

**SUSTAINABLE TAMALMONTE
215 JULIA AVENUE
MILL VALLEY, CA 94941**

July 30, 2013

Marin County Board of Supervisors
3501 Civic Center Drive, Suite 329
San Rafael, CA 94903

Re: Plan Bay Area

Dear Marin County Board of Supervisors,

Adoption of Plan Bay Area was a grave error and contrary to the interests of the citizens of Marin County. A remedy should be pursued.

INTRODUCTION

Premise:

Plan Bay Area is so flawed that it cannot be salvaged, as demonstrated below:

- 1) The cost effectiveness of Plan Bay Area is abysmal, with costs of implementing Plan Bay Area far surpassing any benefits achieved;
- 2) Plan Bay Area isn't needed to meet SB 375's greenhouse gas reduction requirement;
- 3) Plan Bay Area makes housing and transportation less affordable than ever;
- 4) Plan Bay Area's forecast of Jobs, Population, and Housing is unrealistic;
- 5) Implementation of Plan Bay Area would cause multiple significant unavoidable adverse environmental impacts, resulting in increased risk of severe environmental harm and serious jeopardy of public health and safety;
- 6) Plan Bay Area reduces local control (with a carrot & stick approach);
- 7) Plan Bay Area promotes unfunded mandates;
- 8) Plan Bay Area does not respect differences in size, density, and community character of jurisdictions throughout the Bay Area; and
- 9) Plan Bay Area furthers CEQA exemptions and streamlining.

Recommendation:

The adoption of Plan Bay Area must be rectified. The following steps should be taken:

- A. The Marin County Board of Supervisors should work with the Cities of Marin to withdraw from ABAG and form a Marin Coalition of Governments (COG);
- B. The Marin COG should then appeal to the Department of Transportation to allow the Transportation Authority of Marin (TAM) to suffice as our Regional Transportation Planning Area (RTPA), as opposed to a Metropolitan Planning Organization (MPO). (The Metropolitan Transportation Commission is an MPO);
- C. The Marin COG and the Transportation Authority of Marin should work together to create a new Sustainable Communities Strategy for Marin that is truly sustainable; and
- D. The Board of Supervisors should adopt a resolution for Unincorporated Marin to prohibit the California Environmental Quality Act (CEQA) streamlining and exemptions allowed by Senate Bill 375 and consequently Plan Bay Area.

PLAN BAY AREA'S FLAWS

1) The Cost Effectiveness Of Plan Bay Area Is Abysmal, With Costs Of Implementing Plan Bay Area Far Surpassing Any Benefits Achieved:

Numerous comment letters on Plan Bay Area and its Environmental Impact Report demonstrated, with expert evidence, that the land use, development and transit provisions of Plan Bay Area, if implemented, would reduce green house gas emissions by less than 1% (E.g. See comment letters by transportation expert Thomas Rubin¹, Robert Silvestri², and Randal O'Toole³), yet would cost 100s of billions of dollars and would cause multiple significant unavoidable adverse environmental impacts, resulting in increased risk of environmental harm and jeopardy of public health and safety.

2) Plan Bay Area Isn't Needed To Meet SB 375's Greenhouse Gas Reduction Requirement:

The only provisions of Plan Bay Area that significantly lower green house gases are from the California Air Resources Board green house gas plan and MTC climate initiatives, which could exist without the regional plan.

Moreover, new construction, which Plan Bay Area mandates, is one of the biggest contributors to greenhouse gases. The adverse climate change impacts of the plan related to the construction process are unsustainable, at a time when we need a smaller environmental footprint, a reduction in the use of building materials, electricity, and fuel. It takes up to 80 years for an urban village mixed-use building at maximum greenness to overcome climate change impacts from its own construction.⁴

3) Plan Bay Area's forecast of Population, Jobs And Housing In Marin County Is Unrealistic:

According to the plan, between now and 2040, Marin County is supposed to accommodate an unrealistic amount of growth: 13% population growth (32,914 more people); 11% household growth (11,210 more households); and 17% job growth (18,390 new jobs). These projections conflict with the Department of Finance's and Marin County's forecasts, as demonstrated in Sustainable TamAlmonte's comment letter, dated May 8, 2013, regarding Plan Bay Area's EIR⁵.

Census data for 2011 showed that Marin's population grew 2.1 % in the previous decade (primarily in Novato), roughly only .2 % growth per year. This rate should decline even more because Marin County lacks developable land and has limited availability of water resources. Such lack of developable land and water will also contribute to limited job growth. In 2011, employment levels were about the same as they were in 1990. Since 2000, employment levels have declined. Marin's growing population of seniors will retire or not be fully employed, which will also contribute to lower employment levels. All of

¹ http://onebayarea.org/pdf/FEIR/FEIR_3_6_Individual_Comments_part_3_redacted.pdf

² http://onebayarea.org/pdf/FEIR/FEIR_3_6_Individual_Comments_part_1.pdf

³ http://onebayarea.org/pdf/FEIR/FEIR_3_6_Individual_Comments_part_1.pdf

⁴ http://www.preservationnation.org/information-center/sustainable-communities/green-lab/lca/The_Greenest_Building_lowres.pdf

⁵ http://onebayarea.org/pdf/FEIR/FEIR_3_6_Individual_Comments_part_1.pdf

these factors point towards little growth in Marin, much lower than Plan Bay Area's projections.

