

STATE SMART GROWTH *POLICY* AGENDA FOR CONSENSUS CONSIDERATION

A representative group from the Smart Growth Policy Conversation, composed of member organizations of the Bay Area Alliance (Economic, Environmental, Social Equity) Caucuses and Local Government and Regional Agency leaders discussed legislative and policy options that the entire group might consider supporting as an outcome of the conversation. Participants included: Greenbelt Alliance, Bay Area Council, Non-Profit Housing Association of Northern California, Home Builders Association of Northern California, Association of Bay Area Governments, California Futures Network and the Sierra Club. The group defined four areas where developing consensus on specific criteria and language is possible:

1. Lower Voter Threshold for infrastructure, transportation and housing funds;
2. Fiscal changes that reward housing production in the appropriate places;
3. Policies to encourage housing in proportion to housing needs;
4. Other promising policy areas include Brownfields, Transit Oriented Development Tax Increment Financing, and Smart Schools.

This memo is presented in three parts:

1. A State Policy for Smart Growth should be established and incorporated into state regulations. The Commitments to Action in the *Compact for A Sustainable Bay* should form the basis for Smart Growth criteria and recommendations being made to the Governor for the comprehensive State Environmental Goals and Policy Report.
2. **Policies, Incentives and Investments, and policies that bust barriers to Smart Growth** should be phased into state law.
3. **Specific Policy Concepts** should be implemented in this legislative session to foster Smart Growth. For each policy concept there is a general description of the Policy Concept, Proposed Language (where available), and identification of Legislative Vehicles that might be developed to incorporate the suggestions. The section on Legislative Vehicles is not comprehensive and will be updated based on the input of the group. *Note:* Each stakeholder would need to clarify with their Board of Directors or policy committees to give final go ahead for support on a specific legislative vehicle.

ESTABLISHING SMART GROWTH AS STATE POLICY

The California state government should provide a coherent Smart Growth policy that align jurisdiction by jurisdiction growth to a preferred Smart Growth pattern by region.

Housing in the Bay Area is inextricably inter-related with transportation, land use, air quality, and education. And, it is the common connecting element or "intersection" of the "3 Es" of Smart Growth: Prosperous Economy, Quality Environment, and Social Equity. Therefore, state Smart Growth policy should emphasize the necessity to achieve the housing supply needed for population growth and job generation by and within each region. The Bay Area Alliance *Compact for A Sustainable Bay Area* commits to "Provide housing affordable to all income levels within the Bay Area to match population increases and job generation." It should be an explicit Smart Growth and environmental goal of the state of California for each region to achieve sufficient for housing for its population increase and job generation. Further state Smart Growth policy should be based on a comprehensive and workable criteria that acknowledges the fundamental elements as described in the 10 Commitments to Action of *the Compact for A Sustainable Bay Area*:

1. Enable a diversified, sustainable and competitive economy to continue to prosper and provide jobs in order to achieve a high quality of life for all Bay Area residents.
2. Provide housing affordable to all income levels within the Bay Area to match population increases and job generation.
3. Target transportation investment to achieve a world-class comprehensive, integrated and balanced multi-modal system that supports efficient land use and decreases dependency on single-occupancy vehicle trips.
4. Preserve and restore the region's natural assets -- San Francisco Bay, farmland, open space, other habitats.
5. Improve resource and energy efficiency, reduce pollution and waste.
6. Focus investment to preserve and revitalize neighborhoods.
7. Provide all residents with the opportunity for quality education and lifelong learning to help them meet their highest aspirations.
8. Promote healthy and safe communities.
9. Support state and local government fiscal reforms.
10. Stimulate civic engagement.

Ultimately, state environmental goals and objectives, include those directed to land use, population growth and distribution, development, conservation of natural resources, and air and water quality and result in a Smart Growth criteria that produces an environmentally preferred alternative statewide for growth.

POLICIES, INCENTIVES AND INVESTMENTS, AND BARRIER BUSTERS TO SMART GROWTH

The Bay Area Alliance Smart Growth Conversation participants support in large measure the recommendations of the California Urban Land Institute Smart Growth Initiative:

- 🏡 Encouraging Smart Growth planning;
- 🏡 Providing Smart Growth incentives and targeted investments; and
- 🏡 Reforming policies that impede Smart Growth.

The state should develop a set of voluntary principles that promote planning and encourage investments that advance Smart Growth goals. Using a variety of incentives, the state should encourage local governments to plan in a way consistent with the principles. The state also should use these principles to guide and coordinate decisions and actions by state agencies and departments.

Complementary to these principles, the state should direct its future investments to development consistent with Smart Growth principles.

The state should express its support for Smart Growth by defining guiding Smart Growth principles. In the case of the Bay Area, these voluntary principles are expressed in the *Compact for A Sustainable Bay Area* and the vision for land use described in the Smart Growth Strategy/Regional Livability Footprint Project. The principles cover such broad topics as housing, transportation, the environment, and education.

