Making Vision Reality: Incentives and Regulatory Change

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State Capitol, Sacramento

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INCENTIVES AND REGULATORY CHANGE

As participants in the smart growth workshops realized, envisioning a smart growth future is far simpler than the task of making it a reality. To build a smarter future for the Bay Area, we will need to change our tax system, our regulations on land use and the criteria we use for distributing state and federal funds. Indeed, we must change the “carrots and sticks” that shape land-use decisions by localities, neighborhoods and private developers.

Altering decades of fiscal and regulatory tradition will require a major shift in thinking and the creation of new inducements for smarter development patterns.

Local governments already have policy options they can use to promote and implement smart growth projects, but the state and federal government need to institute new incentives and regulatory changes to encourage local governments — as well as developers, neighborhood groups and others — to move ahead in developing smarter communities. Meanwhile, the Bay Area’s regional agencies can help create a more conducive environment by adopting new policies and strengthening existing ones that promote smart growth.

As workshop participants confronted the challenges of initiating change, they proffered hundreds of ideas on how to cultivate smart growth projects that are emerging in various parts of the Bay Area and to propagate them throughout the region.

Listed below are brief descriptions of some of the kinds of legislative incentives and regulatory changes that could help achieve smart growth objectives. They were suggested by Smart Growth/Footprint Project participants, but are only examples. They have not been approved by the project steering committee nor by any participating stakeholder groups. Each and every incentive and regulatory change on these pages would involve trade-offs that must be thoroughly considered before any are pursued.

Objective 1: Stimulate housing construction and promote permanently affordable housing.

Remove disincentives to providing housing.

The state constitution could be amended to protect locally levied taxes from being reallocated. Under state Proposition 13 and subsequent taxpayer-sponsored initiatives, including Proposition 218, local governments have lost much of their control over tax rates and expenditure of public funds to the governor and the Legislature. If local governments were given back their share of property taxes, they would look more favorably upon new housing as a source of revenue to pay for necessary services, such as schools, fire, police, libraries and parks.

Fund neighborhood-level planning to provide certainty in development review process.

Specific plans that cover multiple development projects in a focused area can allow cities to define appropriate types of construction before a developer commits to a particular site. This process gives certainty to developers when they reach the development review process, thus encouraging desired development. New state and regional grants could help local planners prepare such plans and environmental documents for mixed-use, infill and transit-oriented projects and could link such funds to a commitment to build needed housing.

Provide incentives to promote housing affordable to the region’s workforce.

Local governments can offer incentives to nonprofit and for-profit developers to create permanently affordable housing by allowing higher densities than would be otherwise permitted, expediting the permitting process, and relaxing zoning standards. Parking requirements for housing near public transit, for example, can be reduced, because residents and workers in dense neighborhoods near transit tend to own fewer cars.

NEW AND PROPOSED INCENTIVES

Several organizations have already proposed or developed ideas for incentives and regulatory changes:

Community Capital Investment Initiative
In partnership with the Bay Area's poorest communities, high priority Bay Area Alliance project to attract private investment and smart growth to these neighborhoods. **CCIIBAA@BayAreaAlliance.org**

Speaker's Commission on Regionalism
Blue ribbon committee of elected, business, environmental, labor and equity leaders from throughout California. Recently released report identifies state policy changes needed to allow regions to address economic competitiveness, persistent poverty, underemployment, traffic congestion, long commutes, unaffordable housing, and loss of open space and habitat. **www.regionalism.org**

The Urban Land Institute (ULI)
ULI's California Smart Growth Initiative is guided by business, development, environmental, social justice, civic and local government leaders from throughout the state, has identified specific priority areas and actions that the state of California should take to promote smart growth practices. **www.smartgrowthcalifornia.uli.org**

Transportation for Livable Communities
The Metropolitan Transportation Commission has tripled its Transportation for Livable Communities program, from $9 million to $27 million annually. This program funds pedestrian-, bicycle- and transit-related improvements, and includes a separate Housing Incentive Program for transit-oriented housing. **www.mtc.ca.gov**

Inclusionary zoning laws require new housing developments to include a certain percentage of units (usually 10 percent to 20 percent) that is affordable to very low-, low- and moderate-income residents. Although some feel that such policies unfairly burden buyers of market-rate units in the same development, San Francisco, East Palo Alto, Union City, Dublin, Danville, Richmond, Napa, Petaluma, Santa Rosa and several cities in Marin County have adopted such requirements.

Many communities also have adopted jobs/housing linkage fees that require all new job-generating projects to pay a fee toward the development of affordable housing. Although some feel that these fees unfairly penalize businesses producing new jobs, many communities have already adopted them, including San Francisco, Menlo Park, Cupertino, Pleasanton, Livermore and Napa. Sonoma County is considering a countywide program.

Objective 2: Improve urban infrastructure

Create a stable revenue stream for local governments (e.g., return of property taxes).