4) Plan Bay Area Makes Housing And Transportation Less Affordable Than Ever:

Rather than reducing the combined housing and transportation costs for low and lower-middle income households, implementation of the plan (as stated in its Environmental Impact Report) would increase these costs from 67% to 69% of low and lower-middle incomes.

5) Implementation of Plan Bay Area Would Cause Multiple Significant Unavoidable Adverse Environmental Impacts, Resulting In Increased Risk Of Severe Environmental Harm And Serious Jeopardy Of Public Health And Safety:

Plan Bay Area's Environmental Impact Report (EIR) demonstrates that implementation of Plan Bay Area would cause 39 significant unavoidable adverse environmental impacts, resulting in increased risk of severe environmental harm and serious jeopardy of public health and safety. The severity, magnitude and number of these impacts are astonishing. They include, but are not limited to:

- Insufficient water supply;
- Inundation from sea level rise;
- Exposure to hazardous materials and toxic air contaminants;
- Inadequate waste-water treatment capacity; and
- Loss of habitat.

The impacts were found to be unavoidable either because mitigations will not reduce the impacts to less-than-significant or else because the regional agencies cannot require local jurisdictions to impose the mitigation measures. Moreover, the mitigations are unfunded.

In Unincorporated Marin, Plan Bay Area targets development where the Marin Countywide Plan (CWP) targets development. The CWP's Environmental Impact Report (EIR) found that implementation of the CWP would result in 42 Significant Unavoidable Adverse Environmental Impacts. Moreover, if you compare Plan Bay Area's Priority Development Areas and Transit Priority Project Corridors with Marin's Hazard Maps, you will see that Plan Bay Area targets development in some of our most hazardous areas. These findings confirm that implementation of Plan Bay Area in Marin County would result in severe environmental harm and serious jeopardy of public health and safety.

6) Plan Bay Area Reduces Local Control:

There has been confusion over whether or not Plan Bay Area reduces local control. We wish to clarify that the plan does indeed contribute to a loss of local control.

SB 375 does not supersede local laws and local governments are explicitly not required to update their general plans in accordance with the law's centerpiece, the Sustainable Communities Strategy (SCS). (Plan Bay Area is the Bay Area's SCS.) However, SB 375 uses incentives (i.e. transportation funding, etc.) and penalties (i.e. court sanctions, accelerated Housing Element update cycles, etc.) to entice local jurisdictions to follow the law.

Moreover, under the Regional Housing Needs Allocation (RHNA) state law, a local government is still required to amend its Housing Element (and amend its General Plan if necessary to be internally consistent) and rezone its land in order to accommodate the quantity of housing it is assigned under the RHNA — and SB 375 requires that the RHNA be consistent with the Sustainable Communities Strategy (SCS) – AKA Plan Bay Area. In that sense, local governments will still be called upon to implement major aspects of Plan Bay Area (AKA the Bay Area’s SCS) via RHNA, whether or not they want to.⁶

7) Plan Bay Area Promotes Unfunded Mandates:

Plan Bay Area does not identify or address how communities will fund the expansion of public infrastructure and services necessary to accommodate the plan’s projected growth. There is no funding in place to address the significant adverse impacts that the plan will create. The local jurisdictions are expected to pick up the tab, when they don’t even have enough available funds to properly provide for the existing demands.

8) Plan Bay Area does not respect differences in size, density, and community character of jurisdictions throughout the Bay Area:

Plan Bay Area does not respect differences in size, density, and community character of jurisdictions throughout the Bay Area. The plan promotes development densities that may be suitable for urban cities like San Francisco but are certainly not appropriate for semi rural Marin.

9) Plan Bay Area Furthers CEQA Exemptions and Streamlining:

Plan Bay Area furthers along California Environmental Quality Act (CEQA) streamlining and exemptions that are allowed by Senate Bill 375.

SB 375 adjusted the California Environmental Quality Act (CEQA) to allow streamlining or exemptions of Environment Impact Reports (EIRs) for:

1. Projects that are consistent with an approved Sustainable Community Strategy (SCS). - Plan Bay Area is the Bay Area’s SCS; and
2. Projects that qualify as “Transit Priority Projects” (TPPs). - Plan Bay Area identifies “Transit Priority Project Corridors”, thus helping promote TPPs.

