

PRESERVATION OF REGIONAL OPEN SPACE AND
GOVERNING METROPOLITAN EXPANSION:
SAN FRANCISCO BAY AREA

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ABSTRACT

PRESERVATION OF REGIONAL OPEN SPACE AND GOVERNING METROPOLITAN EXPANSION: SAN FRANCISCO BAY AREA

By

Dennis Michael Rooney

This thesis discusses the need to preserve regional open space in view of governing metropolitan expansion in the San Francisco Bay Area. It looks at the means and makes recommendations for doing so. It is done with an awareness that the study of regional problems in the Bay Area, including the need to preserve open space, is not new; nor is the consideration of and experimentation with regional governmental arrangements. It is done with the feeling that the problem of governing metropolitan expansion, particularly at the metropolitan fringe, must now be addressed and viewed as it relates back to open space preservation and other regional problems and functions.

Although not all the land within the San Francisco Bay Region is developed, most of the land is urban orientated or is in the path of future urban development pressures.

The population of the region is growing and the supply of land is not. The population is spreading over the land. Development is necessary as the population grows and the preservation of open space will have to be set aside. If land is used wisely, the San Francisco Bay Region may be able to retain the quality of its environment.

The need of preserving regional open space and the means of controlling metropolitan expansion in the San Francisco Bay Region can be viewed as an important focus for regional government in the San Francisco Bay Area.

Not only is a spreading population and consumption of land at stake, but an environment which has in the past made for a workable, livable, and distinctive metropolis.

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Dennis Michael Rooney

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I wish to express my deepest appreciation and love for the most important people in my life.

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INTRODUCTION

The first chapter discusses the problem and conceptual framework of preserving regional open space and governing metropolitan expansion in the San Francisco Bay Region.

Chapter two discusses some of the institutional and legal alternatives for effectuating a program of regional land conservation and development.

Chapter three briefly sets the historic and political framework of the San Francisco Bay pointing out the need to preserve regional open space and govern metropolitan expansion.

Chapter four contains the proposal and recommended next steps for the San Francisco Bay area.

Appendix One will contain a discussion of the ABAG Plan, some thoughts of author William Whyte in light of the ABAG Plan, and the recent benefit-cost study on open space sponsored by People for Open Space.

CHAPTER I

PROBLEM AND CONCEPTUAL FRAMEWORK

"Land is the most precious resource of the metropolitan area. The present patterns of haphazard suburban development are contribution to a tragic waste in the use of a vital resource now being consumed at an alarming rate.

Open space must be reserved to provide parks and recreation, conserve water and other natural resources, prevent building in undesirable locations, prevent erosion and floods, and avoid the wasteful extension of public services. Open land is also needed to provide resources for future residential development, to protect against undue speculation, and to make it possible for state and regional bodies to control the rate and character of community development."

--John F. Kennedy (1961)

Definitions

For purposes of initial clarification, the following definition and discussion of terms is presented:

Metropolis or Metropolitan

Metropolis or Metropolitan, as used in this thesis, means a large major urban agglomeration usually consisting of one or more core cities and contiguous and or surrounding cities, communities, and or suburbs.

Regional or Metropolitan Region

Regional or metropolitan region, as used here, means a metropolis plus contiguous and or surrounding open space closely tied to the metropolis as part of the natural, physical, or economic system.

San Francisco Metropolitan Region or San Francisco Bay Area

San Francisco metropolitan region or San Francisco Bay Area, as used here, means that metropolitan region contained in and including all of the nine counties abutting on the San Francisco Bay: San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, Solano, Napa, Sonoma and Marin.

The San Francisco Bay Area includes part of Santa Cruz County plus the above counties. Abutment on the Bay should not necessarily be the criterion for inclusion in the San Francisco Bay Area. However, the "nine-county" definition given above and used by the Association of Bay Area Governments (ABAG) for planning and organizational

purposes, other regional and local bay area agencies and citizens, and the definition will stand for the purposes of this thesis.

Open Space, Regional Open Space, or
Metropolitan Open Space

Open space, regional open space, or metropolitan open space, as used in this thesis, "includes all forms of land and water areas within or around a metropolitan region which are retained in an essentially undeveloped state on a permanent or semi-permanent basis."¹ As applied to the San Francisco Bay Area, it means all such land and water areas within the counties named above.

In a functional sense, such open space includes "land or water areas which have value for; (1) conservation of land and other natural resources, (2) park and recreation purposes, (3) historic or scenic purposes, or (4) shaping and guiding urban form."²

The Preliminary Regional Plan of the Association of Bay Area Governments (ABAG Plan) sets a forty-acre minimum for considering a given piece of open space as "regional,"

¹T. J. Kent, Jr., Open Space for the San Francisco Bay Area: Organizing to Guide Metropolitan Growth, Institute of Governmental Studies (Berkeley, California, University of California, 1970), p. 8.

²Frances E. Herring, ed., Open Space and the Law, Institute of Governmental Studies (Berkeley, California: University of California, 1965), p. 1.

but also includes major mountain or hill ridges, the San Francisco Bay, major water courses, the ocean shoreline, areas of outstanding natural attraction, areas especially suited for regional park and recreation uses, and large acreages near urban areas within its definition.³

San Francisco Bay and Shoreline

San Francisco Bay, as used here, means that Bay and major river system included within the nine-county San Francisco Bay Area as defined in the ABAG Plan. San Francisco Bay shoreline, as used here, means that strip of land, usually 1000 feet wide abutting on the San Francisco Bay.⁴

Discussion of the Problem

The General Problem

In the broadest sense, this thesis is concerned about the optimum use of land in the metropolitan region. Such an optimization would include provision of a well-organized and productive metropolitan system, well-conceived and managed metropolitan expansion, and the

³Association of Bay Area Governments, Preliminary Regional Plan for the San Francisco Bay Region (Berkeley, California: Osborn/Woods Publication, 1961), p. 37.

⁴San Francisco Bay Conservation and Development Commission, San Francisco Bay Plan (Sacramento, California: California Office of State Printing, 1969), p. 38.

preservation, for various purposes, of a maximum amount of open space as close to the center and various parts of the metropolis as possible.

Author William Whyte's evaluation given below of the Boston-New York-Washington complex, with its 67,690 square miles and its forty-three million inhabitants, illustrates this basic point.

If this region was developed to the same average density as the western Netherlands, the number of people would be tripled. The comparison is an extreme one, perhaps, but so is the difference in appearance. Our areas look more filled up than the ones that really are.⁵

William Whyte further contends that almost half of the metropolitan land in the United States is unused or under-used.

Of particular concern to this thesis is the rapidly increasing metropolitan population which, occasioned by various economic and technological factors, including the demand for more spacious living and working conditions, is spreading over an increasing amount of land at an increasing rate. Conversely, the supply of metropolitan open space is being consumed at an increasing rate so that this formerly free resource is now becoming an economic good.⁶

⁵William H. Whyte, The Last Landscape (Garden City, New York: Doubleday and Company, 1968), pp. 9-10.

⁶Development Research Associates: Los Angeles, Economic Impact of A Regional Open Space Program in the San Francisco Bay Area (prepared for people for Open Space) 1969, p. 5.

