

MTC-ABAG
Plan Bay Area Public Comment
101 8th Street
Oakland, California 94607

May 16th, 2013

re: Public Comment on Draft Bay Area Plan and Draft Bay Area Plan Draft Environmental Impact Report

This letter is submitted as public comment on the Draft Bay Area Plan and Draft Bay Area Plan Draft Environmental Impact Report (State Clearinghouse No. 2012062029)."

My name is Paul Magginetti. I was born and raised on the Peninsula, have lived in the Bay Area all my life and currently reside in San Carlos, where I am on the Board of the Greater East San Carlos Neighborhood Association (GESC). I have a degree in Biochemistry and I am a professional in the Medical Device Industry. I consider myself an Environmentalist; in high school I was the President of the Hillsdale High class of '77 Sierra Club, helping to clean up a devastated environment and was instrumental in safeguarding San Bruno Mountain, Sweeney Ridge and the Fitzgerald Marine Reserve from inappropriate development by unethical developers. You can imagine my horror when the Sierra Club lobbied the City of San Carlos to re-zone my 65 year old single family neighborhood as high density housing. They now want the same type of "luxury" housing to be built on Caltrain land shoehorned in between the El Camino Real and the train tracks. I have since learned that, by encouraging "Priority Development Areas", the Sierra Club hopes to prevent development of open spaces; forgetting that it is people that vote to keep these spaces open and, that given the chance, developers will build there too. It seems to me very unwise to ask people to choose between their homes and the environment. We have all worked very hard to afford a single family home in the Bay Area and will defend our quality of life against those who would sacrifice our rights in shortsighted attempts to further a dogmatic political ideology that gives right to those who do not yet live here.

This current housing project, the San Carlos Transit Village (SCTV), located adjacent to our community has been advertised as "luxury housing" but is really simply high density rental apartments with no yards next to a noisy smelly train on extremely toxic soil, poisoned after 100 years use as a railroad. It is the antithesis of our quiet neighborhood where we live and play in safety, all knowing and looking out for each other. It will not provide sufficient funds to pay for the burdens it will put safety, parks, roads and utility infrastructures. It will, however, provide an income stream to help keep Caltrain out of bankruptcy. It uses public grants and CALPERS investment to fund this otherwise financially untenable project. Caltrain officials, and some local politicians, have pointed to this housing project as a shining example of what the One Bay Area Plan is all about. Perhaps reading these endorsements as permission, the developer and Caltrain have refused to address our concerns and we have even had local city staff members intercept our internal GESC communications and passed them on to the developer and Caltrain while keeping us in the dark. Such denial of honest services is reminiscent of the IRS scandal and has had a similar poisonous effect on our trust in government with real repercussions on local politics. If this is an example of the One Bay Area Plan, then you need to realize that these "Areas of Known Controversy" will negatively affect your constituents and that they deserve proper consideration. You disregard them at your peril.

Regarding the DEIR itself, there are several areas where the mitigations are insufficient and inadequate much in the same way as the San Carlos Transit Village EIR:

ES-6, Transportation:

It is stated that \$289 million in revenues are available for Plan Bay Area. Will this money be used for transportation only, or will some of it be used to subsidize housing? If used for housing, how much?

ES-7, Alternative 2: Proposed Plan

It is stated that 90 percent of future revenues will be used to operate and maintain existing roads and transit system. What will the other 10 percent of future revenues be used for? How much of the overall revenues be used for salaries and pensions respectively?

ES-8, Key EIR Assumptions

It is stated that the ABAG forecast shows that between 2010 and 2040, the nine-county San Francisco Bay Area is projected to add 1.1 million jobs, 2.1 million people and 660,000 homes, for a total of 4.5 million jobs, 9.3 million people and 3.4 million homes. Past forecasts have fallen far short of such predictions. Currently there has been a net loss in population while housing vacancy rates have increased. All of this is shown in the referenced in the link in the EIR. How will this plan be adjusted for actual population and vacancy levels? How many of these 2 million residents are expected to use public transportation?

ES-9, Environmentally Superior Alternative

In Transportation it is implied that No Project is tied with Alternative 3 for the least environmental impact. Is this the case? Please show a table for clarity.

ES-10, In Noise there is a reference to a 66dBA threshold.

Why is this level significant? Many of the PDAs are shown adjacent to rail use where these levels are already exceeded. How will this be mitigated in such instances? How will this be mitigated to prevent hearing damage and stress to inhabitants of this previously industrial land? What are the circumstances under which residential use would be proscribed?

ES-11, Historic Resources and Land use

It is stated that impacts related to community disruption or displacement and alteration and separation would be highly localized. What data do you have to support this claim? What objective criteria of community disruption or displacement and alteration and separation are applied? At what levels do these changes to existing communities exceed what is acceptable and development proscribed?

ES-11, Historic Resources and Land use

It is implied that it is desirable to minimize the conversion of agricultural and open space. Why is this an important attribute? Is this attribute more important than existing community conversion? What objective criteria are used to make this determination?

ES-11, Historic Resources and Land use

There is an allusion to growth in areas that local jurisdictions are unlikely to implement. Has this been taken into account in the growth assumption in ES-8 above? If not, will ABAG enforce growth despite local wishes? What legal authority would be used to enforce such growth? Will growth be forced to match predicted levels?

ES-11, Historic Resources and Land use

There is discussion of required legislative approval by a super majority for Alternative 5. What required legislative approval by a super majority is required for Alternative 2? Why is an EIR being performed before legislative approval?

