



**SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**  
2150 Webster Street, P.O. Box 12688  
Oakland, CA 94604-2688  
(510) 464-6000

September 7, 2022

Therese McMillan  
Metropolitan Transportation Commission  
Bay Area Metro Center  
375 Beale Street, #800  
San Francisco, CA 94105-2066  
Sent by Email: [tmcmillan@bayareametro.gov](mailto:tmcmillan@bayareametro.gov)

2022

Rebecca Saltzman  
PRESIDENT

Janice Li  
VICE PRESIDENT

Robert Powers  
GENERAL MANAGER

DIRECTORS

Debora Allen  
1ST DISTRICT

Mark Foley  
2ND DISTRICT

Rebecca Saltzman  
3RD DISTRICT

Robert Raburn, Ph.D.  
4TH DISTRICT

John McPartland  
5TH DISTRICT

Elizabeth Ames  
6TH DISTRICT

Lateefah Simon  
7TH DISTRICT

Janice Li  
8TH DISTRICT

Bevan Dufty  
9TH DISTRICT

RE: Comments on MTC's Transit-Oriented Communities Policy

Dear Ms. McMillan:

Thank you for providing the opportunity for BART to provide comments on MTC Resolution No. 4530 regarding the Transit-Oriented Communities (TOC) Policy. BART supports MTC's effort to encourage transit supportive policy at the local level, including higher residential and commercial densities, parking standards, community stabilization policies, and access and circulation guidance in existing and aspirational transit-rich areas. MTC staff have done an admirable job balancing regional needs with local contexts and responding to input from diverse stakeholders.

We'd like to note that this policy is complementary to three key policies adopted by the BART Board, including:

- **Transit-Oriented Development Policy:** The BART's Transit-Oriented Development (TOD) policy and performance targets (available at <https://www.bart.gov/tod>) are supported by BART's TOD Guidelines. The TOD Guidelines outline three TOD Place Types (inspired by MTC's Place Types Framework) and provide zoning guidance for areas within a half-mile of BART stations, based on level of transit service and local context (i.e., access to employment, built environment, etc.). Assembly Bill (AB) 2923 codified these zoning targets, requiring them for the majority of developable BART-owned properties in Alameda, Contra Costa, and San Francisco Counties.
- **Station Access Policy:** BART's Station Access Policy, adopted in 2016 prioritizes investments in walking, biking, transit, and passenger loading over driving and parking for accessing stations. The Policy's investment framework is determined by the BART Station Access Typology, which is available on the Station Access Policy webpage ([www.bart.gov/accesspolicy](http://www.bart.gov/accesspolicy)) and identifies both current and aspirational station types. When BART advances TOD, we typically reference the aspirational type to determine levels of BART rider parking replacement. BART is pleased to see station access and circulation requirements in the TOC Policy as well as parking management and reference to the Parking Policy Playbook.
- **System Expansion Policy:** Finally, BART is currently undertaking an update to the District's System Expansion policy, which sets a framework for BART to evaluate proposed major investments in the system, including line extensions or additions, and infill stations. The update will better align the policy with more current District priorities and other related policies. It is staff's intention that the policy will reference the MTC TOC Policy as one layer of policy consistency required in consideration of any new BART station, thereby ensuring funding eligibility and consistency in regional land use guidance.

[www.bart.gov](http://www.bart.gov)

We recognize the challenges of policy development in the diverse setting of the Bay Area and appreciate that MTC anticipates updating the policy every four years to allow opportunity to refine

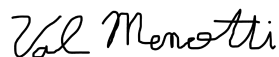
September 7, 2022  
Page 2

and improve the policy over time. For future iterations, we recommend consideration of the following areas for refinement:

- MTC's TOC Policy employs four tiers that are weighted on the level and type of fixed-route transit service. BART is supportive of linking land use requirements to level of transit investment; however, we would note that linkage to "number of lines" is not necessarily directly correlated to level of service. For example, additional service can be run on a single route and, while no changes are currently planned, BART may make operational changes that could change the number of routes serving a particular location. BART staff will continue to work with MTC to refine this approach to best link land use and transit investment in the next policy update.
- While residential and commercial office zoning is critical to establishing transit supportive communities, there is a concern that narrowly defined land use requirements may create unintentional loopholes. A jurisdiction may choose to zone for non-office commercial development or another use entirely to avoid density, floor area ratio, and parking requirements. To partially close this loophole we suggest extending the "no minimum parking" requirement to all uses, and that no exception to this rule be made for Tier 4 locations.
- Parking policies are as important for affecting transit ridership as land use and density and we encourage MTC to require parking management districts for the half-mile radius around station area. In the meantime, we appreciate the opportunity provided by MTC's 2022 Local Parking Management Grant Program. Even pre-pandemic, BART had capacity in the off-peak periods and non-commute directions. Parking management districts support TOD development on existing parking lots (including BART parking lots), motivate people to use transit for reverse commuting and other purposes, and can improve access overall. They also benefit station areas by ensuring that transit riders, residents, employees, and visitors have parking available when they must drive and park in addition to supporting a robust menu of options that strongly encourage accessing these areas by ways other than driving alone and parking.

We would like to reiterate the importance of this policy and BART's support for the TOC Policy's goals, which seek to achieve transit supportive land uses and policies in our region. If you have any questions, please don't hesitate to contact Hannah Lindelof at (510) 464-6426 or [hlindel@bart.gov](mailto:hlindel@bart.gov).

Sincerely,



Val Joseph Menotti  
Chief Planning & Development Officer

cc: Kara Vuicich, Regional Planning Program, MTC  
Therese Trivedi, Regional Planning Program, MTC  
Matt Maloney, Regional Planning Program, MTC  
Hannah Lindelof, Strategic Planning, BART

# EAST BAY FOR EVERYONE

September 8, 2022

MTC Planning Committee and ABAG Administrative Committee

Via Email Only

375 Beale St.

San Francisco, CA 94105

September 8, 2022

RE: Agenda Item 8A, September 9, 2022 - TOC Policy

MTC Planning Committee and ABAG Administrative Committee Members:

East Bay for Everyone is a network of people fighting for the future of housing, transit, tenant rights, and long-term planning in the East Bay. We are concerned that Tier 4, particularly the last minute changes that exempt several wealthy communities from Tier 3, undermines the goals of providing reliable transit with short headways, and adding additional housing in a fair manner.

Transit ridership often takes a virtuous or vicious cycle. Low frequencies of service, and unreliable service leads to low ridership, which requires additional subsidy, and leads more people to purchase cars and increases demand for parking. High levels of service can lead even more people to take transit, which reduces operating subsidies and reduces demand for cars.

Adding lower frequency transit services with lower ridership to Tier 4, and allowing parking minimums for cities in these tiers, is the wrong approach. Transit services that cannot provide all-day service (SMART) or have low frequencies are exactly the ones that could benefit most from a new rider base near the stations that does not have free car parking.

We are also concerned about the changes that exempt several wealthy, mostly white communities from Tier 3 requirements. Orinda, one of these cities, is about 75% White and has a median household income of \$231,000. Orinda incorporated in 1985 to achieve "local control," (in other words, strip the County of the ability to plan for more intensive land uses in Orinda) in the words of the measure's backers, and the primary group driving the incorporation effort was named "Citizens to Preserve Orinda."<sup>1</sup> Orinda gets to benefit from our collective investment in making the BART network successful, without having to make the land use changes that justify a station in

---

<sup>1</sup> <https://www.lamorindaweekly.com/archive/issue0408/Orinda-Turns-25-The-Story-of-Incorporation.html>

town. We think this is unfair, and we think it is also unfair to hold lower income communities with more minorities to a higher standard than Orinda, Lafayette, Atherton, Brisbane, and others.

We also think it is absurd to lowering the requirements for these communities from what is an *optional zoning program*. These communities, which started at lower densities than surrounding areas and have largely managed to grow at lower densities than other communities have grown, will now have the opportunity to reap more rewards from regional governments without making the same changes to land use.

We think Tier 4 is a poor idea and should be scrapped in favor of requiring Tier 3 for all cities. At the very least, if Tier 4 is retained, it should have the following amendments:

- Remove minimum parking requirements for Tier 4 cities. Transit in the Bay Area is better than the statewide average, and our minimum parking rules should be leading the state, not following it (AB 2097).
- The zoning exemption for cities under 30,000 residents should be removed.
- The minimum density should at least be the "Mullin density" of 30 DUA, which is the bare minimum density required to be competitive for affordable housing financing.