During the 1990s, the state shifted approximately $3 billion of local property taxes annually from local governments to the Educational Revenue Augmentation Fund (ERAF), which supports public schools. The loss of property tax revenue — a trend exacerbated by the difficulty of establishing new revenue sources — has caused many communities to rely primarily on development fees and retail sales taxes to fund local services. Unlike property taxes, these revenue streams can fluctuate widely from year to year, making long-term budgeting and planning difficult for local governments. Returning ERAF funds to local governments and restoring state support of public schools through other means could help reduce local reliance on fees and sales taxes and provide a more stable revenue stream for local governments.

***Parking requirements** for housing NEAR PUBLIC TRANSIT can be **reduced** because residents and workers in dense neighborhoods near transit tend to own **FEWER CARS**.*

The inside front pocket of this report contains a more detailed summary of specific legislative changes being pursued by the Smart Growth Strategy/ Regional Livability Footprint Project. A description of these legislative efforts also is available online at: **www.abag.ca.gov/planning/smartgrowth.**

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The state could provide FISCAL INCENTIVES for ***cleanup*** *of old industrial* ***brownfield*** *sites that are suitable for new uses.*

Prioritize infrastructure funds for smart growth infill projects.

The state could demonstrate support for smart growth by prioritizing funds to help improve and replace existing infrastructure facilities — new roads, sewer lines and other utilities — in already urbanized areas.

Provide state funds for cleanup of brownfields and to limit liability for contamination.

The state could provide fiscal incentives for cleanup of old industrial "brownfield" sites — contaminated properties — that are suitable for new uses, particularly for housing. Developers also would be more inclined to develop on such sites if limits were set on their liability for prior contamination. As an inducement to develop on contaminated infill sites, some local governments like Emeryville already post on their city's website the location of vacant parcels and their soils analysis.

Subsidize infrastructure for water recycling to ensure adequate water supply.

Subsidies for construction of separate irrigation systems would encourage use of recycled water for nonpotable uses. Similarly, price differentials for fresh versus recycled water would promote greater use of recycled water for golf courses and the like.

Link funding for new schools to smart growth criteria, such as: locating in neighborhood centers to promote pedestrian and bicycle access; designing for after-hours use as community centers; and building smaller scale structures to maximize proportion of nearby students.

Schools, both new and renovated, that also function as community centers give vitality to neighborhoods during non-school hours, while providing needed gathering places. School districts can be rewarded for developing joint community facilities in connection with new neighborhood schools.

Reward local governments for enacting smart building codes that allow retention of historic character while ensuring public safety.

The state can offer incentives to local governments that adopt building codes that allow and encourage retention of historic aspects of their communities. Creating flexible regulations while maintaining safety takes creativity on the part of planners and building officials.

Objective 3: Avoid displacement of existing residents and businesses.

Require that the existing stock of affordable housing be maintained.

Housing trust or bond funds can provide funding for existing affordable housing developments in danger of losing subsidies or tax-exempt status.

Create programs and regulations that promote living-wage jobs and services in low-income communities.

By setting a minimum wage that can support a full-time worker, the state could help foster stable communities. In addition, aggressive job training and economic development programs can be fostered by the state in low-income communities to create better job and entrepreneurial opportunities for local residents. Merchants can be encouraged to locate grocery, clothing, hardware and other types of stores and services in low-income neighborhoods to enable local residents to work, shop and generate income in their own communities.

Create programs to allow local public employees to live in the communities in which they work.

State or regional funds could be used to offer housing subsidies or income tax credits to employees who live close to their workplaces. Many local governments already provide such subsidies to teachers, police officers and firefighters.

Objective 4: Protect open space and agricultural lands.

Encourage or require communities to enact urban growth boundaries (UGBs) or urban limit lines and link such policies to development of infill housing.

By combining UGBs with local policies that encourage infill development — particularly of new housing — development can be focused in areas where infrastructure already exists. In addition to protecting our remaining open space, growth boundaries help maintain the vitality of cities by encouraging more residents to live within walking distance of services and public transit.

Provide incentives for infill development to avoid leapfrog development.

Local governments can identify and inventory potential sites suitable for infill development. They can go a step further by rezoning unused industrial areas and underutilized shopping strips for new mixed-use development, and they can adopt ordinances to allow development of second units without complex or expensive approval processes.

Objective 5: Encourage new development that reduces dependence on single-occupant vehicles.

Reward local governments for approving new jobs and housing near public transit stations.

New transportation funding could be used to encourage mixed-use development around rail and bus hubs. State and federally funded transportation programs, such as MTC's Transportation for Livable Communities and Housing Incentive programs (see box on page 15), could be expanded with increased funding.

Streamline the California Environmental Quality Act (CEQA) process for specific kinds of development.

