



BIA Bay Area Comments on 2050 Draft Blueprint 2020

August 9,

1. The Urban Growth Boundary Strategy Needs Significant Revision.

The Draft includes a strategy to “maintain existing urban growth boundaries” and proposes to implement it without adjustment. Moving forward without adjustment is inappropriate because it ignores widespread acknowledgment (including within the agencies’ own Futures report) that Urban Growth Boundaries (UGBs) as currently adopted and implemented in the Bay Area are exclusionary because they have negative impacts on housing opportunity and equity.

The Futures report correctly notes there is broad support in the Bay Area to maintain existing UGBs. This is unsurprising since UGBs preserve open space for the benefit of existing (those already housed) residents. But it also identifies significant negative equity and opportunity consequences associated with Bay Area UGBs:

- **The strategy limits land available for development and increases land values.** As land values increase overall across the region, this can lead to higher development costs, especially if zoning is not adjusted to allow for new development options elsewhere within the urban growth boundary.
- **The strategy may be partly responsible for development spillover into the broader mega region.** Increased development pressure that is unmet within the Bay Area can lead to development pressures in the mega region resulting in greenfield development just on the other side of our county lines. Additional developments, similar to Mountain House in San Joaquin County, could occur if the Bay Area does not meet its regional housing needs in infill locations; these developments outside the Bay Area could generate additional traffic to and from the Bay Area.¹

Recognition of these significant negative consequences is not new. Planning research in California has long criticized Bay Area-type UGBs because they do not ensure adequate realistic housing development capacity within the UGB. Unlike UGBs as implemented in Oregon, Bay Area UGBs address only one side of the planning ledger: they prohibit housing development beyond a specified boundary; they do not address the corresponding need to ensure a predictable long-term supply land of residentially planned

¹ MTC/ABAG, *Futures Final Report* (Jan. 2020)

and zoned at appropriate densities, nor do they include widespread entitlement streamlining for housing projects proposed within the boundary:

California's experience with UGBs is somewhat different than Oregon's. First and most important, California UGBs are enacted by local option, rather than pursuant to a state law. **In Oregon, cities are required to base their UGB on an analysis of a 20-year demand for urbanized land, and metropolitan regions such as Portland are required to reassess their UGB every five years based on a similar analysis. In California, no such analysis is required,** and UGBs are most often implemented at the level of the individual jurisdiction rather than the regional metropolis.

Thus, the impact of UGBs in California depends more on how they are implemented locally. One study found that California jurisdictions adopt two distinctly different types of UGBs – **tight “perimeter control lines”** and much looser and more flexible “orderly expansion lines” (Glickfeld, Levine, and Fulton, 1996). **Perimeter control lines are more likely to be adopted by coastal municipalities, and therefore are more likely the model for most UGBs adopted by ballot measure in California.** Orderly expansion lines are more likely to be adopted by inland counties, especially those in the Central Valley seeking to maintain an orderly transition from agricultural land to urban growth...

Many of the jurisdictions that have adopted UGBs via ballot measure – especially in the Bay Area and Ventura County – have done so only after putting housing and population caps into place...²

[T]he mere passage of a UGB does not ensure such a [smart growth] pattern; indeed, a poorly constructed UGB program will sometimes encourage leapfrog development to the other side of the UGB or to more distant towns or cities. UGBs must be accompanied by a strong policy statement that development inside the boundary is encouraged and by a series of code revisions that will facilitate growth in infill locations that are friendly to transit and other alternative forms of transportation. UGB ballot measures should facilitate Smart Growth by taking the extra step of directing the local government to alter its existing codes to facilitate infill and compact, mixed-use development patterns, rather than simply outlawing sprawl.³

² Local Government Commission, *Ballot Box Planning and Growth Management* (2002) (http://www.lgc.org/wordpress/docs/freepub/community_design/reports/ballot_box_manual.pdf)

³ Solimar Research Group, *Growth Management Ballot Measures in California* (2002) (<http://www.solimar.org/pdf/growthballotmeasure.pdf>)

Given the strong evidence that UGBs as now implemented in the Bay Area (“perimeter control lines”) have significant negative consequences—including adverse equity impacts on low-income populations (a key consideration in the Futures Strategy Rating)—the UGB strategy as proposed (maintain the status quo) cannot reasonably be included without significant revision. In other words, no matter how overwhelming the support of existing residents and their local elected officials for maintaining the Bay Area’s UGB regime as is, the Strategy Rating criteria fairly applied demands significant refinement.