Signed,

Jonathan Singh  
Co-Executive  
East Bay for Everyone



*SUBMITTED VIA EMAIL TO INFO@BAYAREAMETRO.GOV*

DATE: Sept. 8, 2022

TO: MTC Planning Committee Chairman Jim Spering, MTC Planning Committee Members and ABAG Administrative Committee Members

FROM: BIA|Bay Area East Bay Executive Director for Governmental Affairs Lisa Vorderbrueggen

RE: MTC Resolution No. 4530: Transit-Oriented Communities Policy Adoption

Dear Jim and Committee Members:

BIA|Bay Area appreciates the opportunity to submit the following comments on the draft Transit-Oriented Communities (TOC) policy.

Foremost, BIA strongly supports the call from the Bay Area business community to amend the draft policy to include a requirement for local jurisdictions to adopt at least two robust housing production policies as described in the business community's coalition letter.

BIA also requests additional revisions relating to the policy text.

Since 2005, MTC has had a Transit Oriented Development (TOD) Policy that establishes a minimum number of new housing units that local jurisdictions must allow within one-half mile of a new rail station receiving certain regional transportation funds. MTC proposes to replace the existing TOD Policy with the TOC Policy. The TOC Policy would condition local governments' access to specified transportation funds on their adoption of policies from a newly created "policy menu" established by MTC to be applicable within Priority Development Areas (PDAs,) a Transit Priority Areas (TPAs).

As explained in the business community coalition letter, as currently proposed, the policy menu is significantly imbalanced against policies that would incentivize and streamline housing production at all income levels. Many of the options would provide no benefit to most housing projects or developers. Instead, many will suppress overall housing production by increasing the costs and risks associated with residential development. It is imperative that MTC add to the

policy more options that advance overall housing production and mandate that local jurisdictions adopt at least two robust pro-housing measures.

San Francisco's persistent and protracted housing shortage and affordability crisis is well known. As the two graphs on the right illustrate, the region lags well behind other major metropolitan areas when it comes to providing adequate housing for their residents.

(Source: ["Here's why Austin and Seattle are building way more housing than San Francisco," SF Chronicle, Aug. 1, 2022](#))

In the article, UC Davis law professor and land-use research Chris Elmendorf said San Francisco's housing production rates are comparatively lower than other cities because development is too costly.

"I think it's fair to say that San Francisco has ... the combination of a very cumbersome and unpredictable permitting process, plus, a rather extraordinary array of regulatory requirements and fees," Elmendorf said.

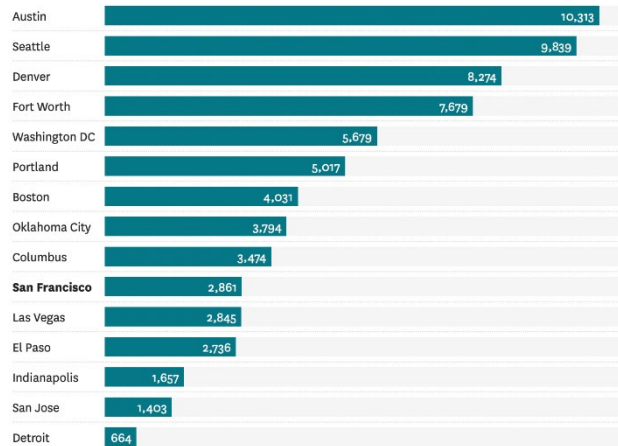
For example, Elmendorf points out factors that add up: construction costs, regulatory requirements like impact fees, inclusionary zoning, affordable housing mandates and physical requirements such as private open space and greywater treatment systems.

"You put all those things together and there's actually almost nothing that is economically feasible to develop, even on a vacant site, in most of San Francisco today," he said.

Much like the myriad existing policies that have produced the housing crisis of today, most of the draft Transit-Oriented Communities policy options focus on goals other than increasing housing production. Also, with respect to the few policy options that do address increased production, they focus almost entirely on subsidized affordable housing. And there is no language or policy in the document requiring a local government to adopt any policy that significantly increases overall market rate housing production.