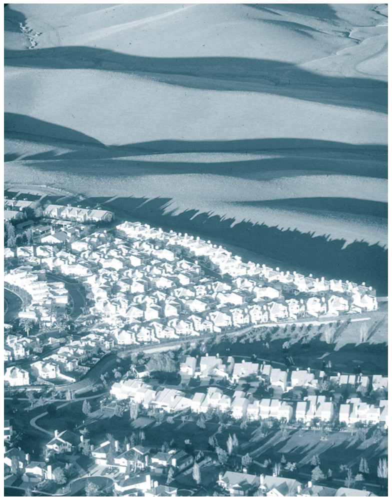
Although transit-oriented and mixed-use projects can increase local congestion by attracting more people and cars to an area, such projects can allow more residents to commute on public transit and run more errands in the surrounding neighborhood on foot. Although some workshop participants were nervous about discussing any changes to CEQA, others proposed exempting these projects from CEQA altogether or only from currently required traffic analyses. A similar exemption already exists for low-income housing projects of 100 units or less.

Provide incentives that encourage mixed-use, compact, transit-oriented, infill development.

Local governments can encourage developers to create attractive new neighborhoods near public transit, with narrow streets, landscaping and other amenities that invite walking and bicycling. Congestion management agencies can work with local jurisdictions in updating their general plans to reflect more transit-supportive land uses along the transit network and can include those new land-use scenarios in countywide transportation plans. State financial rewards for such development can help local governments, developers and others overcome biases toward single-use, spread-out developments that favor automobile use.

Provide increased funding to improve the safety, reliability and convenience of transportation alternatives such as rail, bus, ferry, bicycling and walking.

The Bay Area plans to spend 77 percent of all transportation funds over the next 25 years on public transit. This will help attract new riders. Only when it becomes easier, safer and more reliable to ride a bus, ferry or rail line than to drive a car will the choice be a viable one. Likewise, when the safety of pedestrian and bicycle pathways is assured, more people will opt to walk or bike to their destinations and leave their cars at home.



*In addition to protecting our remaining OPEN SPACE, **growth boundaries** help maintain the VITALITY of cities.*

ANNA YOUNG

When the ***safety*** *of pedestrian and bicycle pathways* ***is assured,*** *more people will* ***leave their cars*** *AT HOME.*

Provide tax bonuses to cities that approve compact, mixed-use development near public transit, perhaps in designated "smart growth zones."

"Smart growth zones" can be created in communities that reshape their land-use policies and meet smart growth criteria, in return for which they will receive tax incentives, grants, loans and technical assistance from the state for planning and environmental review.

Use parking pricing and availability to encourage use of transportation alternatives.

Free parking can serve as a disincentive to using alternatives to the single-occupant vehicle. Meanwhile, some places have such high demand for parking that people are willing to pay a fee, generating funds that could be used to improve public transit. Cities also can institute parking ceilings that limit the amount of parking in new developments.

INNOVATIVE BAY AREA AFFORDABLE HOUSING PROGRAMS

Already, Bay Area communities have created programs to spur affordable housing development. Here are some examples:

Housing Trust Funds The Housing Trust of Santa Clara County is a unique public/private partnership that has raised over $20 million, two-thirds of it from the private sector, and the remainder from public agencies including Santa Clara County and each of the 15 cities in the county, to provide first-time homebuyer assistance for 800 families, create affordable rental housing for 3,000 families, and build transitional and permanent housing for the homeless.

Flexible Zoning The city of San Jose provides for flexible zoning with its Discretionary Alternate Use policies such as density bonuses and the use of city-owned surplus land for affordable housing developments.

Farm Worker Housing Recently-passed state legislation — backed by the Napa Valley Vintners Association — allows Napa County to levy an annual fee on planted vineyards to provide and maintain housing for farm workers. Vineyard property owners who provide housing for their workers are exempted from the fee.

Bonds In 1996, San Franciscans passed a $100 million general obligation bond to create and preserve 2,400 affordable homes. Building on this success, voters will decide on a $250 million bond measure in November 2002. If passed, three-quarters of the money will fund affordable rental housing, with the balance assisting families buying their first home.

Inclusionary Zoning The city of Petaluma program requires 10 percent to 15 percent affordable homes in both rental and for-sale housing developments of five homes or more. Working with developers, Petaluma has created 1,400 affordable homes for lower and moderate income households since 1984.

Redevelopment Agency Commitments Oakland, San Francisco, San Jose and Santa Clara are raising the proportion of their redevelopment funds dedicated to affordable housing.

Location Efficient Mortgages (LEMs) These are special mortgages for housing in convenient, transit-rich neighborhoods where data show members of typical households drive less and spend less on transportation. Available through a demonstration project in the Bay Area, LEMs allow households to qualify for larger mortgages by taking reduced automobile expenses into consideration.

Jobs/Housing Linkage Programs Sonoma County and cities within the county are taking the first steps toward adopting a countywide linkage program that would require new developments to contribute funding for affordable housing. This could generate as much $35 million over the next five years, which could be combined with other funding sources to build 1,200 affordable homes.