The San Francisco Bay Area Problem

Approximately 1,300 of the 7,000 square miles of the San Francisco Bay Area are presently urbanized. Bay area figures are indicated below:

	<u>Population</u>
1950	2,700,000
1970	4,500,000
1980	6,200,000
1990	7,200,000

Like other metropolitan regions, the consumption of land for urban development has become an increasing problem because of increasingly lower densities. Prior to the 1930's, the average density in major bay area cities was 5,800 to 5,900 persons per square-mile. By 1950, with the increased use and dependence upon the automobile, such densities had dropped to 2,500.⁷

At the same time as open space is being consumed by urban expansion, the demand for regional open space itself is increasing. With a 1990 population of 7.2 million, the demand for recreational areas alone is expected to quadruple. Predicted additional leisure time, increased income and

⁷Association of Bay Area Governments, Regional Plan 1970: 1990, San Francisco Bay Region (Berkeley, California: Osborn/Woods Publication, 1970), pp. 7, 9-19, 15; Stanly Scott and John C. Bollens, Governing A Metropolitan Region: The San Francisco Bay Region, Institute of Governmental Studies (Berkeley, California: University of California, 1968), p. 27.

mobility, and a generally younger population contribute to this expected increase.⁸

Not only is a spreading population and consumption of land at stake, but an environment which has in the past, made for a workable, livable, and distinctive metropolis. T. J. Kent, author of "Metropolitan Open Space and Regional Government," feels that accommodating a population increase does not mean that the San Francisco Bay Area must lose individuality and weaken its metropolitan physical structure. Perhaps the most important thing that makes the bay area such a good place to live is the natural beauty of the environment. A most important element of any regional plan therefore should be its provision for substantial areas of open space.⁹

The number of headquarters offices, industries, institutions and persons who are free to choose their environment and choose the San Francisco Bay Area is constantly increasing. This is important because the bay area must compete in the site selection decisions of many types of enterprises with other areas that offer lower labor, production, and distribution costs. One of the

⁸Association of Bay Area Governments, op. cit., p. 38.

⁹Kent, op. cit., p. 4.

great attractions of the bay area today is its superior environmental quality; the bay, rolling hills, wooded ridges, beaches, orchards, and vineyards. If this quality is lost, the area's competitive ability to attract desirable new commercial and industrial developments will deteriorate. Preservation of the high quality of the environment by careful planning is good business.¹⁰

¹⁰Development Research Associates: Los Angeles, op. cit., pp. 5, 41.

CHAPTER II

CREATING A PROGRAM OF REGIONAL LAND CONSERVATION AND DEVELOPMENT

"The environmental features that make the Bay Area a superb place to live in are the produce of geology, geography and climate. Environment exercises a profound influence, but it can also be undermined by people. Despite sporadic efforts, most of our surroundings are still unprotected against man's restless and often misguided energies. After the Bay, the region's terrain--its unique and fragile open space--is the next logical candidate for protection 'by most of the people, for all of the people, against some of the people.'

Open space is eminently worth conserving for its own sake, because it is a precious natural resource that people cherish. Without precautions, it can be lost forever."

--T. J. Kent

Institutional Organizations

Special Districts

Special districts, as used here, refer to those governmental agencies of regional or sub-regional multi-county coverage having single-functional planning and operational power. Such districts are usually created in response to pressing or priority regional problems and have the advantage of minimum disruption to the existing arrangements and processes of local governments.¹ Examples of special districts in the San Francisco Bay Area include the San Francisco Bay Conservation and Development Commission (BCDC), the Bay Area Transit District (BARTD), and Bay Area Air Pollution Control District.

The regional planning district, as a variation of the special district approach, would have a more general planning function with operational power limited to some review and coordination of other governmental action. For example, the Tahoe Regional Planning Authority, multi-county interstate agency created in 1967, is empowered to adopt long-term development plans for the Lake Tahoe area; to adopt necessary ordinances, regulations, policies and standards; and to review and clear major public works project proposals of constituent governments.² The

¹Scott and Bollens, op. cit., p. 72.

²Ibid., pp. 81-82.

Association of Bay Area Governments has in fact, if to a limited extent, played the role of a regional planning agency in the San Francisco Bay Area.

Taken separately or together, special districts present the following problems:³ (1) Lack of accountability and political visibility, (2) lack of general resources and power, (3) lack of coordination of interrelated regional problems, (4) lack of general functional and program coordination, and (5) the inability to anticipate new problems and act accordingly. Thus, in spite of the presence of special districts in a metropolitan region and the possibility of their continued establishment because of ease of creation, the need for some type of regional coordination seems definitely in order.

Councils of Governments

The Council of Governments (COGS) approach involves a formal arrangement of consultation and cooperation among local governments within a metropolitan region and a recognition of problems which are common and general in nature. The councils usually consist of delegates from constituent city and county governments. In short, it is assumed that local governments acting as sovereign entities can adequately address pressing regional problems.

³Ibid., pp. 84-85.

Since the organization of the Association of Bay Area Governments (ABAG) in 1961, Council of Governments have been organized in every standard metropolitan statistical area (SMSA) of the nation. Such organization has been stimulated by federal legislation making Council of Governments eligible to receive regional planning (Section 701) grants and requiring that local federal aid applications for development projects "be submitted for review . . . to an area-wide agency."⁴

Council of Governments have been generally successful in stimulating regional planning efforts, joint arrangements and cooperation among constituent governments and regional agencies, and an articulation of regional consciousness. Stanley Scott and John C. Bollens authors of "Governing a Metropolitan Region: The San Francisco Bay Area" argue that Council of Governments as presently constituted have suffered from uncertainties and ineffectiveness."⁵

Limited Regional Government

Limited regional government, as used here, refers to a limited but multi or general function regional government whether the out-growth of a council of governments or a separately created entity. Its conception recognizes

⁴Ibid., pp. 86-90.

⁵Ibid., pp. 86-90.

an existing and vital system of local governments and governmental arrangements which have evolved to deal with local as well as regional problems. It in turn recognizes the need for more positive governmental coordination and action at the regional level. One of the crucial reasons for urging a multi-purpose agency is to insure recognition--by the system of governmental decision making--of the interdependence of the physical, economic, and social systems within a region. A multi-purpose agency can bring the interdependent systems under one policy-making roof and help achieve compatibility between the scope of policy decision-making and the regional needs these policies attempt to meet.⁶

Representation on the Governing Body

In discussing the composition of a regional governing body, authors Stanley Scott and John C. Bollens state that definite systems of representation bring forth different mixes of viewpoints and result in the adoption of different policies. In other words representation is a critical matter.⁷

A regional governing board composed of appointed delegates from constituent local governments (constituent

⁶Ibid., pp. 35-36.

⁷Ibid., p. 23.

unit representation) recognizes that "regional functions affect and interrelate with the local activities and interests of the basic units of governments," and the need for inter-governmental coordination. The argument for constituent unit representation, however, must also recognize many other innovators in a regional setting. In addition to city and county governments, there are various state and federal agencies, regional and sub-regional special districts, and such non-governmental groupings as industry and labor. Constituent unit representation thus carried toward its logical conclusion could be a hopelessly complex and indirect way of representing the regional public.⁸

The Functions of a Limited Regional Government

The possible functions of a limited regional government might be broken down into three groupings:⁹

The first grouping would include those functions, representing generally recognized but unattended regional government. In the San Francisco Bay Area, this grouping might include (1) regional planning, (2) regional research and development, (3) regional land conservation and development, (4) regional waste disposal, and (5) regional airports.

⁸Ibid., pp. 24-25, 120-121.

⁹Staff Proposal for Regional Government (San Francisco, Calif.: Joint Committee on Bay Regional Organization, Dec. 1968); Herring, op. cit., pp. 120-121; California, Assembly Bill No. 711, California Legislature, 1969, Regular Session.

The first two functions are currently being carried out to a limited extent by the Association of Bay Area Governments. Their assumption and expansion would seem to be the first responsibility of a limited regional government. Regional land conservation and development would focus initial action of the regional government on what is judged in this thesis to be the crucial unattended problem of preserving regional open space and controlling metropolitan expansion. Finally the Association of Bay Area Governments and the Joint Committee on Bay Area Regional Organization have suggested that regional waste disposal and regional airport planning be added to the list of crucial but unattended regional problems.

