but all conceded that this would likely face stiff political opposition. Additionally, all welcomed the extension of new federal joint development rulings and other programs, like the Livable Communities Initiative, to the state level.

9.3 Localities and Regional Entities

Attitudes toward TOD vary among community planners in general, albeit in areas where pro-TOD policies have been introduced, support is strong. Many local planners are resigned to the reality that concerns over fiscal impacts resonate far more with local elected officials than transit ridership potential when making land-use decisions.

Affordable housing interests support the concept of tax-sharing as a way to reduce fiscal zoning. At the same time, however, all are doubtful such an initiative could ever garner political support.
Besides transit agencies themselves, the only regional entities that seem to strongly favor TOD principles are air quality management agencies. Outside of the San Diego region, none of the metropolitan planning organizations is firmly committed to TOD, at least not enough to include transit-supportive design as a criterion for distributing monies under Regional Transportation Improvement Programs.

10. **Recommended State Actions**

Presently, TOD is occurring almost exclusively in settings where redevelopment inducements are available. Outside of redevelopment districts, there must be a market to carry TOD. However, many factors reviewed in this report -- fiscalization of land uses, inflated parking standards, conservative lending practices, among others -- conspire against TOD outside of redevelopment zones. For TOD to occur in other settings, there must be supplemental policies to incentivize this form of development. The state should take a leadership role in this regards.

New TOD policies and legislation can not and should not be introduced in one fell swoop. This remains a controversial area where political support is, at best, uneven. Accordingly, a prudent strategy would involve a multi-tier approach toward advancing the transit village cause, with an eye toward achieving intended results over the long term. In particular, steps that would likely arouse the least amount of political opposition but which would also allow the “waters to be tested” should be first taken. If and when the benefits of transit village development become more evident and accepted, then follow-up initiatives should be promptly introduced that build upon the initial programs.

10.1 **Near-Term Responses**

The first round of initiatives should aim to promote better planning. Near-term measures should shore up the existing Transit Village Planning Act. Explicit language is also needed that equates an Transit Village District Plan with a Specific Plan, thereby providing relief against environmental review. And, importantly, monies need to be earmarked that will support transit village planning and development, building upon Assembly Bill 1338.

- **Funding for planning and pre-development.** The ability of transit agencies and local planners to forge a consensus hinges, in part, on the availability of a common source of funding to jump-start transit village planning activities. As discussed earlier, Assembly Bill 1338 of 1995, which received strong legislative support but was vetoed, would have established a revolving loan fund to support advanced, strategic planning of transit villages. However, as opposed to loans, it is recommended that federal pass-through and state-source planning funds be earmarked for this purpose. Assembly Bill 1338 did not guarantee that cities or counties would apply for loans to carry out transit village planning. Few planners interviewed believed that their agencies would have. And in a competition
with the planning for new capital investments, transit village planning would, all believed, consistently lose out.\textsuperscript{102} Only by earmarking funds will the resources be in place to carry out the advanced planning necessary for eventual transit village implementation.

- **Pilot Demonstration.** Senate Bill 2559, which is still on the books, should be resurrected and carried out. The Bill should be amended, however, to more clearly define what constitutes an eligible “project”. Ideally, “projects” should involve some degree of co-development of public transit and private land development. This might include the construction and/or development of: station-area amenities, like civic plazas, landscaping, and bus staging areas; inter-modal transfer facilities that are physically tied to adjoining commercial activities; replacement parking for sites converted to transit-based developments at less than a one-to-one ratio; improved pathway connections between surrounding neighborhoods and transit stops; activities that are critical to transit village development, such as child-care centers and libraries; land assemblage programs targeted at leveraging large-scale transit-linked development; safety enhancements, like improved lighting; and station-area circulators, like neighborhood jitney. The demonstration should extend Senate Bill 2559 by acknowledging the potential value of land use initiatives in forming a successful transit village. Perhaps most importantly, sufficient funds should be appropriated to entice local competition for available demonstration funding.