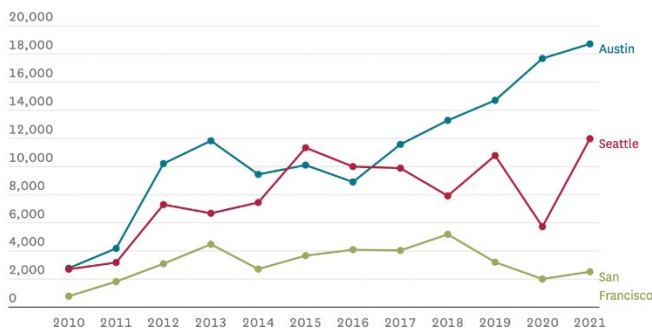
#### New housing units permitted per 100,000 people, 2015-21

For selected U.S. cities with between 600,000 and 1.1 million people



Source: [U.S. Census](#)

#### How does San Francisco compare to other cities in yearly housing unit permits?



Source: [U.S. Census](#)

In fact, the current draft explicitly states that it does not require any area be zoned to allow housing and, unlike the existing TOD Policy that it proposes to replace, there is no minimum number of housing units that must be allowed. The current draft states unequivocally: “*The TOC Policy does not require that areas within a PDA or TRA be zoned for residential uses*”

Also, while the current draft purports to support overall housing by establishing certain minimum density requirements, this requirement is largely illusory for two reasons.

First, the minimum densities as implemented in the policy only apply if a jurisdiction decides to “opt in” by voluntarily zoning a site within a PDA or TPA for housing. Again, the proposed TOC policy expressly ***does not require that any area within a PDA or TRA be zoned for residential uses***. Second, the minimum density provision is inapplicable to any site within a PDA or TPA that is already developed with even one single family dwelling unit. This limitation directly conflicts with the goal of intensifying existing developed areas especially areas that are zoned exclusively for single family housing as expressed in recent reforms including SB 9.

**The bottom line is that local governments can fully comply with the current draft TOC Policy without having to make any additional sites available for new housing, without demonstrating any progress in approving and developing new housing and without adopting any policies that meaningfully streamline and incentivize increased overall housing production.**

Relatedly, the text of the TOC Policy revision should be revised as follows to reflect the addition of required housing production policies and bring greater balance among the “Three P’s”:

1. **Add language emphasizing the importance of increasing housing production of all types.** Examples follow:
  - a) In the resolution version dated July 8, 2022, “WHEREAS, incentivizing local jurisdictions to also adopt policies focused on **increasing housing production of all types, including** affordable housing production, preservation and protection, commercial anti-displacement and stabilization, parking management, and transit station access and circulation further supports regional transit investments and Plan Bay Area 2050 implementation, now, therefore, be it ...”
  - b) Under the first bullet in the GOALS chapter, “Increase **the overall housing supply, and increase** residential densities for new development and prioritize affordable housing in transit-rich areas. “
  - c) Under TOC Policy Requirements, “TOC Policy requirements consist of the following four elements: 1) minimum required and allowable residential and/or commercial office densities for new development; **2) housing production policies that increase all types of housing, policies focused on with additional emphasis on** affordable housing production, preservation and protection, and commercial anti-displacement and stabilization policies; 3) parking management; and 4) transit station access and circulation.

- d) Under Section 2A., change references to “Affordable Housing” to “Housing,” including “2A. **Affordable Increased Housing Production.**”

The significance of these requested changes is confirmed by two recent studies discussing the importance of increasing market rate construction for providing affordable housing:

- [\*\*A Review of California’s Process for Determining, and Accommodating, Regional Housing Needs, Jan. 4, 2022:\*\*](#) *“When a new building comes onto the market, many of the people who buy or rent units in the building then vacate other units within the region. The newly vacated units in turn are occupied by people who vacate other units, and so forth. A recent study found that when 100 new units are constructed in a high-income census tract, the resulting “chain of moves” releases—within five years—about 45-70 units in below-median-income census tracts in the same metro area, and 17-39 units in bottom-quintile census tracts. (Mast, 2021) ... Conversely, when new market-rate units are not constructed in a city or region experiencing high-wage employment growth, existing units in lower-income census tracts come under gentrification pressure. They ‘filter upward,’ in the lingo of housing economists, as speculators buy, renovate, and flip the older homes. What had been naturally affordable housing gets repurposed as like-new luxury housing.”*
- [\*\*Housing Market Interventions and Residential Mobility in the San Francisco Bay Area \(Chapple, et al 2022\):\*\*](#) *“In functioning housing markets, the typical housing unit mostly filters downward, becoming more affordable as it ages. A recent study of the nation’s rental housing stock from 1985-2011 found that less than 10% of the net increase in affordable units came in the form of affordable new construction or subdivision of existing units (Weicher et al. 2017). The rest was due to downward filtering of older rental units, and tenure switches between owner-occupied and rental housing. However, in supply-constrained markets, the upward filtering of some older units partially or entirely offsets the slow downward filtering of others.” (Rosenthal, 2014; Liu et al., 2020; Myers and Park, 2020.)”*