The second grouping would include those functions already being carried out on a regional basis, usually by special districts, but because of the interrelationship of regional problems, might be coordinated under a regional government. In the San Francisco Bay Area, this group might include (1) regional review of local applications for state and federal aid, (2) Bay Conservation and development, (3) rapid transit, (4) freeways and bridges, (5) air and water quality control, and (6) water supply. Each one of these functions, as one example of interrelationship, would relate back to the problem of open space preservation and urban expansion. Rapid transit, bridges, and freeways, for example would imply the need for a balanced and

coordinated regional transportation system which in turn, as brought out in Chapter I, would exert a strong shaping force upon the metropolis.

The third grouping would include those problems which a regional government, once established, would have the capacity to recognize and might be considered appropriate subjects for regional government expansion. One possible area for expansion in the San Francisco Bay area might include regional social problems. With regard to regional social problems, spokesmen for minority communities, Willy L. Brown, Jr. of San Francisco feels that any regional government worthy of minority support should play a broader role.¹⁰

Expansion of a Limited Regional Government

Authors Scott and Bollens suggest the following criteria for expansion of a limited regional government and its consolidation with other regional agencies:¹¹

The need to do so must be clear:

Is the problem in question being handled at all?
If so, how adequate treatment is being given?
How closely is it related to other regional problems?
How politically entrenched are the existing agencies handling the problem?

¹⁰Willy L. Brown, Jr., "Regional Government--Impact on the Poor," Speech delivered before Conference on Bay Area Regional Organization (Berkeley, California: University of California, September, 1968), p. 5.

¹¹Scott and Bollens, op. cit., pp. 36-37.

The necessary legal, contractual, and procedural arrangements be worked out.

The regional itself must be allowed to become well established and accepted before taking on additional functions.

In consideration of the above three groupings of functions, state legislation creating a limited regional government might specify first, initial authorized functions; second particular areas of expansion; and third, other areas of expansion or consolidation requiring additional legislative authorization.

Organization of a Limited Regional Government

Two alternatives for the organization and possible consolidation and expansion of a limited regional government are suggested by Scott and Bollens: (1) Total consolidation of various functions or operations into an integrated hierarchial administrative structure, and (2) the coordination of somewhat independent agencies under and overseeing unbrella agency. An unbrella agency would have power to appoint directors to other agency boards, power to formulate a comprehensive budget, and power to veto other agency action.¹²

It is possible of course that both alternatives might be used by a regional government in a manner not unlike that of many state, county, and local governments.

¹²Ibid., pp. 69-146.

It is presumed that those functions originating with the regional government itself would be, more or less, integrated into its administrative framework. But it is also presumed that those functions not originating with the regional government might be coordinated, as an intermediate or final arrangement, through the "unbrella agency" approach.

Conclusion

The various conclusions on institution arrangements related in the above discussion are summarized below.

1. Special districts provide an immediate and non-disruptive approach for dealing with pressing regional problems. The propensity to create such districts will not immediately disappear. Yet, some regional coordinating mechanism is definitely in order.

2. Councils of Governments, such as ABAG, have been effective in securing inter-governmental cooperation and joint action on matters of common or regional concern.

3. A limited regional government with a directly elected governing body is judged to be the most effective way of dealing with such unmet regional problems as preserving regional open space and governing metropolitan expansion, and of coordinating existing and future regional-wide governmental activity while at the same time preserving local governmental prerogatives.

4. Where a separately organized limited regional government may assume some of the functions exercised by

a Council of Governments, the Council of Governments could continue to play an important role as an association of local governments and act as an overseer for regional activity.

5. Local governments must play an active role in preserving open space and governing urban expansion. Local land conservation commissions and local land development agencies could be useful tools for reorienting the efforts of local government accordingly.

Legal Organizations

The Police Power: Open Space Zoning and Land Use Regulations

The California Constitution and state enabling legislation give local governments the authority to exercise the police power (e.g., zoning) with respect to land use.¹³

Implicit in the police power is regulation for the promotion of public health, safety, order, convenience, morals, prosperity, and the general welfare. Constitutional limitation has stipulated that the application of the police power must be reasonable, conform to due process, be in the public interest, and guarantee equal protection. In view of these limitations, zoning particularly for open space

¹³Michael Heyman, "Open Space and the Police Power," Open Space and the Law, ed. by Frances W. Herring, Institute of Governmental Studies (Berkeley, Calif.: University of California, 1965), p. 12.

preservation has been more or less justified only for a limited number of purposes.¹⁴ I. Michael Heyman's article "Open Space and the Police Power," thus advises:¹⁵

. . . regulations seeking to accomplish specific health, safety and welfare ends which, as a by-product, preserve open space are valid. Thus carefully drawn flood-plain regulation can, without compensation, implement some designation for drainage channels and carefully drawn regulations protecting slide and earthquake risks might preserve some portions of areas designated to guide development. Further limited agricultural zoning, tied together with property tax ceilings, might also be upheld. It is very difficult to explore these questions with precision here, however, because each potential application must be evaluated separately. Suffice it to say that only a limited amount of selectivity applied regulation for permanent open space preservation should be assumed and normally such regulation would be applied to the least valuable lands.

As used alone, open space zoning could not be depended upon to preserve the large amounts of land needed to provide an integrated open space system and govern metropolitan expansion. However,¹⁶

As population expands and the public interest in unspoiled land becomes more self-conscious and articulate, we may expect to see many controls formerly through unduly restrictive, today and in the future, interpreted as necessary for the general welfare.

Zoning and Taxation

Numerous states, by constitutional amendment, statute, or court decision, have adopted a policy of taxing

¹⁴Ibid., pp. 13-18, 26-27; Herring, op. cit., p. 100.

¹⁵Development and Research Associates: Los Angeles, op. cit., p. 20.

¹⁶Herring, op. cit., p. 102.

open land according to present or regulated, rather than potential, use (preferential taxation). In California, traditional constitutional and supreme court declarations that all property be taxed at one-hundred per cent market value had been responsible for the accelerated conversion of farm land to urban uses. 1957 and 1959 legislation attempted some correction by providing preferential taxation for agricultural, recreational, and airport lands not to be urbanized.¹⁷ A 1966 constitutional amendment empowered the Legislature to direct county assessors in the manner of assessing the value of all open land, including agricultural land. Subsequent 1967 legislation directed county assessors to assess farm land on the basis of actual use provided that such farm land be covered by (1) scenic easement, or (2) contractual agreement as provided in the Williamson Act.¹⁸

Experience in several states has shown preferential taxation, particularly as tied to voluntary agricultural zoning, to be largely ineffective, or at best as a holding action in preserving open space and halting urban expansion. In Santa Clara County, for example, state legislation pertaining only to that county enabled the Board of Supervisors to create voluntary agricultural zones and to grant

¹⁷Ibid., pp. 104-105; Heyman, op. cit., p. 18; Franklin C. Satchan and Rodger W. Findley, "The Influence of Taxation and Assessment Policies on Open Space," in Herring, pp. 55-57.

¹⁸Development Research Associates: Los Angeles, op. cit., p. 7.

preferential taxation to affected property owners. Forty thousand acres were accordingly zoned in 1958 and 70,000 in 1960. In the face of increasing development pressures, however, property owners gradually reversed the trend by taking the option to annex to neighboring municipalities and then subdividing. What little staying power the Santa Clara scheme provided for agricultural open space tended, in the longer run, to promote a pattern of spotty and non-contiguous urbanization.¹⁹

The California and Land Conservation Act of 1965 (Williamson Act). As the only statewide application of preferential taxation and voluntary agricultural zoning in California, the Williamson Act has been applied in most Bay Area counties, but usually in areas not subject to near-term development pressures. The act provides that a county board of supervisors, upon request, of one or more owners of contiguous agricultural land may establish a voluntary agricultural preserve or zone. Once established, affected property owners may agree by contract with the county to maintain their land in agricultural use in exchange for which preferential taxation is granted. Such contracts are usually intended to remain in effect for ten years, and are automatically renewable on an annual basis, but

¹⁹Meyman, op. cit., pp. 23-26; Whyte, op. cit., pp. 48-49, 106-110.

may be cancelled-out by initiative of either party.²⁰

Like the Santa Clara scheme, the act has provided no guarantee of permanency in open space.

