



# Palo Altans for Sensible Zoning

June 23, 2021

MTC Public Information  
Attn: Draft EIR Comments  
375 Beale Street, Suite 800  
San Francisco CA 94105

## EXECUTIVE SUMMARY

MTC/ABAG has developed a proposed Plan Bay Area 2050 that focuses excessively high jobs and housing growth in a small geographic region of the South Bay, identified as Super District #9. This concentration challenges one of the key purposes of the proposed Objectives of the Plan: “Support the creation of quality job opportunities for all and ample fiscal resources for communities by more evenly distributing jobs and housing in the Bay Area and by enabling the regional economy to thrive”.<sup>1</sup>

MTC/ABAG has not followed the California Government Code during their preparation of Plan Bay Area 2050. The Code clearly states that the regional government body “explore in public meetings alternate means of dealing with intraregional jobs-housing imbalances”. Despite formal documented requests from citizens requesting a serious study of the positive impacts of dispersing jobs to areas of less concentrated development, MTC/ABAG failed to effectively explore the dispersal of jobs in any of the alternatives they looked at. In fact, without any substantial public discussion they announced in October 2019 that they would not look further at one of their identified strategies—the positive impacts of putting business caps on cities experiencing rapid job growth.

Toward that end, this note asks critical questions about this process and outlines legal reasons why these questions must be addressed. Until they are formally answered in public session, the Plan Bay Area 2050/RHNA process must be halted. Supporting legal precedents, rulings and timelines identify the questions that still await substantive responses before actions are taken that bring unprecedented changes to our communities.

This note outlines the relevant Government Codes, reviews the substantial issues raised in public letters and forums, tracks the dates of key decisions made by MTC/ABAG and HCD after these issues had been raised and ends with critical questions that need to be answered. We ask that the Plan Bay Area 2050/RHNA process be halted until MTC/ABAG meets in meaningful public session to explore the potential community benefits that might flow from a more effective job dispersion plan.

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<sup>1</sup> MTC/ABAG, Draft EIR, June 2021, p ES-6..

## RELEVANT GOVERNMENT CODES

There are several key California Government Code sections that focus specifically on the process of the development of the regional plan and the associated RHNA allocation. The most relevant is Code Section 65584 dealing with Local Planning for the Housing Element.

Code Section 65584.01 (a) and (b) assert that the regional housing determination shall be a product of cooperation among the regional government body (MTC/ABAG), the Department of Housing and Community Development (HCD) and the State's Department of Finance (DOF).

Code Section 65584.04 (d) points to the essential role of public participation in the process: "Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort."

Of special note is the emphasis on "intraregional balances". In Code Section 65584 (d) (3) it states that the Plan should promote the following objective: "Promoting an improved intraregional relationship between jobs and housing". "Intraregional" in this case clearly means "within the region".

To emphasize the importance of the importance of "improving" such a relationship, the California Code Section 65890.5 requires HCD to prepare and distribute a Guidebook that would present "methodologies for measuring the balance of jobs and housing" and identify "incentives which local, regional and state agencies may offer the private sector to encourage developments which will facilitate an improved balance between employment generating land uses and residential land use".

HCD followed up the Code requirements by stating in a letter in June 2020 that "HCD and ABAG staff completed an extensive consultation process covering methodology, data sources and timeline" that also involved coordination with the California Department of Finance. The process covered the period between March 2019 and May 2020 and had finalized ABAG's existing and projected housing need.<sup>2</sup> The letter stated that ABAG is "responsible for adopting a methodology for RHNA allocation that will "promote an improved intraregional relationship between jobs and housing".

## ISSUES RAISED IN PUBLIC

During the public comment period before the approval of the methodology to be followed by ABAG, there were two letters signed by 86 citizens sent by Palo Altans for Sensible Zoning in August 2019 and ten speakers appeared before the ABAG Executive Committee on September 19, 2019. There was a further formal note from the West Bay Citizens Coalition in March 2020. These interventions focused on three critical issue areas: the economic and social consequences that were flowing from concentrated growth; the lack of attention paid to the California Codes

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<sup>2</sup> Letter from Megan Kirkeby, Acting Deputy Director, HCD to Therese McMillan, Executive Director, ABAG, June 9, 2020.

that called for open public discussion of alternate ways of working toward improving the intraregional jobs-housing balances that were appearing around the Bay Area; and, the potential impacts on the mobility that had been a key characteristic of Silicon Valley's historical growth.