The following types of incentives should be pursued:

1. “Community Dividend” program. Provide additional state support to communities practicing Smart Growth.
2. Target Caltrans transportation dollars. Model on the Metropolitan Transportation Commission's Transportation for Livable Communities program.
3. Tax increment financing at transit-oriented development sites. “TIF for TOD”. Enable tax-increment financing to go beyond the blight clause and be used for TOD, subject to certain conditions.
4. Fiscal incentives for housing. Allow local jurisdictions to swap sales tax for property tax.

Regulatory changes should also be made to eliminate barriers that impede Smart Growth such as:

1. CEQA modifications to encourage infill. Similar to CEQA streamlining bill passed a few years ago for projects in downtown Oakland. There remains question as to how to reform CEQA for greenfield developments that also are aligned with Smart Growth principles.
2. Construction defect litigation reform.
3. K-12 schools. Capitalizing on \$13 billion bond passed in November 2002, and the companion \$13 billion bond to be considered in November 2004:
 - a. Use \$100 million included in bond measure for flexibility in planning and developing joint facilities (e.g, school + community center, affordable housing).
 - b. Alter state formula to enable flexibility in building design: build up instead of out.(*Note: However, the location of schools (urban vs suburban) needs to be addressed to ensure that the changes support a Smart Growth land use pattern.*)
4. Eliminate barriers to brownfields redevelopment.

Suggested General Intent and Overall Policy Statement

It shall be the policy of the State of California to encourage, promote and support Smart Growth. Smart growth ensures economic prosperity, environmental quality and social equity, enhancing the quality of life in a region. The construction and provision of sufficient housing to meet the needs of the population increases and to match the rate of job generation is a critical factor for Smart Growth to succeed. Therefore, it is the intent of the State of California to encourage, promote, and support the planning for and accommodation of a sufficient supply of housing affordable to the full population in close proximity to existing population and job generation centers in order to foster a more efficient land use pattern and reduce impacts on the environment resulting from development of valuable farmland and habitat, thus providing a solid foundation for "Smart Growth" that promotes: (1) Prosperous Economy; (2) Quality Environment; and (3) Social Equity. It is further the intent that these policies will provide consumers with greater choices and allow the housing market and homebuilding industry to operate in a manner to meet as much of the housing demand and need as possible.

SPECIFIC POLICY CONCEPTS

1. LOWER VOTER THRESHOLD FOR INFRASTRUCTURE, TRANSPORTATION, OPEN SPACE AND HOUSING FUNDS:

Policy Concept: Change and enhance local financing tools available to support Smart Growth. Constitutional amendments could allow voters to lower the threshold from a 2/3 vote to a majority vote to establish a local bond or a special tax for community and infrastructure improvements.

- Simple majority vote for Real Estate Transfer Tax when proceeds are used for affordable housing projects. By lowering the voter threshold from the current 2/3 super-majority to a simple majority to adopt or increase a real estate transfer tax, local governments can more readily create a financial mechanism to fund affordable housing projects. Focussing the transfer tax to housing need creates a linkage for housing dollars that is recognized by the state and local jurisdictions.
- Create priority eligibility for cities that adopt model "Smart Growth" policies in the award of state competitive grants, including for infrastructure, commercial and industrial development, or other economic development. Local governments often aggressively compete for limited state dollars. By rewarding the adoption of sustainable local land use policies in the form of points or priority in these highly competitive processes, many cities and counties may be willing to adopt such policies.

Suggested General Intent and Overall Policy Statement

Constitutional amendments allowing voters to lower the threshold from a 2/3 vote to a majority vote to establish a local bond or a special tax for community and infrastructure improvements shall be consistent with the States Smart Growth policy.

Each jurisdiction shall have authority to define appropriate proportion of new financing that is realized from local bond or special taxes to achieve Smart Growth. Changing the voting threshold for the purpose of promoting Smart Growth means that infill will be optimized as well as the location of housing closer to job centers and transit opportunities. Hence funds can be applied to housing, infrastructure, transportation, open space in a mix that enhances Smart Growth and the quality of life for that jurisdiction.

Legislative Vehicles: Two options include lowering voter threshold for bonds (SCA 11-Alarcon) or sales tax (Steinberg) to finance multi-use infrastructure (transportation, affordable housing, open space and other infrastructure).

2. FISCAL CHANGES THAT REWARD HOUSING PRODUCTION IN THE APPROPRIATE PLACES :

Policy Concept: Identify revenue to reward housing production, with an emphasis on incentivizing infill housing. The aim is to align local jurisdiction responsibility and accountability to meet housing needs with revenue that supports the housing production, relevant services, infrastructure and quality of life.

Property tax– retail sales tax swap between local and state governments.
A property tax swap for sales tax provides an incentive for local governments accommodating an adequate housing supply for all income categories. Currently, local governments view housing as a fiscal drain on their revenues.

Suggested General Intent and Overall Policy Statement

Local government approval of affordable housing, workforce housing and other housing projects conforming to Smart Growth policies shall receive financing so that revenue is aligned with responsibility. The production of needed housing would provide significant long term benefits to the state's economic, natural and social environment.