The application of preferential taxation in California might be extended beyond the Williamson Act and such could be used to enhance the effectiveness of various types of involuntary open space zoning. The Williamson Act itself could be amended to enable local governments, as well as private property owners, to initiate contractual arrangements at strategic locations.

Regulation with Compensation

Compensable regulation is designed to preserve existing open space which is under private ownership and use. Within this realm, stringent land-use regulations would be imposed. If the value of affected land was thereby depressed, owners would be guaranteed a sale price equal to the appraised market value of the land at the time the regulations were imposed. If on the other hand, the value of the land appreciated, there would be no compensation and the seller would reap the gain. The amount of the guarantee would be reduced by each payment of compensation and could continue to be available to each new purchaser of the regulated land. The guarantee would

²⁰The Case for Open Sapce (San Francisco, Calif.: People for Open Space, 1969), p. 7; Development Research Associates: Los Angeles, op. cit., pp. 7-8.

be periodically adjusted to reflect dollar-value changes. Additionally, property taxation would be based upon regulated value.²¹

Legislation imposing compensable regulation would contain the following provisions: (1) The reason for the regulation (e.g., to shape urban development), (2) a description of the land-use activities permitted and not permitted, (3) the procedure for appraising the affected lands and setting the guarantee, and (4) if compensable regulation were intended to be a holding action, the procedure for repeal and subsequent imposition of "regular zoning" or government acquisition (the acquisition price being the current market value or guarantee amount whichever might be the greater).²²

Compensable regulation is seen as a highly flexible tool which could be applied with variation according to experience and the interplay it would allow between the police power and the market. In addition, it could be an inexpensive method for preserving large amounts of regional open space. Simply by the presence of a guarantee, it is presumed that many owners would hold their land and, in

²¹Jan Krasnoweicki and Ann Louise Strong, "Compensable Regulations for Open Space," Journal of the American Institute of Planners (May, 1963), pp. 88-94.

²²Ibid., pp. 95-96.

some cases, might use it as security for other investments.²³ On the other hand, it is felt that compensable regulation could involve problems of land appraisal and administration. Furthermore, the cost could be high if the regulations were applied unselectively or without an ear to market and land use-trends.

By tying land regulation to compensation, proponents see a means for extending and strengthening the effectiveness of the police power, which skeptics see the possibility for an over-extension and general weakening thereof.²⁴ As an untried and unfamiliar tool, and as used in a regional program of regulating metropolitan expansion and preserving open space, compensable regulation might therefore be applied selectively and experimentally.

Conclusions on the Police Power

Various conclusions about the police power have been related to the above discussions and are briefly restated and expanded upon below.

Use of Police Power Tools

1. While judicial trend points to a more liberal interpretation, the present application of open space

²³Ibid., pp. 89-93.

²⁴Ibid., p. 89; Jan Krasnoweicki and Ann Louise Strong, "Comments on Compensable Regulations Proposal," Journal of the American Institute of Planners (May, 1963), p. 90.

zoning should be selective. Its use will probably be most defensible in areas where a clear case can be made for public welfare and safety, or where urbanizing pressures are not immediate or likely to occur.

2. Preferential taxation, whether or not tied to the Williamson Act, should be extended beyond voluntary agricultural zoning in California to be used in conjunction with various types of involuntary open space zoning.

3. Compensable regulation, because of the special treatment it could give to some land owners, not only in the form of more explicit specified land-use for taxation purposes, but also in terms of a guaranteed sale price, could involve legal questions of equal-protection as well as potentially high public cost. For the immediate future application should be selective and experimental.

Public Land Acquisition

Public land acquisition, in its variations, is discussed here as a reinforcement to the effects of open space zoning and land-use regulation.

California's 1959 Open Space Act authorizes local governments to acquire, for present or future "public use," the fee or less-than-fee interest in open land, and to sell-back or lease back land thus acquired. The power of eminent domain was omitted from the act, however, as its

availability for use by existing regional associations of governments.²⁵

The question of "public use" is a limiting factor in such legislation, but, like the broader question of general welfare, has been given increasingly liberal interpretation. "That which concerns the whole community or promotes the general interest in relation to any legitimate objective of government" or any compelling community economic need has been defined, in recent court cases, as public use.²⁶ Like the newer uses of open space zoning, it can be presumed that the courts will favor the newer uses of acquired open space when pursuant to explicit development plans and planning policy.

In this process, the need for eminent domain will become more inevitable. A legislative grant of such power and its extension to regional agencies would seem as essential as part of any new open space acquisition legislation in California.²⁷

With these general considerations in mind, various possible applications of the public land acquisition power are discussed below.

²⁵E. Stanley Weissburg, "Legal Alternatives to Police Power: Condemnation and Purchase, Development Rights, Gifts," California, Government Code, Sections, 6950, 6953, 6954, in Herring, pp. 42-43, 45.

²⁶Including Redevelopment Agency vs. Hayes cites in Weissburg in Herring, pp. 38-39.

²⁷Ibid., pp. 44-45.

Acquisition and Land-Banking

The most ambitious and comprehensive of the acquisition approaches involves the acquiring of open land on a large scale in advance of urbanization and then selling or leasing back of such land to local or private agencies in a planned and programmed manner (land-banking).

In California, various types of land-bank programs to preserve open space and govern metropolitan expansion have been proposed, over the years. Since 1952, the California Division of Highways has used a land-bank program to anticipate the need for and the future construction of highways. Using a special revolving fund, the Division of Highways has been authorized to purchase large parcels of land for highway construction, to lease-back such land until construction begins, and often to sell-back access acquisitions once a project has been completed.²⁸

A land-banking, revolving fund approach could allow flexibility of open land, often beaten speculation and rising prices, and could largely be self-supporting.

Variations of Public Land Acquisition

The following variations of public land acquisition would enable the public acquisition dollar to be extended and used more strategically over a broader area.

²⁸Whyte, op. cit., pp. 57-58, 64.

Land Gifts.--Local governments in California are empowered to receive gifts of land and to hold and maintain such gifts, for public use. This approach to acquiring open space has been widely used. The promotion of a land gift program would probably be most effective as carried out by private organizations, such as nature conservancies, working in cooperation with a governmental agency.²⁹

Preemptive Buying.--Preemptive buying involves the selective purchase of strategic parcels of land--usually just enough to forestall speculation and development--and has been used with success in Massachusetts. It would seem that this type of approach, wisely executed with respect to developmental and legal trends, could potentially enhance the residual effectiveness of the police power.³⁰

Easements

The acquisition of easements, or selected property rights, can also be an expensive approach to preserving large amounts of open space while allowing a maximum continuation of existing private uses. Under this approach, the acquisition would be determined by defining the rights to be taken and appraising them accordingly.

The easement approach has been found to be most advantageous in areas where urbanizing pressures are not

²⁹Weissburg in Herring, op. cit., pp. 46-47.

³⁰Whyte, op. cit., pp. 68-70.

imminent. In areas more subject to immediate pressure, the problem of appraisal has become more difficult with the appraised value of easements tending to approach the cost of out-right purchase. Likewise, the problem of assessing such land for tax purposes has become difficult.³¹

While the certainty of controlling development is possible under the easement approach, the flexibility of the market possible under compensable regulation is absent. The lack of experience and precedent with this approach in California would seem to dictate that its initial application be experimental.

The urgency of getting-on with the business of acquisition, with land prices increasing on an average of five to ten per cent annually, is pointed out in the Point Reyes National Seashore purchase. In 1962, the land could have been acquired for fourteen million dollars, but the hesitancy of Congress and resultant speculation has since driven-up the price to fifty-eight million dollars.³²

Conclusions

Conclusions on Land Acquisition

The various conclusions on land acquisition, related to the above discussion, are summarized briefly upon below.