2. **Eliminate the reference under Existing Transit and Transit Enhancements or Improvements and Transit Extensions** to using the TOC Policy for consideration of funding from MTC’s Major Project Advancement Policy. This is putting the cart before horse and trying to expand the application of the TOC Policy beyond what is being agreed to today.
3. Within the Housing Production Policy menu, in recognition that the proposed 15 percent inclusionary requirement is a substantial increase in housing production costs over most jurisdictions’ current inclusionary requirements, **grandfather all existing inclusionary**



**ordinances as long as they are at least 10 percent of which at least 5 percent must be affordable to low-income households.**

4. Under FUNDING, **eliminate the percentages by county for future OBAG funding cycles.** Each OBAG cycle is subject to negotiation and including it in this policy may preclude future boards from making their own decisions.
5. Lastly, some are asking for the anti-displacement policies to be made even more restrictive. This seems to be based on the mistaken view that building new housing is a primary cause of displacement. New Bay Area research, however, shows that the opposite is true — it is the **LACK** of new market-rate housing that is causing displacement:

*[Housing Market Interventions and Residential Mobility in the San Francisco Bay Area \(Chapple, et al 2022\)](#): "Despite some areas of disagreement and uncertainty, this study suggests that new market-rate housing production is generally resulting in slight increases in both outmigration and immigration. New subsidized construction tends to increase immigration but has mixed effects on outmigration. Thus, new construction fosters churn: some households leave while others move in, and the net impact is minimal, at least over the four-year period studied. That newcomers at all SES levels can move in suggests that market-rate construction is easing housing market pressures."*

Again, BIA|Bay Area thanks you for the opportunity to submit comments on the draft Transit-Oriented Communities Policy. Please contact me at any time if you have any questions or comments.

Sincerely yours,



Lisa A. Vorderbrueggen  
BIA|Bay Area  
1000 Burnett Ave., Ste. 340  
Concord, CA 94520  
925-348-1956 (mobile)  
[lvorderbrueggen@biabayarea.org](mailto:lvorderbrueggen@biabayarea.org)



September 8, 2022

**Re: September 9, 2022 Planning Committee Item 8a: Transit-Oriented Communities (TOC) Policy**

Dear Committee Chair Spering and Vice Chair Ahn:

We appreciate the Commission and staff for the thoughtful work given to updating MTC’s Transit-Oriented Communities (TOC) Policy. Our organizations have been engaging with staff on designing an effective TOC policy since the process began almost two years ago, and we are eager to see the TOC Policy approved by the Commission later this month so that jurisdictions across the region can take steps towards the goals of the TOC Policy and Plan Bay Area 2050. The TOC policy is a critical tool in our toolbox to start making a meaningful impact towards achieving our goals. Now is the time to take action: our converging crises of housing unaffordability, climate change, and racial and economic inequities have deepened in scale and urgency.

The draft policy includes many important provisions to advance our regional goals for housing, climate, and access to opportunity. It is essential that the Committee approve the policy at the September 9th meeting so that it can be approved by the Commission in late September; this timeline will allow jurisdictions the opportunity to reasonably integrate the policy requirements with housing element rezoning over the next several years. While we support the policy broadly, and commend staff and Commissioners for progress on various aspects of the policy design, there are several areas where the policy must be improved to follow through on its stated goals, and the imperatives unanimously approved in Plan Bay Area. We are particularly concerned by several recent changes that we believe significantly undermine the climate and equity goals of the policy.

**Therefore, we strongly recommend that the Committee approve the policy on September 9th and call on staff to create alternative options for the full Commission in response to the following three concerns:**

- 1) Eliminate the last-minute exemption for residential densities for some of the region’s most exclusive cities with abundant access to opportunity.** The current draft policy includes a new exemption for a small subset of cities with Tier 3 transit (i.e., served by 1 BART line, Caltrain, light rail transit, or bus rapid transit) that are home to less than 30,000 people. In practice, this exemption is targeted specifically to some of

the region's most exclusive, racially segregated cities that have some of the highest median incomes and rank high on access to opportunity: Albany, Atherton<sup>1</sup>, Belmont, Brisbane, Lafayette, and Orinda.