- **Demonstration Evaluation.** Any expanded pilot program should include set-aside funds to properly evaluate demonstration results. Importantly, the evaluation should introduce “control” sites so that the benefits of transit village development (e.g., increased ridership, increased affordable housing) can unambiguously be determined. Also, the evaluation should be conducted by an entity which is independent of any state agency. This is in contrast to Senate Bill 2559, which stipulated that Caltrans evaluate the demonstration program, but failed to allocate any new funds to carry out the effort. An independent evaluation would serve two purposes: (1) it would reduce opportunities for potential conflicts of interest among state agencies; and (2) it would require funding for research and evaluation to be budgeted and programmed.

- **Congestion Management Program Exemptions.** Exemptions against level-of-service standards under California’s Congestion Management Program should be retained in any future transit village legislation, however this should be made mandatory rather than optional. Specifically, language should be added to the effect that transit villages reduce ambient levels of motorized travel and, accordingly, this promotes the objectives of the Congestion Management Program Act, if not the letter of the law.

\textsuperscript{102} This was implied in Governor Wilson’s letter to the California Assembly returning Assembly Bill 1338 without signature: “Given the limited dollars for transportation planning purposes, it is inappropriate to permit these of these funds for other planning purposes at this time”. Letter from Governor Pete Wilson to the California General Assembly, dated July 31, 1997.
• **Statutory Amendments to Land-Use and Environmental Law.** Specific language should be added that makes the formation of a Transit Village District a *de facto* amendment to a locality’s General Plan and Specific Plan, thereby exempting any projects that are consistent with the Transit Village District Plan from CEQA review.

• **State Office Building Locations and Relocations.** It should be required, whether as part of an amended Transit Village Planning Act or in a separate bill, that all new state offices, either built on state-owned land or leased, within the jurisdictions of transportation authorities (including rail transit, commuter rail, ferry districts) be located within a prescribed distance of stations or terminals.

• **Streamlining Development Review and Permitting.** There is little the state can do directly in this regard outside of streamlining CEQA review. Consideration should be given to strengthening the Permit Streamlining Act in ways that would expedite permit review for what might be considered “inherently efficient” land uses, like transit villages.

• **Spatial dimensions of a transit village.** The spatial extent of a Transit Village District should be expanded beyond the somewhat restrictive range of a quarter-mile radius, as defined in the existing statute. The intent of this quarter-mile radius is to define an area which corresponds to a distance that can be covered by foot in five minutes time in most settings, a threshold used by many urban designers to define a “neighborhood”. However, research on this question is divided, with some studies showing acceptable walking distances in urban milieus can be expanded well beyond a quarter mile range through good site design, landscaping, and public amenities. The *Entreprenurial Study* prepared for BART, for instance, defines a “Transit Area Development Zone” (TADZ) as an area extending a one-third of a mile from a rail station. Senate Bill 2559 sought to examine the benefits of high-density housing within a half-mile of transit stations. The one-quarter, one-third, and one-half mile designations are, unavoidably, arbitrary as precise boundaries. In the spirit of allowing for more flexibility, a Transit Village District should be defined as an area of up to one-half mile. Virtually all references to transit-oriented development, in both the scholarly literature and transit planning practice, are framed in terms of a distance of no more than a half mile from a station, thus this half-mile maximum would retain the essence of what spatially represents a transit village.

• **Strengthen the density bonus provision of the existing Act.** Pursuant to § 65460.9, the existing Transit Village Planning Act authorizes a city or county to enter into development agreements to implement a density bonus of at least 25 percent, if specified in the Transit Village Plan and tied to performance standards. Density bonus provisions should be retained in the Act, but could be strengthened by requiring density bonuses of at least 25

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percent, as with the state’s affordable housing density bonus law. This would re-insert the draft language of the original Transit Village bill and equate the value of density bonuses in Transit Village Districts with that of redevelopment areas. This provision could be further strengthened by requiring that cities augment density bonuses within Transit Village Districts by “at least one additional incentive of equivalent financial value”, which might included reduced parking or set-back requirements.

• **Extend incentives to non-residential land uses.** As pointed out a number of times in this report, state land-use laws are focused principally on promoting low- and medium-income housing. While affordable housing is vital to a Transit Village District, so are retail establishments, job sites, and consumer services. Consideration should be given to extending incentives, like density bonuses and environmental review exemptions, to non-residential uses within Transit Village Districts.