³¹Herring, op. cit., p. 135; Krasnoweicki and Strong, op. cit., pp. 90-91; and Whyte, op. cit., p. 78.

³²Whyte, op. cit., pp. 57-58, 64.

1. Generally, acquisition presents a promising tool for preserving regional open space and governing metropolitan expansion, but in California, local governments and regional agencies must await legislative granting of eminent domain power before any effective programs can be carried out.

2. Land-banking, has ample precedent and could be most effective in preserving open space and channelling urban expansion.

3. Preemptive buying could be an expensive but effective device for regulating development and preserving open space, and if used with imagination, could enhance the effective use of the police power.

4. The use of easements, like the use of compensable regulation, would be most effective in outlying areas of a metropolitan region, and would best be used experimently.

General Conclusions: Police Power vs. Public Land Acquisition

1. The increasingly judicial interpretation of general welfare with respect to the police power, and the public use with respect to public acquisition implies an ever-changing role of one in relation to the other, and an ever-changing threshold point for the desirability or effectiveness of applying one or the other.

2. The above consideration expresses the need to use a variety of tools in a program of regional land

conservation development. It may be tentatively concluded that the use of acquisition should be most heavily used in immediate metropolitan fringe areas.

3. The use of a host of tools in a program or regional land conservation and development could be more effective and reinforcing as coordinated with other regional governmental functions.

CHAPTER III

SAN FRANCISCO BAY AREA

"It is becoming increasingly clear to many planners and conservationists that if open land is to remain a part of urban America, a higher price tag, not necessarily an economic one, must be placed on it. The importance and value of urban open land, must be more fully recognized by all who are in a position to effect environmental change. There is a danger that unless this recognition comes soon, in this generation, tomorrow may be too late."

--Joseph James Shomon

Historical Summary

Natural Setting and Urban Development

The San Francisco metropolitan region is appropriately identified and given its sense of regional community more by virtue of its proximity to the San Francisco Bay than by its proximity to the city itself. Indeed, San Francisco was a regional designation before it was the name of a city.¹

Natural Setting of the San Francisco Bay Area

San Francisco Bay extends almost sixty miles from due north to south and six to twelve miles from east to west. The plain surrounding its irregular shoreline contains rich soil deposits and is relatively flat making it ideal for agricultural activity as well as urban development. Coastal mountain ranges surround the Bay Area and its subsidiary valleys providing a chain of barriers broken laterally only at the Golden Gate Channel, where the Bay connects with the Pacific Ocean, and at Carquinez Strait, where the Bay joins with the San Juabin and Sacramento Rivers and other river systems extending into the northern

¹James E. Vance, Jr., Geography and Urban Evolution in the San Francisco Bay Area, Institute of Governmental Studies (Berkeley, California, University of California, 1964), p. 6.

coastal valleys and the inland central valleys of California.²

Development of the San Francisco
Bay Area Metropolis

What distinguishes the metropolis of the San Francisco Bay Area from its metropolitan peers is the remarkable way in which the Area's natural geographical setting has been used to accommodate its man-made system of cities.³ The natural and geographic setting has had the effect of spreading out, channelling, separating Bay Area development while, at the same time, providing a strong regional identity. Changing economic, social and technological factors have interacted in this environment with each generation of urbanization leaving its legacy and unmistakable influence upon future urbanization.

Bay Area development began principally at the settlement later to be called San Francisco. The settlement's common proximity to ocean and bay provided an ideal breaking and warehousing point for the transfer of goods from ocean-going vessels to inland barges. The Bay in turn provided easy access to many parts of the region.⁴

²Vance, op. cit., pp. 4-6; Association of Bay Area Governments, Regional Plan 1970:1990, San Francisco Bay Region, op. cit., pp. 4-6.

³Kent, op. cit., p. 4.

⁴Vance, op. cit., pp. 7, 9012, 33-35.

Development and scatteration of industrial activity followed the initial settlement pattern so that by the 1880's, for example, factories were located in the Contra Costa Valleys, and around San Jose. The advent of the railroad opened up inland portions of the Bay Area to settlement and economic activity, and was particularly important for advancement of the growing wheat industry. Rail entries into the Bay Area, however, did not favor San Francisco so that the first terminal were located instead at Vallejo and Oakland. Water navigation, for industrial activity at least, thus became rare and more specialized. An settlements such as Port Costa, Vallejo, Benecia, Point Richmond, and Martinez, Suitable for both water and railroad connections, became equally important.

The 1864 railroad line extending around the San Bruno Mountains and down the peninsula from San Francisco provided access to and stimulated development of a string of fashionable residential communities inhabited largely by business executives working in the City. Also by 1877, quick and economical ferry service available between Sausalito, Berkeley, San Francisco, and Oakland stimulated growth of the East Bay cities and their more predominant settlement by working classes.⁵

Extended trolley lines also gave rise to urban radials and strip developments which reached out to join

⁵Ibid., pp. 26-27, 36-40, 42-47.

the core areas with formerly isolated suburban communities. The influence of shaping the emerging Bay Area metropolis gradually shifted, however, to the automobile which gave rise to its own generation of urbanization. The auto opened up formerly inaccessible hill of urbanization. The auto opened up formerly inaccessible hill areas and stimulated a process of urbanization which merged into and extended the urban radials initiated by the trolley.

The advent of World War Two brought its own set of shaping forces including new people, new industries, and new journey to work patterns. One of the consequences of wartime and post-war growth in the Bay area was the development of vast new housing tracts of a pattern more often attributed to Los Angeles.⁶

The Bay Area Metropolis Today

The present-day Bay Area metropolitan region concentrates around the traditional core areas of San Francisco and Oakland, the rapidly growing San Jose core area, and the emerging Walnut Creek-Concord complex. Rapid rates of population increase have shifted from the San Francisco and Oakland areas southward along both bay shores to connect with San Jose at the southern extremity of the Bay. Present trends point to a similar northward shift toward the rapidly

⁶Ibid., pp. 51-53, 63-64.

developing areas of Santa Rosa, and the Sonoma and Napa valleys at the northern extremity.⁷

The Bay continues to be the distinguishing factor of bay area economy thus accounting for the strong orientation to trade, shipping oriented industries, and military installations; as well as financial and administrative services. Other Bay oriented industries include oil refining, food processing, and construction materials. The more recent entries into the Bay Area of electronics and aerospace industries have been reinforced by the presence of two major universities.⁸

The Bay Area metropolis has been coalescing into a more or less contiguous entity surrounding the Bay and spilling into connecting and adjacent valleys and basins. It shares an increasing number of common regional problems not the least of which is the need to preserve its unique natural heritage and govern its expansion at the urban frontiers. At the same time, it must be recognized that this growth has centered around and extended from many localities within the bay region based upon the pattern of settlement laid down over a century ago. An ever developing and increasingly important regional frame of reference has been accompanied by the presence of strong

⁷Association of Bay Area Governments, Regional Plan 1970:1990 San Francisco Bay Region, op. cit., pp. 7, 16.

⁸Ibid., pp. 8-9.

local identities which, reinforced by continued growth, remain vital and important aspect of the total region.

Regional Governmental Action in the San Francisco Bay Area

Unlike other metropolitan regions, the bay area is not politically dominated by a single city or county. It is politically divided into a commonwealth of nine counties and ninety-one municipalities. A strong tradition of local home rule, based upon the 1879 "home rule" amendment to the California Constitution, is an interrelated condition of this political complexity. Yet, an ever-present sense of regional community has encouraged and necessitated attempts at, and experimentation with regional government arrangements.⁹

Post War Experience

Attempts at regional governmental action made following World War Two and prior to 1960 were of the single-functional variety applied to pressing regional problems, with no apparent concern for regional coordination.¹⁰

Water Pollution.--The first break came in 1947 as part of a statewide water pollution control effort with creation of the Bay Area Water Quality Control Board. The

⁹Scott and Bollens, op. cit., p. 7; Kent, op. cit., p. 22.

