



2 December 2015

President Thomas Blalock and Members of the Board of Directors
San Francisco Bay Area Rapid Transit District
Kaiser Center
Oakland CA 94612

Re: December 3, 2015 Board Meeting: Affordable Housing (Agenda Item #9A) &
Development at the Millbrae BART station (Agenda Item #11C)

via email to boardofdirectors@bart.gov

Dear President Blalock and Directors:

On October 20, 2015, the Sierra Club wrote to you regarding “Transit Station Area (Millbrae) Priority Development Area” (PDA), to which we have not yet received a response. The BART Board agenda for December 3 includes two related items to which we call your attention.

The Sierra Club continues to be concerned about the lack of affordable housing proposed for the Republic Urban Properties project on the Millbrae BART property, especially since the locale is within a Priority Development Area (PDA) as defined by Plan Bay Area, produced by the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG). We understand that BART is considering adding an affordable housing component to BART Station Area Development Guidelines as they are updated. The staff’s April 24, 2015 Report, however, explains why affordable housing (also known as “below market rate,” or BMR) is important, but recommends against a policy requiring affordable housing at future BART TOD developments. Staff’s recommendation is to continue with the current policy, which is no policy, but a case-by-case review of each development as it is planned.

To BART’s credit, all but one of the eight developments included in the April Report that include housing have a percentage of affordable units ranging above

15% (17% - 100%), while one has 10%. Given this positive track record, why does the Millbrae development not include BMR units? The Report says that: “inclusionary policies work best in locations with strong real estate markets...” We are well aware that San Mateo County has one of the strongest real estate markets in the entire country, so there is ample opportunity for the developer to charge premium rents for the market-rate units, which in turn can allow them to well afford including some BMR units.

The city’s Station Area Plan includes a Policy goal minimum of 15% affordable units on the site, and the inclusion of BMR units has community support. Republic Urban Properties is resisting BMR units using the *Palmer* court decision as a justification, but BART clearly has the right to require inclusionary BMR units in your development agreement. This would put BART in what the Report calls “...a constructive relationship with partner local jurisdictions.”

We thus call on BART to negotiate a development agreement for the Millbrae property with Republic Urban Properties (Agenda Item #11C) which will result in a minimum of 15% affordable units on-site (and preferably a higher percentage, as recommended in Director Mallett’s memo) and that these units should address the requirements for Very-Low (50% of median income), Low (80% of median income) and Moderate (120% of median income) renters. We further urge that the proportions of units at both of the two lower rates be not less than 1/3 the overall percentage provided.

Millbrae has a poor recent record of providing BMR units. In the past seven years, Millbrae has produced only 21 BMR units while concurrently producing 407 market-rate units. The Millbrae Station Area Plan is but a small step toward rectifying this imbalance through its inclusionary goal. It would be a sad day if a housing development built on BART-owned public land were not to meet or exceed the city’s goal.

In addition, we commend Director Mallett’s proposal (Agenda Item #9A) to develop an Inclusionary Housing Policy for the District and offer the suggested amendments (indicated as underlines) included below. Successful development of PDAs such as Millbrae and other BART properties will be an essential component for success of Plan Bay Area, as required by SB 375.

It shall be the policy of the District that, to the extent not prohibited by law, the District include a provision in any Request for Qualifications (RFQ) or Request for Proposals (RFP) relating to proposed development projects at BART stations that, to the extent possible, at least 20% of any proposed housing units shall be allocated for affordable housing, and if the party submitting the RFQ or RFP determines that goal is not possible, that party shall

provide a verified statement why the goal cannot be attained. On a project-by-project basis, the General Manager or his/her designee may request from the Board an exception to this Policy if staff determines it is inappropriate or improper for a specific project. This Policy, or the exception thereto, shall be considered in any Project specific discussions.


BART also affirms its commitment to achieving success for PDAs at or near BART-owned property whereby mixed levels of housing for residents of all income levels helps to reduce GHGs by encouraging more use of transit and active transportation, and by decreasing reliance on automobiles.

Thank you again for BART's consideration of these matters. If you have any questions regarding our comments and questions, please contact Michael J. Ferreira of the Sierra Club at MichaelJFerreira@gmail.com.

Sincerely,



Patrisha Piras
Convener
Three Chapter Working Group
on Transportation



Michael J. Ferreira
Chair
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