• **Remove ineffectual and innocuous sections of the existing Act.** Several sections of the existing Transit Village Act fail to extend powers and programs beyond what cities and counties are already entitled to, and thus serve no purpose. If anything, these provisions cast the existing Act in a perfunctory light, what some interviewees referred to as “toothless” and “atta’ boy legislation”. At best, these provisions are illusionary, and at worst, diversionary. Among the items that should be eliminated or modified are:

  - The existing Act stipulates [§ 65460.5] that a District is eligible for available transportation planning funds. The word “available” is vague. Most transportation planning funds are controlled by federal legislation, with some degree of regional and local discretion over exactly how they are spent. In the absence of a state set-aside to conduct transit village planning, this provision serves no clear purpose, and thus should be eliminated.

  - The existing Act states [§ 65460.6] that “a city or county planning for and establishing a Transit Village District can receive assistance from the Office of Permit Assistance, pursuant to Section 15339, in establishing an expedited permit process”. Since cities and counties are already eligible for such assistance, whether targeted at the development of a transit village, another neighborhood, or a city or county as a whole, this provision grants no new entitlements. Accordingly, it should be eliminated. Any subsequent legislation that incentivizes localities to expedite review in settings like Transit Village Districts would be welcomed by the development and building industry communities.

  - The existing Act fails to differentiate the planning of a Transit Village District from general planning. The requirements of §§ 65460.7-65460.9 that the transit village planning process conform with the General Plan, and that local public

104 §§ 65913.5 (as amended), 65917

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works projects, tentative maps, and zoning be consistent with village plan, treats a Transit Village District no differently than any neighborhood for which a Specific Plan is prepared. Also similar to a Specific Plan, the Transit Village Plan awards a "rebuttable presumption" of validity to development approvals that are legally challenged. (This effectively shifts the burden of proof to challengers.) Explicit language is needed that automatically treats a Transit Village Plan as a Specific Plan amendment of the General Plan. This would both help to streamline project review and, like affordable housing requirements, enable conforming projects within Transit Village Districts to bypass CEQA review.

10.2 Follow-Up Initiatives

Assuming pilot-demonstrations are favorable, a second round of initiatives should more aggressively seek to leverage transit village development throughout the state. Unless there is a guaranteed, multi-year funding commitment, transit villages will continue to struggle in areas outside of redevelopment districts. A new grant program should be established that is modeled on the federal Livable Communities Initiative. Funds should be earmarked to support both the planning of and capital improvements within Transit Village Districts. Capital improvements should include not only transit facilities, but also ancillary and interface activities that link a transit station to its surrounding community.

The strategies recommended might be criticized by some as too conservative. Some interviewees urged that a reformed Transit Village Planning Act re-insert much of the language and ideas from the originally drafted Act, namely the extension of powers of redevelopment authorities to Transit Village Districts. Several people rightly pointed out that, compared to the 1993-94 period when the original Act was drafted, the state’s economy is today far stronger. This creates a window of opportunity to build a coalition of support and secure funding for a more ambitious and progressive transit village program. However, many others I spoke with cautioned against being too aggressive in amending the existing Act, for we still have a lot to learn about the validity of the transit village concept. A cautious, yet pro-active, stance, I believe, is the best strategy for advancing the transit village cause in California.
APPENDIX A

Informants

The following individuals were interviewed in the course of carrying out this research. This analysis would not have been possible without their generous sharing of time and insights.