¹⁰Kent, op. cit., pp. 11-12, 24.

board, consisting largely of engineers, was appointed by the Governor.

Air Pollution.--In 1955, in response to the increasingly obvious and serious region-wide problem of air pollution, state legislation established the Bay Area Pollution Control District with a governing board appointed by constituent local units.

Rapid Transit.--Post-war studies on regional transit needs and the proposal for a second and parallel San Francisco-Oakland Bay Bridge gave impetus for creation in 1951 of the Bay Area Rapid Transit Study Commission. Commission studies resulted in the preparation and wide-spread presentation of the area's first regional plan. The Commission was reconstituted in 1957 as the Bay Area Rapid Transit District (BARTD) with a governing board appointed by constituent local units. Several Bay Area counties subsequently withdrew from the district. However, the 1962 proposal for an initial phase rapid transit system included only the counties of San Francisco, Alameda, and Contra Costa. The voters of the three counties subsequently approved a billion-dollar bond issue to finance the seventy-five mile system.

Regional Planning.--By 1955, agreement was reached among local planning officials in the Bay Area on the appropriate key elements for a regional development plan.

Subsequent proposals, largely stimulated by the City of Berkeley, were made to create a regional planning district.

1960 to the Present

The 1960-61 report of the Governor's Commission on Metropolitan Area Problems, if it did not directly affect, at least marked the beginning of a greater emphasis on the need for more comprehensive and multi-functional approaches to regional problems.¹¹

Council of Governments.--The Association of Bay Area Governments was organized as a reaction by local officials to the possible spectrum of a multi-purpose regional district as recommended by the Governor's Commission, to the Bay Area regional planning as discussed above, and in response to the genuine need for a regional forum. Given legal status by California's "joint exercise of powers" act, the Association of Bay Area Governments started primarily as a discussion and research unit, but, with the availability of federal funds, became involved in regional planning as well.

Regardless of the initial motives in its organization, the experience and valuable contributions of the Association of Bay Area Governments have increasingly underscored the need for a more coordinated approach to regional

¹¹Scott and Bollens, op. cit., pp. 3, 9-11, 13-15, 92; Kent, op. cit., pp. 13-14.

problems. It is thus not surprising that each Bay Area special district created since 1961 has been considered an interim approach and has been charged to recommend permanent governmental solution.

Bay Conservation and Development.--The shallowness of the San Francisco Bay (its depth averages less than eighteen feet) has been a constant temptation for filling-in and developing. Motivated by pressure from agitated citizen groups, including Save the San Francisco Bay Association.¹² The California Legislature in 1964 established the San Francisco Bay Conservation Study Commission to ascertain the public interest in San Francisco Bay; to study the effects of further filling of the Bay; and to recommend to the 1965 Legislature measures to protect the public interest in the Bay.¹³ Following its report, the 1965 Legislature reconstituted the Commission as the San Francisco Bay Conservation and Development Commission (BCDC). In doing so, it rejected a proposal that the Association of Bay Area Governments become the bay conservation and development authority. BCDC was empowered to grant or deny permission for Bay fill operations, to prepare a Bay and Bay

¹²Mel Scott, The Future of San Francisco Bay (Berkeley, California: University of California, 1963), p. 9.

¹³Bay Conservation and Development Commission, San Francisco Bay Plan (San Francisco, Sacramento, California: Office of State Printing, 1969), p. 72.

Shoreline development plan, and to make a regional government proposal to the 1969 Legislature.

The Bay Conservation and Development Commission's twenty-seven man governing board consists of representatives from Association of Bay Area Governments, Bay Area Transportation Study Commission, Federal and State agencies, the Regional Water Quality Control Board, and the nine Bay Area counties; as well as seven private citizens.

Joint Committee on Bay Area Regional Organization.--

As a compromise response to the 1967 proposal that the Association of Bay Area Governments be strengthened to become the limited regional government for the Bay Area, the Legislature set up the Assembly-Senate Joint Committee on Bay Area Regional Organization (Knox Committee) charging it to study the whole range of Bay Area regional problems and governmental proposals and to submit its recommendations to the Legislature.

Various citizen groups, such as the San Francisco Planning and Urban Renewal Association and People for Open Space, have since testified before the Knox Committee and have submitted their own recommendations for limited regional government.

Proposals for Bay Area Limited Regional
Government

Association of Bay Area Governments Proposal

The Association of Bay Area's 1967 regional government proposal provided for a thirty-four member governing board appointed by constituents units. While not conforming to the one-man-one-vote doctrine, an attempt was made to give larger cities and counties more votes on the board. The president and vice-president of the governing board were to be elected by a conference of all city councilmen and county supervisors in the region. In January, 1968, the Association of Bay Area Governments enlarged the size of its Executive Committee to thirty-four members in anticipation of its hope for a new role.

As a limited regional government, ABAG proposed that it take on four initial functions: (1) Regional Planning, (2) regional parks and open space, (3) regional refuse disposal, and (4) regional airports; and that it absorb other regional functions over time.¹⁴

Assembly Bill 1846 (Bagley Bill) is the latest version of the ABAG proposal. The bill is primarily a legislative declaration of the need for bay area regional government, the need for city-county participation in that government, and the need for a regional plan. It proposes

¹⁴Scott and Bollens, op. cit., pp. 92, 94, 98.

that a bay area regional government might take on the following functions: Regional planning, regional solid waste disposal, regional airports, regional open space and regional parks, bay and bay shoreline development, air quality control, water quality control, regional transportation, and the review of applications for state and federal aid.¹⁵

The Bay Conservation and Development Commission Proposal

Bay Conservation and Development Commission proposes creation of a regional agency having power to regulate the entire bay and its shoreline. The BCDC feels that such an agency should be part of or easily transferable to limited regional government. Such a government would have the advantage of relating the problems of the bay and its shoreline to other regional problems.

A bay agency, whether part of a limited regional government or a separate agency, should have power to grant or deny permits for all bay filling and dredging operations-- a power which would extend to the mean high tide points of bay tributaries. The agency would also have, limited, but effective, jurisdiction which would extend to priority shoreline areas, where zoning regulations and acquisition would be applied, and to other shoreline areas, where general

guidelines allowing the utilization of local regulations would be applied.¹⁵

In the event that the legislature does not see fit to create a limited regional government with strong open space power, the People For Open Space suggest two possible alternatives in order of preference: (1) The creation of a BCDC-type open space commission which would be empowered to establish a regional open space zone and to grant development permissions within that zone, to prepare a regional open space plan, and to submit a governmental proposal to the legislature for years hence; or (2) creation of a bay area open space study commission, similar in its nature to the 1964 San Francisco Bay Conservation Study Commission, which would designate regional open space areas and suggest ways of creating a regional open space system.¹⁶

Each of the proposals for limited regional government discussed above, suggests regional parks and open space as an essential function. However, only the BCDC and the People for Open Space proposals are explicit in the type of powers necessary to carry out such a program. None of the proposals deal with the important issue of

¹⁵California, Assembly Bill 1846, California Legislature, 1969 Regular Session, Sections, 66652, 66700-66704, 66701.3-66702.1, 66720-66730.

¹⁶Regional Open Space Legislation for the San Francisco Bay Area (San Francisco, California: People for Open Space, 1969).

governing metropolitan expansion as it relates to preserving regional open space.

Summary and Conclusions

The summary and conclusions of this chapter are as follows:

1. San Francisco Bay and the surrounding valleys and mountains have provided an unparalleled setting for metropolitan development.
2. With the growth and coalescence of the bay area metropolis, and the economic and technological factors associated therewith, a number of regional problems have become manifest.
3. The strong ferment of experience and study at addressing regional problems in the bay area points to the need for a comprehensive but limited approach at dealing with such problems.