Under SB 375, the Sustainable Communities Strategy’s Environmental Impact Report (EIR) (AKA Plan Bay Area's EIR) is the program EIR that future projects would rely on for CEQA exemptions and streamlining. Full CEQA exemptions could occur in areas that meet full TPP criteria (E.g. Downtown San Rafael & the Canal neighborhood). CEQA streamlining or partial CEQA exemption could occur in areas that meet some but not all TPP criteria (E.g. Areas along the main transit routes in Marin).

10) The “No Project” Alternative Could Have Been Selected:

In accordance with **SB 375 and a detailed conversation with an ABAG representative, the "No Project" Alternative could have been selected and such a selection would NOT have been unlawful, provided additional amendments (such as additional greenhouse emission standards) were added to the alternative to reduce Green House Gases

⁶ <http://transbayblog.com/sb375/#localgov>

(GHGs) as required by SB 375. [Although, transportation experts have proven that Plan Bay Area's EIR is in error in regard to its projections about future GHGs and that GHG emissions would be reduced to the level required by SB 375 (or very close to this level), even if no plan were selected, due to emission standards that are already in place.]

**The following provision in SB 375 would have allowed the “No Project” Alternative to be chosen: "If the Metropolitan Planning Organization (MPO) (MTC is the Bay Area's MPO) calculates that it cannot achieve its target through the Sustainable Communities Strategy (SCS) (Plan Bay Area is the Bay Area's SCS), it must develop an Alternative Planning Strategy. The Alternative Planning Strategy (APS) differs from the SCS in that it describes additional resources, land use changes, or other modifications that would be necessary to achieve the GHG reduction target."⁷

10) A Shortsighted Vision:

We heard that some of Marin's elected representatives were partly persuaded to be in favor of Plan Bay Area because ABAG representatives told them that if a Plan Bay Area Alternative were not selected by July 18th, then ABAG would need to re-evaluate the Regional Housing Needs Allocation (RHNA) for the current Housing Element cycle (2007 to 2014) (if not yet certified) and the next Housing Element cycle (2014 to 2022) and possibly raise the allocations. Some officials were fearful of the RHNAs increasing and therefore were swayed to support Plan Bay Area. If this is true, this vision is shortsighted.

Plan Bay Area lasts through 2040 and most likely will be followed by another similar plan. The next Housing Element cycle only lasts 8 years. To allow an eight-year allocation to influence a decision about a plan that could set the course for the Bay Area for the next century is poor judgment, especially when that plan is fatally flawed. Moreover, based on ABAG's history of unrealistic projections and manipulation, the association will most likely assign Unincorporated Marin much higher RHNA numbers for subsequent Housing Element cycles.

Besides which, as already explained, the “No Project” Alternative could have been selected, in which case the current and next Housing Element RHNAs would not have been re-evaluated.

CONCLUSION

Summary:

Plan Bay Area is so flawed that it cannot be salvaged:

- 1) The cost effectiveness of Plan Bay Area is abysmal, with costs of implementing Plan Bay Area far surpassing any benefits achieved;
- 2) Plan Bay Area isn't needed to meet SB 375's greenhouse gas reduction requirement;
- 3) Plan Bay Area makes housing and transportation less affordable than ever;
- 4) Plan Bay Area's forecast of Population, Jobs and Housing is unrealistic;
- 5) Implementation of Plan Bay Area would cause multiple significant unavoidable adverse environmental impacts, resulting in increased risk of severe environmental harm and jeopardy of public health and safety;

⁷ http://www.housingca.org/site/DocServer/billsum_SB_375.pdf?docID=231

- 6) Plan Bay Area reduces local control (with a carrot & stick approach);
- 7) Plan Bay Area promotes unfunded mandates;
- 8) Plan Bay Area does not respect differences in size, density, and community character of jurisdictions throughout the Bay Area; and
- 9) Plan Bay Area furthers CEQA exemptions and streamlining.

Recommendation:

The adoption of Plan Bay Area must be rectified. The following steps should be taken:

- A. The Marin County Board of Supervisors should work with the Cities of Marin to withdraw from ABAG and form a Marin Coalition of Governments (COG);
- B. The Marin COG should then appeal to the Department of Transportation to allow the Transportation Authority of Marin (TAM) to suffice as our Regional Transportation Planning Area (RTPA), as opposed to a Metropolitan Planning Organization (MPO). (The Metropolitan Transportation Commission is an MPO);
- C. The Marin COG and the Transportation Authority of Marin should work together to create a new Sustainable Communities Strategy for Marin that is truly sustainable; and
- D. The Board of Supervisors should adopt a resolution for Unincorporated Marin to prohibit the California Environmental Quality Act (CEQA) streamlining and exemptions allowed by Senate Bill 375 and consequently Plan Bay Area.

Thank you in advance for your conscientious consideration.

Very truly yours,

/s/

Sharon Rushton

Chairperson

Sustainable TamAlmonte