Transit Agency Officials
Michael Bernick, The HNTB Group, former Board Member and President of the Bay Area Rapid Transit District
Nancy Bragado, Metropolitan Transit Development Board, San Diego
Maureen Daly, Sacramento Regional Transit District
Louise Gibbons, Orange County Transportation Authority
Keith Killough, Los Angeles Metropolitan Transportation Authority
James De la Losa, Los Angeles Metropolitan Transportation Authority
Lisa Ives, Santa Clara Valley Transit Authority
William Lieberman, Metropolitan Transit Development Board, San Diego
James Lightbody, Santa Clara Valley Transit Authority
Dinah Minteer, Orange County Transportation Authority
Claudette Moody, Los Angeles Metropolitan Transportation Authority
Jeff Ordway, Bay Area Rapid Transit District
James Ortnier, Orange County Transportation Authority
Ann Louise Rice, MetroLink, Los Angeles
Nancy Tronaas, Sacramento Regional Transit District

Local and Regional Organizations
Gary Binger, Association of Bay Area Governments
Joseph Carreras, Southern California Association of Governments
Joseph Concannon, Sacramento Area Council of Governments
Ramona Finnila, City of Carlsbad
George Franck, San Diego Association of Governments
Bruce Griesenbeck, Sacramento Area Council of Governments
Andrew Hamilton, Air Pollution Control District, San Diego
Steven Hemminger, Metropolitan Transportation Commission, Oakland
James Kennedy, Contra Costa County Redevelopment Authority
Michael McLauglin, San Diego Association of Governments
Ralph Petty, City of Millbrae
Maria Rountree, Southern California Association of Governments
James Sayer, Greenbelt Alliance, San Francisco
Mark Wardlaw, Centre City Development Corporation, City of San Diego
APPENDIX A (Continued)

Informants

State Government Officials
Kenneth Bosanko, Business, Transportation, and Housing Authority
Robert Chung, California Transportation Commission
Peter Detwiler, Consultant, Senate Local Government Committee
Mark Gursky, Business, Transportation, and Housing Authority
Douglas Lindsey, Staff, Office of Assembly Member Louis Pappan
Patricia Weston, California Department of Transportation
Linda Wheaton, Department of Housing and Community Development

Private Developers and Business Interests
Donald Cerone, D.A. Cerone, Inc., San Diego
Leslie Coleman, Silicon Valley Manufacturer’s Group
Steven Dostart, Mozart Development Company, Mountain View
Amy Glad, Building Industry Association of Southern California
Russell Hancock, Bay Area Council
Cindy Harris, Post Properties, Dallas, Texas
Rex Hine, California Business Properties Association
William Jones, City Link, San Diego
David Kilby, California Chamber of Commerce
Mark Kroll, Seres Regis
Chris Koeber, The Castle Group, San Mateo
Scott Lefaver, private developer, San Jose
Michael Madigan, Pardee Homes, San Diego
Emmi McLean, City Link, San Diego
Appendix B

Case Study:
The Challenges of Implementing a Transit Village
Around a Multi-modal Transit Center, the City of Millbrae

B.1. Introduction

This case study examines efforts under way to create a transit village in the city of Millbrae. In planning for a new multi-modal transit station, the city of Millbrae has embraced the concept of a transit village for the neighborhood immediately surrounding the station. As the city works with transit agencies to design a pedestrian-friendly zone with a mixture of land uses around the station, it has had to overcome a number of impediments to implementing the transit village idea. This case study examines these impediments with an eye toward identifying the kinds of policy reforms that would best help localities like Millbrae and transit agencies in breaking ground with new transit villages.

B.2. Background

In 1987, San Mateo County voters approved Measure K, which formed a partnership between BART (Bay Area Rapid Transit) and SamTrans (the Bus Service provider for San Mateo County) to jointly develop a BART extension from the existing Colma station to the San Francisco Airport. BART responded by drafting plans for the infrastructure needed to extend service with very limited input from other transit agencies and outside groups. The extension has been designed to operate largely along an existing rail corridor operated by Caltrain and managed by the Joint Powers Board of California. Following this rail corridor, BART has proposed new stations at South San Francisco, San Bruno, and Millbrae. An extended rail connection to within 300 feet of the international ticket counters will be constructed to serve the San Francisco Airport. As the sole connecting stop between existing Caltrain commuter service in the South Bay Area and the BART system, the Millbrae station will be a major transfer point between BART, Caltrain and SamTrans systems. The final design for this multi-modal transit center links SamTrans regional bus service and private shuttle providers serving employers in northern San Mateo County with BART and Caltrain trains arriving and departing from a shared platform.