CHAPTER IV

NEXT STEPS FOR THE SAN FRANCISCO

BAY AREA

"Few Americans, to be sure, are expert at beating the bulldozers in their communities. Their handicap is understandable. Even now, open space preservation presents one of the lowest profiles of all the environmental challenges facing the nation. People seem more concerned with pollution, perhaps because pollution has become increasingly visible. But what does the typical citizen know about the pollution of land, or about the techniques of preserving the land before the polluters can get to it? Not enough."

--Charles E. Little (1971)

Thesis Proposals

1. The problems of preserving regional open space and governing metropolitan expansion can be viewed together and viewed as the next important focus for regional governmental action in the bay area.

This thesis proposes that the preservation of regional open space and the governing of metropolitan expansion must be viewed together as the next focus for regional governmental action in the bay area. Each is vital to the future welfare of the metropolis and each bears an important functional and reciprocal relationship to the other.

This functional and reciprocal relationship is concentrated at the metropolitan fringe where urbanizing pressures confront areas of regional open space. It is at these belts of transition where the metropolitan area must be governed and channelled and that open spaces and irreplaceable natural resources must be preserved from necessary encroachment.

The San Francisco Bay and its shoreline have been the subject of special priority concern in recent years. For the purposes of this thesis, the bay is looked upon as an open space and a metropolitan development resource; and a means of regulating and channelling metropolitan expansion. The bay shoreline, like the metropolitan fringe,

can be viewed as especially important in this regard, for clearly what happens to the shoreline helps determine what happens to the bay.¹

2. The next important focus suggests the need for a program of regional land conservation and development.

In preserving regional open space and governing metropolitan expansion, it cannot be assumed that existing local governments alone can carry out this important function. In the bay area, individual city and county general plans and zoning standards indeed present an incoherent picture of how the bay is to develop. Nor is this situation expected to change without a regional frame of reference: "The concept of balanced land-uses may be applicable to the region as one unit, but not to each of its parts."²

A program of regional land conservation and development is thus proposed, and defined in this thesis: first, as a system of land-use regulation applied uniformly on a regional basis, general enough to allow maximum flexibility of local land-use regulations, but specific enough to insure that the regional interest is served particularly in areas

¹Bay Conservation and Development Commission, San Francisco Bay Plan (San Francisco, Sacramento, California: Office of State Printing, 1969), p. 35.

²Association of Bay Area Governments, Regional Plan 1970:1990, San Francisco Bay Region, Osborn, Woods Publication, 1970, p. 20.

of open space; and second, the application of specific tools of regulation and public land acquisition, either by local or regional government, to insure the effectiveness of the basic regional land-use regulations especially at the metropolitan fringe.

3. A program of regional land conservation and development could be most effectively exercised as part of a limited regional government. A limited regional government would help assure that such a program be effectively coordinated with and reinforced by other regional governmental functions.

It is assumed that a limited-function regional government would be the most viable institutional instrument for carrying out a program of regional land conservation and development. Not only would it have stronger legal and financial resources, but it would help insure that other regional functions reinforced, rather than circumvented, the program.

In at least three general areas, other possible functions of regional government could reinforce a program of regional land conservation and development. First the ABAG Plan discusses the future role of transportation in shaping the metropolis:³

As the population increases, existing and future freeways and mass transit facilities will exert a

³Same as number 3, p. 48.

powerful shaping force in achieving and reinforcing desired regional form and the prospect of coordinated transportation system fully integrated with regional land-use plans opens up new possibilities for the Bay Region's future development.

Second, the planning and construction of public facilities and utilities can have a strong developmental influences.

For example, the urbanizing process at the metropolitan fringe could be affected through the staging of utility installation in a programmed manner. Third, the type and location of regional employment can be particularly important whether in the core areas, where new journey to work patterns and higher residential densities may result, or in suburban areas, where new demands for housing, transportation, and other facilities may be triggered.⁴

Thesis Recommendations

1. It is recommended that the California State Legislature amend the Williamson Act in order that it might be used as a more effective tool for local and regional planning; and that it pass enabling legislation authorizing cities and counties to adopt compensable regulations.

The California Land Conservation Act of 1965 (Williamson Act) should be amended to allow county governments, as well as private property owners, to initiate contractual land-use agreements at strategic locations

⁴Hering, op. cit., pp. 101-102; Scott and Bollens, op. cit., p. 27; Association of Bay Area Governments, Regional Plan, op. cit., pp. 7, 9-10, 15.

and to make more difficult for such agreements to be terminated.⁵

State legislation should be adopted to enable local and regional land regulatory agencies to apply compensable regulation in open space areas. Such legislation might initially provide criteria for its application on selective, experimental, and, legally justifiable basis.⁶

2. It is recommended that the State Legislature establish limited regional government for the nine-county bay area providing for a directly elected governing board.

The importance and the tradition of local self-government among the cities and counties of the bay area thus demand that limited regional government be kept in fact limited. Two major considerations can be cited in this regard: First, expansion of the limited regional government into new fields of activity should, as suggested in Chapter II,⁷ be clearly specified by state legislation. In other words, legislative leadership should be maintained both in the creation of a limited regional government and in its subsequent expansion. Second, the need of a large regional bureaucracy should be minimized by "farming-out" the performance of as many regional governmental services

⁵Supra p. 23, Chap. II.

⁶Supra pp. 24-25, Chap. II.

⁷Supra p. 17, Chap. II.

as practicable to already existing city and county bureaucracies.

3. It is recommended that the Association of Bay Area Governments assume the role of an association of local governments and a guardian of local governmental prerogatives.

With a separately formed limited regional government, the Association of Bay Area Governments would logically discontinue its regional planning function and its responsibility to review local applications for federal aid. But ABAG would still have an important role to play: (1) It should continue to serve as a forum for the discussion of local and regional governmental problems and as a clearinghouse for the many problems and disputes which will arise between local governments' and the regional governments, particularly in such areas of concurrent responsibility as planning and land-use regulation. (2) It should be a required consultant to the regional government in the policy-making processes of the latter. (3) It could coordinate inter-local cooperation and collaboration in areas of local governmental activity requiring large scale effort, such as law enforcement, and not absolutely essential for regional governmental action. (4) It could facilitate the performance of some regional governmental services by local agencies.

Through such activity, ABAG should be able to effectively stop the unnecessary expansion of the limited regional government. In problem areas absolutely demanding regional governmental action and expansion, and calling for state legislative action, the Association of Bay Area Governments should be an important consultant and as authorized by state legislation could determine the nature of veto or such expansion.⁸

4. In the event that the legislature does not see fit to establish a bay area limited regional government, it is recommended that it establish an interim bay area land conservation and development commission patterned after the Bay Conservation and Development Commission, and that it should extend the life of the Bay Conservation and Development Commission.

Political considerations may dictate that the creation of a limited regional government, in the final analysis, be evolutionary in nature. The following actions are therefore proposed as stop-gap approaches to the immediately pressing problem of preserving regional open space and governing metropolitan expansion.

As an alternative to creating a limited regional government with power to execute a program of regional land conservation and development, the state Legislature

⁸Supra p. 11, Chap. II.

should create a Bay Area Land Conservation and Development Commission. In a manner similar to that of the BCDC, the Land Conservation and Development Commission would be given a four-year life term and charged to conduct studies, prepare a development plan, and make a regional governmental proposal to the legislature. The Land Conservation and Development Commission would be empowered to adopt the applicable provisions of the Association of Bay Area Governments Plan as an interim policy guide, to designate a regional open space district, and to regulate land use within the open space district.⁹

The legislature should extend the life of the Bay Conservation and Development Commission giving it stronger power over shoreline development and requiring it to coordinate its efforts with those of the proposed Land Conservation Development Commission. Indeed, some form of interlocking directorship between the two agencies would be appropriate.