We recognize MTC's challenging role of furthering goals that at times may be in tension with one another, including affirmatively furthering fair housing and greenhouse gas emissions reduction. This only underscores how imperative it is that we commit to equitable development in areas that are both high opportunity and transit rich areas given the multiple co-benefits it would provide. This exemption does not further the goals of the TOC policy, nor does it appear to be designed to respond to any place-specific constraints on development capacity.

**This last-minute exemption would be acting in direct opposition to MTC and ABAG commitments to both affirmatively further fair housing and reduce GHG emissions; it would allow jurisdictions that have long excluded multifamily housing to continue to be exempted from engaging in our collective efforts for a more sustainable, and less racially and economically segregated, region. We strongly urge you to remove this exemption in the final policy.**

- 2) **As we stated in our letter on July 6th, 2022, it is critical that the "3 P's menus be consolidated and strengthened if the policy is going to incentivize genuine impact for affordable housing and anti-displacement for the region; at present, the menus have left jurisdictions with too many low-impact options, and leave ample opportunity for jurisdictions to meet their affordable housing requirements without meaningfully changing local policy or funding.** We recommend specifically:
  - a) **The policy should require no-net-loss and the right to return for demolished homes as a baseline requirement.** Requiring no-net-loss and right to return for demolished homes (specifically enacting current state law, SB 330, without a sunset date) is a commonsense baseline policy to prevent direct displacement, and it presents no cost to the local jurisdiction.
  - b) **The policy should focus its affordable housing production menu options on high impact policies that have a specific focus on affordable housing production.** The affordable housing production menu has been updated and now includes three options that require only that local jurisdictions adopt various components of current state law (SB 330) without a sunset date, including a new policy that is not even specific to affordable housing. **We recommend that the production aspects of SB 330 be either consolidated to count as a single policy in the menu or that they be removed from the menu and made baseline requirements.**
  - c) In addition, there are several other lower-impact and/or duplicative policies currently included in the affordable housing and anti-displacement policy menus that should be collapsed and refined to ensure that jurisdictions are not incentivized to select policies from the menu that do not achieve the intended goals and scale of the policy. We outlined these recommendations in our [previous memo to staff](#).

**Failing to consolidate the 3 P's menus will undermine the affordability and equity commitments for the policy that MTC has committed to from the outset of this policy development process. The affordable housing and equity community has provided extensive feedback on how to design the menus to reflect best practices and focus on high-impact policies, and we urge you to incorporate this feedback in the final policy.**

- 3) **Eliminate Tier 4 minimum parking requirements.** All versions of the policy prior to the one published last week have prohibited minimum parking requirements, thus preventing jurisdictions from forcing the construction of parking adjacent to great transit. It is [well-documented](#) that minimum parking requirements increase congestion and GHG emissions while making conditions worse for walking, biking, and transit. In short, minimum parking requirements directly contradict TOC policy goals.

---

<sup>1</sup> While the Atherton Caltrain station has closed, roughly 60 acres of Atherton are within ½ mile of the Menlo Park Caltrain station.

Some jurisdictions use minimum parking requirements in an effort to avoid spillover parking from new development, but minimum parking requirements fail to achieve this desirable goal. For example, forcing a developer to build 1.5 parking spaces per unit does nothing to prevent occupants from owning 3 vehicles per unit. If a jurisdiction wishes to successfully manage spillover parking from new development, it must do so directly, by managing residential and commercial parking through strategies such as time-limits, parking permits, pricing, and enforcement. Thankfully, committee agenda item 7a explains MTC's strategy to devote \$15 million dollars to support jurisdictions implementing such policies, which are described in MTC/ABAG's excellent [Parking Playbook](#).

**Minimum parking requirements in Tier 4 areas will undermine the TOC policy's stated goals, will fail to deliver the desired benefit, and distract from policies that can actually prevent spillover parking. Please reconsider this last-second policy change and eliminate minimum parking requirements in Tier 4 zones.**

Thank you again for your time, engagement, and consideration.