Possible refinements to the UGB strategy to mitigate the negative impacts of the existing UGB regime and ensure equitable and inclusive UGBs are:

- 20-year supply of residentially planned and zoned land within the UGB
- Ensure maintenance of 20-year supply by updating UGB every 5 years
- No requirement to obtain voter approval to designate land for housing or increase the density of land for housing within the UGB
- By-right entitlement for areas designated for new housing development within the UGB

2. The Inclusionary Zoning Strategy Needs Significant Revision.

The Draft includes a strategy to “expand the Plan Bay Area 2040 strategy of 10% inclusionary zoning in jurisdictions with PDAs to a variable rate ranging between 10% in weaker-market communities and 20% in stronger-market communities.” The Futures report suggests the strategy should move forward with “minor” refinements. We believe significant revisions are necessary to consider moving forward with this strategy.

First, the portrayal of the results of the strategy are misleading and if left uncorrected will preclude informed consideration and decision-making in the Plan Bay Area 2050 process. The strategy is represented as “responsible for 66,000 to 300,000 new deed-restricted units across the three Futures.” This gives the impression that there is a vast untapped opportunity to increase the supply of deed restricted housing units via adoption or increase of local inclusionary zoning policies. In reality, however, the vast majority of Bay Area jurisdictions *already* have inclusionary zoning policies in place at or near the 10-20% suggested by the strategy.

The Futures report alludes to this problem but only in a technical footnote: “the model ignores instances where a local jurisdiction may already have a rate greater than 10%...which could lead to benefits being slightly over-estimated on the regional level.” First, many jurisdictions do in fact have a rate greater than 10% so by its own terms the model greatly (not slightly) overstates benefits at the regional level.

Second, it appears the modeling for the Plan Bay Area 2040 10% inclusionary zoning policy itself assumed a baseline of zero deed restricted units being produced by local inclusionary zoning requirements. The Plan Bay Area 2050 modeling, in turn, compares the results of the 10-20% inclusionary strategy with the results of the 2040

10% strategy—neither of which seem to acknowledge that inclusionary zoning is already widely adopted throughout the region and therefore a part of the Bay Area’s existing baseline conditions.

For the purpose of informed decision-making, the proposed inclusionary zoning strategy requires more transparency and details regarding how the results presented address the existing inclusionary zoning ordinances (including the specific policy details) that exist in the region. Only by understanding the inclusionary zoning landscape as it actually exists today can the proposed strategy be meaningfully understood and discussed.

It is also important for the specific details of the proposed strategy itself to be accessible and transparent. For example, the strategy calls for the 20% inclusionary level to be imposed only in “strong-market communities” but does not elaborate on what the model considers to be a strong-market community. Without more disclosure, it is likely the public and decision makers will (erroneously) assume that many if not most Bay Area jurisdictions are or will be “strong market” and interpret the strategy as calling for 20% inclusionary in vastly more jurisdictions than the strategy actually does. In fact, the strategy identifies only the following jurisdictions as “strong market”:

- Los Altos
 - Burlingame
 - Los Altos Hills
 - Cupertino
 - Hillsborough
 - Monte Sereno
 - Saratoga
 - Millbrae
 - Belmont
 - Ross
 - Mountain View
 - Piedmont
 - Foster City
 - Belvedere
 - San Carlos
 - Larkspur
 - Los Gatos
 - Mill Valley
 - Palo Alto
 - Atherton
 - Menlo Park
 - Tiburon
 - San Anselmo
 - Sausalito
 - Sunnyvale
 - Albany
 - Corte Madera
 - Berkeley
 - San Francisco
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With limited exception, these are primarily small, low-housing production jurisdictions that neither decision-makers, stakeholders, nor the public would think of when considering the strategy's reference to "strong market" jurisdictions that can support a 20% inclusionary requirement:

Public discussion of the strategy should also make clear that it entails limiting the BMR% to not more than 15% in non-strong market jurisdictions, *i.e.* those identified as medium and weak markets. These medium and weak markets should be clearly identified.