Let us review the issues mentioned and the data presented:<sup>3</sup>

1. Plan Bay Area 2040 made a serious underestimate of the concentration of jobs and housing imbalances: it forecast that the West Bay would have an annual increase in jobs growth about twice as high as Oakland and San Jose combined. In practice, between 2010 and 2018 the rate was well over seven times as high. This would seem to call for a serious public discussion of the accuracy of MTC/ABAG's internal models—REMI and BAUS2.0-- which are used with little or no public input.<sup>4</sup>
2. The concentrated growth in both office space and housing raised land prices significantly in the South Bay having a direct impact on housing prices. In fact, a Federal Reserve study indicated that the share of land prices in total housing costs in the San Francisco Metro Area was the highest in the country, with the San Jose Metro Area being the second highest in the country.<sup>5</sup>
3. Metro Area housing prices and rentals in the San Francisco and San Jose Metro Areas are now the highest in the country.<sup>6</sup>
4. Studies by the Brookings Institute show that the rates of household income inequality in the San Francisco and San Jose Metro Areas are among the highest in the country in Silicon Valley and are growing faster than in almost every other urban area in the country.<sup>7</sup>
5. The bulk of the funds for new affordable housing are paid by residents. The main source of funds comes from inclusionary zoning. This means that market rate renters in each new multifamily building are charged higher rates to cover the subsidized costs for affordable units. This increases the income inequalities in the area that already is the highest in the country. Further housing fees are assessed for affordable housing on all new building construction in the area. But despite the higher ratio of jobs over housing units in the area, residents pay more in impact fees than businesses.<sup>8</sup> This is important to recognize when affordable housing subsidies in the Bay Area may well total over \$200 billion, with up to 20% of that in the high-cost concentrated growth area of Silicon Valley that makes up only 4% of the population.<sup>9</sup>

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<sup>3</sup> Presented in PASZ letter of August 17, 2019, WBCC letter of March 18, 2020 and public comments made at the September 19, 2019 ABAG Executive Board Meeting.

<sup>4</sup> PASZ letter, Table 1.: Source: Plan Bay Area: Strategy for a Sustainable Future (July 2013, "Employment Growth by Jurisdiction", and Census Bureau, ACS Factfinder (Advanced search on B08601).

<sup>5</sup> Morris A. Davis and Michael Palumbo, Federal Reserve Board, Staff Paper 2006-25, Washington DC.

<sup>6</sup> Presented in letters of August 17, 2019 and March 18, 2020, Figure 3. Source: Zillow, February 2019.

<sup>7</sup> Berube, Alan "Income inequality in cities in metro areas: An Update", Brookings: Metropolitan Policy Program, 2016, Appendix X. Glassman, Brian, U.S. Census Bureau, "Income Inequality among Regions and Metropolitan Statistical Areas: 2005 to 2015", SEHSD Working Paper Number 2017-41.

<sup>8</sup> City of Palo Alto, 2015-2023 Housing Element, "Local Funds", pp 77-79.

<sup>9</sup> MTC/ABAG, Plan Bay Area, Final Blueprint Compendium, Growth Pattern.

6. Further, note that in the crowded urban areas of Silicon Valley, virtually all new housing construction is in multiunit buildings. Between two-thirds and three-quarters of recent market proposals consist of either studios or one bedroom apartments. This means that new young workers may be able to find a place to live but very few families will. This will have a profound impact on our communities. The U.S. urban areas with the densest business/population concentration (San Francisco, Washington DC, Manhattan County) have the lowest shares of children between the ages of five and seventeen. Many communities in Silicon Valley have had declining ratios of school age children over the last 9 years, with the total share of the population between the ages of five and seventeen having fallen by some 8%.<sup>10</sup>

7. Most serious historians of Silicon Valley have indicated that the key to the remarkable success of the tech revolution in a group of small suburban cities was the lack of large overriding businesses in the area and the remarkable mobility of both ideas and workers.<sup>11</sup> The recent concentration of businesses, the lawsuit against five large Valley firms agreeing to restrict open movements of workers and the growing restrictions on the use of the automobile in the current plans for concentrated development seems to undermine some of the key ingredients of the historical success of mobility in the Valley.

8. One of the organizers of the Plan is MTC which has regional responsibility for transit development. One of the key starting assumptions behind the Plan is to concentrate growth along existing transit corridors. This makes sense within MTC's transit purview. But the process should deal openly and explicitly with the falling level of use of transit over the last three years before COVID when ridership in both Bay Area-wide transit systems and local Santa Clara County transit systems that serve Silicon Valley fell.<sup>12</sup>

## THE DECISION PROCESS

The decision process for Plan Bay Area 2050 has moved along without public discussion of the issues raised in the documented letters or public comments cited above. The following dates highlight key MTC/ABAG decisions that follow the requests for public discussion on the issues raised above:

September 19, 2019: ABAG Executive Board approves the Methodology design for Plan Bay Area 2050. Its Attachment A describes the process in detail with a Regional Growth Forecast "produced by ABAG/MTC Planning Staff with consultant and technical Advisory Committee input" using both the REMI model and the Urban Sim 2.0 models to distribute the jobs and housing shares among local communities.<sup>13</sup> The Methodology was passed on a 19-3 vote.