Respectfully,

Amy Thomson, Policy Analyst  
TransForm

Jeff Levin, Policy Director  
East Bay Housing Organizations

Jonathon Kass, Transportation Policy Manager  
SPUR

Amie Fishman, Executive Director  
Non-Profit Housing Association of Northern  
California

Justine Marcus, Senior State & Local Policy Director  
Enterprise Community Partners

Jeremy Levine, Executive Director  
Inclusive Lafayette

Jen Klose, J.K., Executive Director  
Generation Housing

Cody Keller, President  
Contra Costa Young Democrats

Zoe Siegel, Director of Climate Resilience  
Greenbelt Alliance

Jonathan Singh, Co-Executive  
East Bay for Everyone

Aaron Eckhouse, Regional Policy Manager  
California YIMBY

Ken Chan, Senior Organizer Housing Leadership  
Council of San Mateo County

Laura Neish, Executive Director  
350 Bay Area

Regina Celestin Williams, Executive Director  
SV@Home

cc: Alfredo Pedroza, Chair, MTC  
Jesse Arreguin, President, ABAG

# EAST BAY FOR EVERYONE

375 Beale St.  
San Francisco, CA 94105  
September 8, 2022

MTC Planning Committee and ABAG Administrative Committee Members:

East Bay for Everyone is a network of people fighting for the future of housing, transit, tenant rights, and long-term planning in the East Bay. We are concerned that Tier 4, particularly the last minute changes that exempt several wealthy communities from Tier 3, undermines the goals of providing reliable transit with short headways, and adding additional housing in a fair manner.

Transit ridership often takes a virtuous or vicious cycle. Low frequencies of service, and unreliable service leads to low ridership, which requires additional subsidy, and leads more people to purchase cars and increases demand for parking. High levels of service can lead even more people to take transit, which reduces operating subsidies and reduces demand for cars.

Adding lower frequency transit services with lower ridership to Tier 4, and allowing parking minimums for cities in these tiers, is the wrong approach. Transit services that cannot provide all-day service (SMART) or have low frequencies are exactly the ones that could benefit most from a new rider base near the stations that does not have free car parking.

We are also concerned about the changes that exempt several wealthy, mostly white communities from Tier 3 requirements. Orinda, one of these cities, is about 75% White and has a median household income of \$231,000. Orinda incorporated in 1985 to achieve "local control," (in other words, strip the County of the ability to plan for more intensive land uses in Orinda) in the words of the measure's backers, and the primary group driving the incorporation effort was named "Citizens to Preserve Orinda."<sup>1</sup> Orinda gets to benefit from our collective investment in making the BART network successful, without having to make the land use changes that justify a station in town. We think this is unfair, and we think it is also unfair to hold lower income communities with more minorities to a higher standard than Orinda, Lafayette, Atherton, Brisbane, and others.

We also think it is absurd to lowering the requirements for these communities from what is an *optional zoning program*. These communities, which started at lower densities than surrounding areas and have largely managed to grow at lower densities than other communities have grown,

---

<sup>1</sup> <https://www.lamorindaweekly.com/archive/issue0408/Orinda-Turns-25-The-Story-of-Incorporation.html>

will now have the opportunity to reap more rewards from regional governments without making the same changes to land use.

We think Tier 4 is a poor idea and should be scrapped in favor of requiring Tier 3 for all cities. At the very least, if Tier 4 is retained, it should have the following amendments:

- Remove minimum parking requirements for Tier 4 cities. Transit in the Bay Area is better than the statewide average, and our minimum parking rules should be leading the state, not following it (AB 2097).
- The zoning exemption for cities under 30,000 residents should be removed.
- The minimum density should at least be the "Mullin density" of 30 DUA, which is the bare minimum density required to be competitive for affordable housing financing.

Signed,  
The 2500 members of East Bay for Everyone

**From:** [Christopher Pederson](#)  
**To:** [MTC-ABAG Info](#)  
**Cc:** [hilary.ronen@sfgov.org](mailto:hilary.ronen@sfgov.org); [Nick Josefowitz](#)  
**Subject:** Joint MTC Planning/ABAG Administration Committee agenda item 8a - Transit-Oriented Communities Policy  
**Date:** Thursday, September 8, 2022 1:55:39 PM

---

\*External Email\*

Dear Chair Sperring and Commissioners:

I urge the Planning Committee to modify the proposed Transit-Oriented Communities (TOC) Policy to remove the lower density requirements for smaller “Tier 3” cities and to reinstate the prohibition on minimum parking requirements for all tiers.