Since BART first proposed a station at the Millbrae site, local officials and residents have worked closely in developing a “conceptual plan” for the station area. During 1994 and 1995, the

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1 This case study was drafted by Marshall Foster, a graduate research assistant hired to examine transit-oriented development issues in San Mateo County, and edited by the author.
City hosted several public workshops in which residents worked with local planning officials to conceptualize and draft a plan. This plan embodies many of the design principles of a transit village. The plan envisions an overall revitalization of the area surrounding the station by promoting mixture of new residential, commercial, and office development. In 1994, the city of Millbrae began crafting a plan for the station area that addresses not only BART’s desire for the station to function as a transfer point to the Caltrain system, but also acknowledges the station’s relationship to the broader revitalization goals of the Millbrae community. In their conceptual plan, local residents and officials recognized the potential of the new station to serve as a strategic gateway to the city and have since collaborated with BART to design a station that is fully more integrated into fabric of the city.

The Millbrae Station Area Concept Plan was adopted in 1995, and called for joint development of the Millbrae station area by designating it as a special zoning area in the Millbrae redevelopment district. Figure B1 shows an illustrative plan. Properties adjacent to the station will be assembled for mixed-use development. The plan identifies the station as the economic hub of downtown Millbrae. The revitalized area is expected to generate a net financial return to the City within 10 years based on tax revenues from the new development. Street and circulation improvements will accommodate increased traffic around the new station.

B.3. Transit-Oriented Development in Millbrae: Success and Failure

The City of Millbrae began preparing its Specific Plan for the station area in the fall of 1997. The Specific Plan sets urban design standards and determines precisely how the areas around the station will be rebuilt in accord with principles expressed in the Concept Plan. Issues involving land assemblage and reorganized land uses have engaged the efforts of all the key players and vested interests in the new station. Limited success has been achieved in putting together a design that both reflects the City’s Concept Plan and BART’s development program. Ralph Petty, Millbrae’s Director of Community Development and Planning, has spearheaded the effort to bring together businesses and other stakeholders in the area in hopes of building a broad base of support for the Specific Plan. As it stands, BART has acquired the lands necessary for constructing additional infrastructure to the existing rail line and the planned station. Adjacent properties are owned primarily by private interests, although some lands are publicly owned. It has been the work of Millbrae’s planning officials and private interests to assemble these properties.

B4. Cooperation Between Transit Agencies and Local Government

The city of Millbrae and private interests have been left with the task of assembling lands for redevelopment. So far, the transit agencies and other entities have provided no assistance in securing public funding or private co-ventures. The city is particularly concerned with raising adequate funding to pay for the first phases of redevelopment. One project local planners hope

Figure B.1. Illustrative Plan for the Planned Millbrae Station
will trigger redevelopment is a civic area next to the planned station. Station Square, a small public square, is to connect the new station with the existing commercial uses on El Camino Real and incorporate ground level uses that generate pedestrian activity around the station. The Square is intended to define a public space that extends out from the new station and provides a focus for new development catering to the traffic generated by the station. Construction of the square is a high priority for the City. Although BART and the other transit agencies have not objected to the Square being connected to the station, the development of the Square has been left solely to the City.

Expressly stated in BART’s “Livable Communities Policy” is a commitment to support and encourage linkages between BART and the localities they serve. Part of BART’s mission, therefore, is not only to encourage localities to take advantage of opportunities for new development around transit centers, but to actively engage them in redeveloping these areas as well. In part because BART is not empowered to assemble lands for any purposes that do not directly pertain to the construction of transportation infrastructure itself, the agency has little to offer city in the quest to create a transit village beyond the delivery of rail services.

Transit agencies typically maintain a department in charge of expropriating lands and securing funding for new projects. Localities depend upon transit agencies to help in bringing together key players for designing a joint development project. During the process of reviewing BART’s original design for the Millbrae station, officials from Millbrae expressed concern that the station would not be sufficiently integrated with the surrounding community. After making only modest revisions, BART submitted the design for environmental review as required by state law. It was during the review process that local criticism forced BART to redesign the station so as to better conform to the area’s conceptual plan. What followed was an intense period in which nearly the entire station design had to be reworked. This episode underscores the difficulties often faced in coordinating the respective physical planning of transit agencies and municipalities. Since each entity has different decision-makers who themselves have different agendas, reaching agreement is not always easy.