Other concerns with how the strategy is presented include the fact that other than the agencies' own proprietary models, there is little or no actual evidence that a 20% inclusionary zoning requirement can "pencil" even in so-called strong markets. According to a presentation by the Turner Center to the MTC-convened CASA committee, when San Francisco (a strong market jurisdiction according to the model) increased its inclusionary zoning mandate to the 20% level, production dropped precipitously: "San Francisco – New IZ policy enacted in 2016 - 2017 applications fell by 36.5% from 2016"⁴. In fact, the Turner Center presentation referenced multiple analyses showing that even a 15% inclusionary requirement did not pencil in representative Bay Area jurisdictions during the strong housing market conditions that existed pre-COVID, and that for inclusionary zoning to be an effective widespread strategy in the Bay Area, it must be coupled with significantly enhanced (non-discretionary and pre-defined) incentives such as tax abatements, a cap on other fees and exactions, alternative compliance options, relaxation of design and zoning requirements, and greater density bonuses). More analysis and discussion of how the agencies' modeling results compare to the Turner Center analyses is clearly warranted.⁵

Another concern is that by the agencies' admission, the model is not able to predict whether the cumulative regulatory cost burden of inclusionary zoning drives down the total amount of housing units produced across the entire region and whether it leads to displacing housing development to other regions such as San Joaquin County or San Benito County. This limitation is not disclosed in the publicly available materials.

⁴ Turner Center, *CASA Production Subcommittee Presentation* (February 20th, 2018)

⁵ Further discussion should also include the fact that under AB 1505 newly adopted inclusionary requirements on rental housing exceeding 15% trigger HCD review. Also, the agencies have in prior analyses identified affordable housing impact fees and in lieu fees as a significant source of local funding for affordable housing. If every jurisdiction moves to a "must build" policy as the strategy suggests, there will be a significant loss of liquid financing that today along with leveraged funds is essential for many 100% affordable housing projects.

3. The Streamlining Strategies Need Policy Details Developed and Disclosed.

Unlike the proposed inclusionary zoning strategy, the strategies that are proposed to make it easier and less costly to develop and construct new housing lack policy detail:

- “Assign Higher Allowable Densities in Priority Development Areas”
- “Assign Higher Allowable Densities Around All Major Transit Stops”
- “Assign Higher Allowable Densities in High Resource Areas”
- “Streamline Development in All Areas Designated for Growth”

Even in the technical notes in the Futures report, the description of an essential entitlement reform element (CEQA reform) simply assumes that CEQA streamlining will increase the profitability of new housing development by 1%. There is no discussion of how the strategy actually proposes to streamline CEQA. For each of these strategies, the details should be fully fleshed out and disclosed. For example, one strategy should expressly propose that in implementing SB 743, all jurisdictions cease requiring housing projects to analyze or comply with LOS traffic policies and requirements.

4. The “Costs” of the Strategies Should Recognize Private Sector Costs.

A fundamental problem with the presentation of the “costs” associated with the Draft Plan is that it discloses only direct public agency expenditures as costs. This obscures the fact that many of the strategies would impose direct regulatory and compliance costs on the private sector including on developers of housing. The inclusionary zoning strategy is an important example. The strategy is presented as literally costless. Yet in reality it would require developers of new housing (and landowners/buyers/renters) to bear the very substantial cost of providing deed restricted housing units. This kind of clearly defined regulatory cost imposed on private sector housing developers should be reflected in the analysis.

Yours truly,



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