ES-12, Issues to be resolved

There is mention of MTC and ABAG providing incentives for implementation of changes to land use policy. By “incentives”, does this mean money? Where does this money come from? Will voters have any role in approving the “changes” this money (their money) will incentivize? If from other sources, what other programs will suffer from this shifting of funds? If from new sources, who will pay for these incentives?

ES-12, Issues to be Resolved

There is mention of MTC and ABAG deciding whether economic, legal, social, technological or other benefits outweigh environmental impacts. From where do MTC or ABAG derive this authority? Will this determination be made in front of the public? What objective standards will be used to determine the worth of a social benefit? Will the voters participate in determining such a benefit?

ES-14, Air Quality

Many of the PDAs have a history of heavy industrial use incompatible with residential use. How will toxic dusts and fumes from these disturbed lands be mitigated to prevent acute and chronic exposure to people (and the environment) from exposure to these hazardous inhalants?

ES-42, Biological Resources, 2.9-1a

In protecting habitats and species, support of NEPA is referenced. Why are we doing a CEQA review rather than applying NEPA standards to the whole plan? Will not many of the funds used be federal? If so, why is a NEPA evaluation not being done where people are looked at as part of the environment? If NEPA standards are to be applied in only chosen areas, how will projects be piecemealed to avoid NEPA requirements?

ES-59, Cultural Resources, 2.11-1

As mitigation, a requirement is listed of structures greater than 45 years of age. What professional criteria will be used to determine eligibility for historic preservation status? Please reference these professional standards. How does SB375 CEQA streamlining affect application of these professional standards?

ES-65, Public Utilities and Facilities

Insufficient water supplies, wastewater treatment, storm water drainage and landfill are listed as significantly impacted and unavoidable. Why are power utilities, such as gas and electrical, not included? See Hazards below. Expanding all of the above will have second order environmental effects as well. Will these utility and facility deficiencies be addressed before project implementation? If not, what is the plan for the timing of these infrastructure deficiencies? Many of the PDAs will be on lands that will continue to be owned by public agencies and are not subject to taxation. Who will pay for these unfunded infrastructure demands? Of special concern is the natural gas pipeline infrastructure, why was this aspect omitted? Added development will mean higher operating pressures, possibly resulting in another disaster as happened in San Bruno. What measures will be taken to assure public safety in such cases? How will CEQA streamlining implementation and timing affect such risk assessments? Will these utility deficiencies be addressed before project implementation?

ES-69, Development under the proposed Plan could exceed wastewater treatment requirements of the RWQCBs.

Why is it assumed that there will be unavoidable difficulties meeting RWQCB wastewater treatment requirements and yet claim that public service providers will be responsible? Cities have already been sued (and lost) for discharging improperly treated wastewater into the bay. Why would any community agree to add to this overstrained infrastructure? This plan will certainly strain already insufficient and aging water treatment facilities and yet takes no ownership in helping to solve the problem. How much of the “incentives” money in ES-12 above will be used to provide funds to improve infrastructure? See my comments on ES-65, Public Utilities and Facilities regarding this matter. Again, who will pay for these unfunded infrastructure demands on lands owned by untaxable public agencies?

ES-72, Hazards, 2.13(d)

Many of these PDA lands are on sites where a person can reasonably assume toxic waste exist based on past use yet have gone unreported (see ES-10) and may not show up on the list of hazardous material sites. This has been the case in the SCTV project where those preparing the EIR report ignored their own findings and never tested for hazardous material contamination in areas where they are sure to be. In order to keep costs down, developers typically do not dig very deeply in testing for such contamination. This was the case for a PAMF hospital built on former Varian property. I had to resort to complaining to the RWQCB that the closure report data showed PCB levels that still exceeded current limits before the developer would go back and truck away all of the contaminated soil. This may be our one and only chance to remove this toxic legacy from PDAs that will then be used for residential use. Aside from the risk to residents, these hazardous materials will eventually find their way into the Bay. Isn't this precisely what the CEQA act was intended to prevent? Since this is a regional plan, what regional body will review that the Phase I and Phase II ESAs are properly implemented? What oversight will construction contractors be subject to when encountering “suspected asbestos”? Why is asbestos being singled out? How can contractors know when they encounter other hazardous wastes that are odorless, colorless and tasteless and deadly at the same time? This subject goes to the very heart of CEQA and is only insignificant with proper mitigation. Past industrial practices put generations at risk; while the impacts are significant they are not unavoidable unless we choose to let them be. How does CEQA streamlining under SB375 affect the process of implementing Phase I and Phase II ESAs? How does SB375 change standards, reviews, public comment and oversight when it comes to hazardous materials on sites with PDA designation?

ES-75, Public Services and Recreation

Expansion of services will be needed in order to maintain adequate schools, emergency services, police, fire, and park and recreation services. How will these be paid for, especially on land owned by public agencies that generate no revenue for these requirements? How will CEQA streamlining under SB375 affect the requirement criteria for projects in PDA areas? How will the timing of these service expansions be determined? Will the timing be affected with CEQA streamlining?

Thank you for the opportunity to comment on this plan of unprecedented size and scope. I hope that you will actively seed public input, especially from the large segment of the residents of the Bay Area who have no idea this plan is in the works.

Sincerely,

Paul D Magginetti

Board Member, Greater East San Carlos Neighborhood Association