The state shall dedicate a portion of the growth in locally generated property and sales tax to encourage the production of housing. City/county voluntary agreements shall provide for an exchange of a portion of the city's sales tax revenue for a portion of the county's property tax. The city would collect a larger share (and the county a smaller share) of property taxes on new housing development levied in the city and the county would levy a portion of the sales tax in the city. In the first year, the transaction would be revenue neutral. Over time, however, the city's revenue base would come to depend more on taxes on residential properties.

Legislative and Regulatory Vehicles to create mechanisms to accomplish this objective include: a) revenue swap from sales tax to property tax based on housing production performance (AB 1221); b) Vehicle License Fee restored and provided with increasing proportion to jurisdictions that meet housing production targets (Torlakson), c) infrastructure bank funds to replace aging infrastructure (AB 531 - Kehoe); and d) priority provided for state infrastructure funds based on jurisdictions that meet a percentage of their regional housing needs objectives (SB 744 - Dunn and Ducheny). Funds raised from petroleum mitigation could also help bring funds to communities for instance to support transit (SB 981 and AB 1500).

Another option is to attempt to influence apportionment of Proposition 46 (Housing Bond) fund from \$50 million portion that provides local government with incentives for affordable housing production.

3. POLICIES TO ENCOURAGE HOUSING IN PROPORTION TO HOUSING NEEDS:

Policy Concept: Housing production benchmarks are set for units to be produced based on the Housing Needs Determination per jurisdiction. If a jurisdiction can certify it has met or surpassed the housing production targets in housing affordable to the Very Low, Low, Moderate and Above Moderate Household income categories, specified funds would be allocated to the jurisdiction based on a Smart Growth housing production criteria.

Suggested General Intent and Overall Policy Statement

Each general purpose local government jurisdiction--county, city, and county and city-- shall designate in their general plan and properly zone for conformity a sufficient supply of land to accommodate housing to match both projected population increases and job generation for twenty years into the future. Projected population increases and job generation figures shall be based upon projections promulgated by the respective Council of Governments and concurred in by the California Department of Finance in consultation with the California Department of Housing and Community Development. The initial projections shall be for the time period 2000 through 2020 and updated each decade for the subsequent 20 year period.

Legislative Vehicles: Housing Production Quotas (AB 1426 - Steinberg) would require every city and every county within the greater Sacramento region, as defined, that issues building permits for residential units to require or otherwise cause at least 5% of the aggregate amount of these new residential units to be affordable to, and occupied by, very low income households, and at least 5% of the aggregate amount of these new residential units to be affordable to, and occupied by, low-income households, as specified. This bill would, among other things, authorize the establishment of a joint powers agency to be known as the Greater Sacramento Regional Consortium and require the Department of Housing and Community Development to allocate specified funds to the consortium

pursuant to factors determined by the department. SB 558 (Ducheny) would establish a quantified, long-term and enforceable residential land allocation in law. The proposal would call for the allocation of sufficient land for housing - particularly in high growth areas.

OTHER PROMISING BILLS

4. SMART SCHOOL INITIATIVE:

Policy Concept: Mexican American Legal Defense Fund (MALDEF) and others are working on proposals to reduce the physical footprint of new schools as well as enable them to serve multi-use and mixed-use purposes. Specifically, proposals are being developed to provide access to school facility bond funding and enable joint use schools to be developed, especially where overcrowding is a problem.

5. BROWNFIELDS REDEVELOPMENT

Policy Concept: Various proposals would enable more brownfields redevelopment. These include measures that would define and limit liability for prospective purchasers of brownfields.

Legislative Vehicles These proposals would expand the scope of Geologic Hazard Abatement Districts (SB 493 - Cedillo) so that environmental remediation could be undertaken with the bond funding raised from such a local assessment district (SB 805 - Escutia), and streamline permitting for brownfield redevelopments (SB 559 - Ortiz).

6. TRANSIT ORIENTED DEVELOPMENT (TOD) TAX INCREMENT BILL

Policy Concept: Tax increment financing offered to projects that are near transit or that are designed to offset jobs/housing imbalances. Utilizing this tool may allow for more development projects that are near transit and/or address jobs/housing imbalances. Tax Increment financing would allow participant jurisdictions to access financial resources to pay for improvements necessary to attract appropriate jobs to, in particular, housing rich areas and vice versa. The jobs created should be linked to the available workforce within the immediate region. One mechanism might be the development of Smart Growth zones.

Suggested General Intent and Overall Policy Statement

It shall be the policy of the State of California to encourage, promote and support achieving a jobs-housing balance to the extent possible within each jurisdiction, county, sub-region, and region.

A jobs-housing balance shall be defined as a dynamic process that plans for and accommodates housing within a given jurisdiction to match population growth and job generation within that same jurisdiction as it is occurring. It is not a static number of ratio of jobs to housing unites that are achieved or reached at substantially-different point in time.

Legislative Vehicle: AB 1112 (Lowenthal) would enable the State to authorize 12 housing transit district that could collect tax increment funds for station area development. This bill would also authorize a housing transit district to issue bonds and enter into other forms of indebtedness for the purpose of constructing affordable housing and transit oriented public improvements within a district or the adjacent area.

Investigate bill from Dutra that also aims at transit oriented development.