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<sup>10</sup> California Department of Finance, E-5 Population Estimate for Cities and Counties, 2016-2019.

<sup>11</sup> See the discussions of the importance of idea and labor mobility in: Saxenian, Annalee, "Regional Advantage: Culture and Competition in Silicon Valley and Route 128", Harvard University Press, 1994, p 32-37; and David Angel in Kenney, Martin ed.; "Understanding Silicon Valley: The Anatomy of an Entrepreneurial Region", Stanford University Press, 2000, p 130-132.

<sup>12</sup> BART, Caltrain, and VTA operating statistics.

<sup>13</sup> Plan Bay Area 2050: ABAG Executive Board, September 19, 2019: Attachment A.

October 11, 2019: ABAG Planning Committee released a report that stated that they would not move forward with a Horizon Strategy that recommended exploring a strategy that would “Place Office Caps in Job-Rich Cities”.<sup>14</sup>

Fall 2019 – Summer 2020: Key decisions made by the internal Technical Committee with HCD and DOF participation. This Committee relied on their in-house models—REMI and Urban Sim 2.0. This process was based on a strategy of focused growth in Transit-Rich areas and High-Resource Areas along existing transportation networks.<sup>15</sup>

May 8, 2020: MTC/ABAG presented a report that stated that while COVID-19 would have an impact on the early part of the period covered by Plan Bay Area 2050 it would not have an effect on the longer term projections of jobs and housing.<sup>16</sup> This downplays the possible longer term impact of remote working on housing needs and keeps a strategic focus on concentrated job growth in already jobs-rich areas.

June 9, 2020: HCD approval of final Regional Housing Need Determination for ABAG that confirmed close cooperation between the agencies during the period from March 2019 to May 2020 with consultation with the California Department of Finance. It acknowledged that one of the objectives of the Plan was to “Promote an improved intraregional relationship between jobs and housing” but it had the practical effect of stressing in-house committee work relying on the strictly controlled models of REMI and BAUS2.0.<sup>17</sup>

January 21, 2021: ABAG Executive Board adopted the Final Blueprint as the Preferred Alternative.<sup>18</sup>

BEFORE YOU APPROVE THE PLAN BAY AREA 2050 EIR,

....WE ASK THAT YOU ANSWER THE FOLLOWING QUESTIONS

1. When will HCD release their Code mandated Guidebook (Government Code 65890.5) that would provide methodologies for an open discussions of a range of possible incentives that local, regional and state bodies could offer the private sector to encourage developments which will facilitate an improved balance between jobs and housing?
2. Why are ABAG and HCD relying on in-house models (REMI and Bay Area Urban Sim) that have produced such striking errors in the location of job concentrations during the period 2010-2018 without clear and open public discussion about model assumptions and characteristics?

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<sup>14</sup> MTC/ABAG: [mtc.ca.gov/sites/default/files/Horizon\\_Futures\\_Final\\_Report\\_Presentation.pdf](http://mtc.ca.gov/sites/default/files/Horizon_Futures_Final_Report_Presentation.pdf). October 11, 2019

<sup>15</sup> Letter from Megan Kirkeby, HCD to Therese McMillan, ABAG, June 9, 2020; Draft Plan Bay Area 2050, “Forecasting and Modeling Report”, pp 14-15 and p 40.

<sup>16</sup> Joint MTC Planning Committee with the ABAG Administrative Meeting: May 8, 2020.

<sup>17</sup> Letter from Megan Kirkeby, HCD to Therese McMillan, ABAG, June 9, 2020.

<sup>18</sup> MTC, Plan Bay Area Monthly Update, February 4, 2021.

3. Identify when “alternate methods of improving dealing with intraregional jobs-housing imbalances” were discussed in open public sessions. In that discussion please describe the “controversy” that was identified in the “EIR: AREAS OF CONTROVERSY” section that stated “Strategies integrated in EIR Alternative 2...included office development caps in job-rich cities, that were controversial and ultimately discarded earlier in the process” (EIR, p EC 9-10)?
4. When was there any discussion of the possible severe economic and social consequences raised by the public from the further concentration of growth in both jobs and housing in a single relatively small geographic area (Super District #9)?
5. It is clear that large businesses benefit from concentrated growth and that the state budget does as well. At the same time, the tax and cost burdens of transit, infrastructure and affordable housing on local residents will move dramatically higher. Why has there been no public discussion of the benefits flowing to large businesses and the state budget while the costs burden is so severe on local residents?
6. Has there been any public discussion of the growing dominance of very large firms that is a clear consequence of business concentration and its impacts on the mobility of ideas and talent that has been such a key part of Silicon Valley’s emergence and growth?

PASZ (Palo Altans for Sensible Zoning)

Contact: Greg Schmid

[gregschmid@sbcglobal.net](mailto:gregschmid@sbcglobal.net)