One important factor driving the Bay Area’s climate, transportation, and housing woes is the limited supply of housing close to convenient public transit. The staff report attempts to justify lower density requirements for smaller cities by alluding to unspecified “small jurisdiction conditions” that might have the effect of precluding development. Those small jurisdictions, however, have enjoyed the benefits of transit stations that were paid for by the region as a whole, the state, and the federal government. I cannot imagine why MTC would ratify and perpetuate the exclusionary zoning policies of a handful of small, affluent suburbs, especially when doing so comes at the expense of the Bay Area’s efforts to address the climate and housing crises.

The proposed TOC Policy to allow Tier 4 cities to continue to impose minimum parking requirements will place an obstacle in the way of constructing more housing near those stations and will undermine efforts to maximize transit ridership by the residents of any housing that does get built. In addition, if signed by the governor, pending legislation such as AB 2097 (Friedman) and AB 2011 (Wicks) will significantly limit local governments’ authority to impose off-street parking requirements on new housing proposed near transit stations or along commercial corridors.

The Committee should therefore modify the TOC Policy to require all Tier 3 cities to allow at least 50 units/net acre in station areas and to prohibit Tier 4 cities from imposing minimum parking requirements in stations areas.

Thank you for your consideration of my comments.

Sincerely,

Christopher Pederson





August 31, 2022

Members of the MTC Planning Committee and the ABAG Administrative Committee,

We write to request an amendment to the ongoing creation of a Transit Oriented Communities (TOC) policy to require that at least two housing production policies from our menu below be a requirement for certification under the new TOC policy.

Since 2005, the Metropolitan Transportation Commission (MTC) has had a Transit Oriented Development (TOD) Policy that establishes a minimum number of new housing units that local jurisdictions must allow within one half mile of a new rail station receiving certain regional transportation funds. MTC is currently proposing to replace this TOD Policy with a new TOC Policy, and we feel the policy does not do enough to produce the new housing that is the foundation for the types of communities it purports to set as its goal.

As currently drafted, local governments can fully satisfy the TOC criteria without adopting a production strategy to increase the number of housing units for all income levels near transit, potentially exacerbating the Bay Area's housing crisis. While the draft policy calls for minimum allowable density in areas where a local jurisdiction voluntarily chooses to allow housing, this is not an adequate production strategy because the TOC policy does not require the jurisdiction to allow housing in any areas. It also exempts all areas where there is existing housing, a clear conflict with the goals of key state housing reform statutes like SB 9.

The existing TOD policy is more focused on housing production than the TOC policy, and while we support a "Three P's" approach to the housing crisis, we are worried that the production "P" is neglected under the current draft. Existing policy is based on a required minimum number of



new homes that must be allowed in specified areas. The new policy should carry forward this intent and go beyond protection and preservation to strategies known to increase production. To be eligible for the relevant funds, we urge you to require local governments to adopt at least two of the following:

- Ministerial streamlining for new housing planned in the areas subject to the TOC policy.
- Incentivizing local jurisdictions to rezone areas within the areas subject to the TOC policy to allow significantly more housing.
- Going beyond State Density Bonus Law to provide double the number of required incentives and concessions be granted.
- Incentivize consistency between SCS and local land use ordinances

When SB 375 was passed in 2008 and we began the process of marrying land use and transportation planning to focus growth and reduce vehicle miles travelled, the daily VMT of the Bay Area was 162 million miles. Today it is 172 million miles. We are clearly failing and failing because we have not sufficiently incentivized new home construction around transit and in job-rich communities.

We urge you to require local governments to adopt at least two of the above production strategies from your menu as a component of any fully compliant TOC strategy. This will ensure balance with other important strategies that is needed to discourage local government NIMBYism. With those amendments, our organizations would be in full support of your policy.

Best wishes,

Matt Regan  
Senior Vice President  
Bay Area Council

Paul Campos  
Senior Vice President  
BIA Bay Area

Vince Rocha  
Vice President  
Silicon Valley Leadership Group

Peter Rumble  
CEO  
Santa Rosa Metro Chamber

Rosanne Foust  
President and CEO  
San Mateo County Economic Development Association

Aaron Eckhouse  
Regional Policy Manager  
California YIMBY

Traci Anderson  
Director of Community Innovation  
Innovation Tri Valley

Cynthia Murray  
President and CEO  
North Bay Leadership Group

Corey Smith  
Executive Director  
Housing Action Coalition

Laura Foote  
Executive Director  
YIMBY Action

Zack Subin  
Chapter Lead  
Urban Environmentalists

John Bate  
Chapter Lead  
Streets for People