Cooperation is a key element in joint development schemes, whether between various public agencies or local governments and private developers. The best way to ensure cooperation is to involve everyone affected by a new development in the design process from its inception. Although one group or another will inevitably need to oversee the design process as a whole, giving voice to a broader base of concerns from the beginning would avoid many of the setbacks BART is experiencing with getting construction underway and the city of Millbrae is facing in constructing Station Square as well as implementing other elements of the station-area Specific Plan.

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1 Local residents and officials opposed the new station’s physical orientation. As designed, the station ignored its proximity to El Camino Real. The original design had the station facing a parking lot rather than opening out to El Camino Real, which would provide a direct connection to downtown Millbrae. BART’s original design was also criticized for failing to provide adequate street improvements to accommodate increased traffic flow around the station.
B5. Funding

The two biggest barriers that proponents of transit-oriented development in Millbrae face are funding and land assemblage. Before private capital can be attracted, the station area must be established as a suitable stage for profitable development. The city and the private sector face the challenge of assembling and reconfiguring 82 separate parcels owned by 56 different individuals. Establishing Station Square as a focal point is also essential, as is designing in other public amenities. The proper integration of public, private, and transit-related activities would likely attract the private capital needed to implement the Specific Plan.

Raising funds to create such public spaces and other amenities is no easy task. There is widespread support in Millbrae for the proposed transit village, provided that it is executed in accordance with the concept plan. As it stands, the immediate vicinity of the planned station contains a scattering of commercial, residential and light-industrial uses. At no point do these uses converge to define a particular zone. The area is dominated by parcels of land that are related to each other solely by shared rights-of-way. Residents recognize the need to define the area as an emerging center of civic and transit functions and the ability of a public square to serve that need. There are no local funds, however, to finance the project despite the fact that the development is projected to increase municipal tax revenues by 10 percent. Development fees have been proposed as a means of financing many of the public amenities called for in the Specific Plan. The City of Millbrae office has also applied for a Livable Communities grant from the Federal Transit Administration, but it must compete with other worthy projects from around the country for a limited number of grants. A state counterpart program to the federal Livable Communities Initiative would be welcomed by cities like Millbrae.

The shortage of funds to support the construction of civic spaces and other improvements that can help leverage private investment remains a huge obstacle. In order for private developers to consider developing a site for a specific use, there must be a clear commitment to physically upgrading the area. Given that Millbrae’s Concept Plan requires that new construction be scaled to create an attractive pedestrian milieu, it is essential that there be a public square in place for organizing individual site designs.

B6. Impact of the Transit Village Development Planning Act

The Transit Village Development Planning Act has had no bearing on any planning or development activities around the planned Millbrae station. City officials, while vaguely aware that the legislation exists, have not sought to learn more about it for formally create a Transit Village District. More valuable has been state redevelopment law that grants density bonuses and tax increment financing privileges. Only if the Act offered supplemental funds, like the federal Livable Communities Initiative, for activities like station-area planning and creating a civic square near the station would the Act be of much value to the city of Millbrae, according to local officials.
B.7. Looking to the Future

Millbrae’s interest in transit oriented development is rooted in the desire to revitalize an aging downtown. The City’s assortment of small downtown shops and restaurants face increasing competition from suburban shopping centers. Linking Millbrae’s small, pedestrian-friendly downtown with a prominent and heavily-trafficked civic space retailers some hope for expanding their customer base. Local businesspeople are looking to the projected volume of new traffic passing through the station (estimated at 25,000 BART-Caltrain daily transfers) will help rejuvenate the area. The City’s concept plan is bold, calling for a pedestrian boulevard that connects the new Station Square and downtown via an axis of small ground-level retail shops and above-level offices. Millbrae is to become a “destination”, not just an inter-modal transfer point. The City sees an opportunity to tap into the market for accessible office space in the South Bay Area. A new station and surrounding revitalized neighborhood is viewed as absolutely in attracting this and other markets to the city.