As an alternative to creating a regional land conservation and development commission, the legislature should create a bay area land conservation study commission. In a manner similar to that of the 1964 San Francisco Bay Conservation and Development Commission, the Land Conservation Commission could ascertain the public interest in

⁹Kent, op. cit., pp. 35-36; The Case for Open Space, op. cit., p. 15.

preserving regional open space and governing metropolitan expansion, study the effects of uncontrolled urban growth, and recommend measures to protect the public interest accordingly. The work of such a commission might in fact be assigned to the extended BCDC.¹⁰

While creation of the agencies suggested above would provide an immediate approach to the pressing regional problems discussed in this thesis, the need for comprehensive and coordinated action at the regional level would remain. It is expected that the work of bay area special districts, both existing and proposed, would continue to point up this broader problem. In addition, the legislature should extend the life of the Joint Committee on Bay Area Regional Organization to monitor bay area regional governmental actions and to make periodic recommendations for coordination.¹¹

Future legislation might provide for some type of formal coordination between existing bay area regional agencies such as a selective consolidation of directorships or functions, umbrella agency, or a coordination council.

Concluding Remarks

In pointing to the preservation of regional open space and governing of metropolitan expansion as the next

¹⁰ Supra pp. 46-47, Chap. III.

¹¹ Supra p. 43, Chap. III.

step for regional governmental action in the San Francisco Bay Area, this thesis has attempted to explore the alternatives and establish the geographic, historic, and political context for doing so. The next step has been viewed as part of a necessary and broader program of regional land conservation and development. The implementation of such a program has been closely tied to the establishment of a limited regional government--as far reaching and interrelated with other regional governmental functions as such a program should be.

The recommendations of the final section of Chapter IV are not intended to underscore the importance of the program at the expense of the recommended limited government; rather, in the awareness of opening a new set of issues, to suggest the problems, strategies, and possible variations for its enrichment.

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APPENDIX

APPENDIX ONE

A DISCUSSION ON THE ROLE OF METROPOLITAN OPEN SPACE

This appendix will present the major ideas of the ABAG Plan with regard to open space preservation and metropolitan form, and will then discuss some of the thoughts of William Whyte in light of the ABAG Plan. Finally, the conclusions of the recently completed open space benefit-cost study sponsored by People for Open Space will be presented.

The ABAG Plan

Three of the major goals of the ABAG Plan restate the relationship proposed in this thesis between regional open space and metropolitan expansion, and other regional form giving factors:¹

1. Goal: Protection, preservation, and enhancement of the region's major physical and environmental features is essential. These features--the Bay, mountains, and the ocean shoreline--establish the region's desirable qualities.
Policy: Plan and locate urban uses to avoid destruction of the region's natural features or interference with the convenient access to them. These features should be utilized as a framework for any future development, and they should be complemented by any future development. Therefore, public or private man-made elements should be added in a complementary manner.

¹Association of Bay Area Government, Regional Plan 1970:1990, San Francisco Bay Region, Berkeley, California: Osborn/Woods Publication, 1970, pp. 12-13.

2. Goal: A permanent open space system of sufficient size and locational qualities must be provided to meet the complete range of the region's recreation activities; to serve as a reserve for the protection and conservation of water and other natural resources; to maintain special agricultural areas; to prevent building in undesirable locations; to enhance the visual environment of the region; and to serve as a design feature for the achievement and maintenance of a desired regional form.
3. Goal: An integrated regional land-use transportation system is needed for the Bay Region, which is consistent with the choice of the best future regional form.
Policy: Treat as a single interacting system regional growth and development and the daily movement of people and goods.

The ABAG Plan considers three major alternatives for bay area metropolitan form: (1) city centered, (2) urban corridor, and (3) suburban dispersion. The first two seem consistent with the idea of preserving and enhancing the existing metropolitan and open space systems of the bay area commensurate with anticipated population growth, while the third responds more to current expansionist trends. The Plan accepts none of these alternatives completely, but does accept the city centered concept as the primary approach, urban corridor as the secondary approach, and suburban dispersion as the residual approach.²

The William Whyte Syndrome

William Whyte and others of his persuasion have raised basic and hostile questions about regional plans,

²Ibid.

such as the ABAG Plan, which provide "grand designs" for open space preservation and metropolitan formation:³

The challenge that excites planners today is the design of whole regions. Development is one part of the design; open space the obverse. Crudely stated, the technique is to figure out what kind of growth the region should have, where it should go, and to designate the areas in between as permanent open space . . . which is to say, the great benefit of open space is not what it will provide, but what it will prevent. Where there is secure open space, unplanned growth cannot take place.

Whyte uses the London regional planning experience to help illustrate his point:

The 1938 Green Belt Act in Great Britain, using and greatly extending Sir Raymond Unwin's "green girdle" plan of 1932, set aside a vast circular and surrounding area of open land five miles wide beginning at approximately fifteen miles from the center of London. The 1944 Greater London (Sir Patrick Abercrombie) Plan designated this Green Belt as an instrument for preventing London's expansion and fostering regional population decentralization through creation of a series of outlying "new towns." Strong governmental measures have been taken to preserve the Greenbelt over the years. However, the emphasis upon urban form and amenity, the private use of most of the greenbelt land, and regional population pressures not anticipated in 1944 have combined to make the Greenbelt, in the eyes of its opponents, an "open space vacuum." And today, it is

³Whyte, op. cit., pp. 135-136.

argued that the Greenbelt serves more as an obstacle to commuting than as a limitation on metropolitan expansion. Whyte suggests that a return to Unwin's less extensive "green girdle" plan might be in order.⁴

Whyte also refers to the Year 2000 Plan for Washington, D. C. which, with its geometric urban corridors and adjoining open space "wedges" used to guide urban development, is described as unworkable and overdue for rethinking.

One clue to the workability of an open space plan, according to Whyte, is its irregularity, or its recognition of the "plan of nature."

We don't have to wait for the grand design. It is already there. The structure of our metropolitan areas has long since been set by nature and man, by the rivers and hills and the railroads and highways. Many options remain, and the great task of planning is not to come up with another structure but to work with the strengths of the structure we have . . .

Whyte also argues for compact urban development--the question being not how to control urban expansion (through open space preservation), but how to make best use of existing urbanized lands.⁵

As applied to the ABAG Plan, Whyte's arguments can be at once vindicated and qualified. First, Bay Area open space is formed around natural features of great uniqueness and extent. The ABAG Plan is based upon these natural

⁴Development Research Associates, op. cit., pp. 15-16; Whyte, op. cit., pp. 152-162.

⁵Whyte, op. cit., pp. 11, 331-332, 349-350.

features. That they may happen to form a natural "greenbelt" or open space system may be incidental to Whyte's argument. Second, Whyte seems to dismiss the possibility of open space shaping urban development, yet concedes that open space based upon natural features has done just that in the past. Thus, it seems possible that one piece of land or one system of open space could serve many purposes concurrently. And various open space functions, as emphasized in the ABAG Plan, including open space to guide urban development, when joined into a contiguous network could be mutually reinforcing. Third, the present-day bay area metropolis is indeed largely the product of the plans of nature and the incremental planning of man. The bay area may be uniquely fortunate in that the resultant urban structure is fairly compact and reasonably workable. Certainly, the ABAG Plan is intent upon preserving, rather than circumventing, that structure. Finally, no pretense is made in the ABAG Plan (or this thesis) that open space alone will guide urban expansion without other reinforcing functions.

The POS Open Space Study

The ABAG Plan was used by People for Open Space (POS), a bay area federation of conservation-oriented citizen groups, to test the economic feasibility of a bay area regional open space system. The study was funded by a grant from the Ford Foundation and contracted to

Development Research Associates, a Los Angeles based economic consulting firm.

Using the Bay Area Simulation Study (BASS) Model at the University of California, Berkeley, bay area land-use trends were projected to the year 2000; first, without the ABAG open space proposal, and second, with the ABAG open space proposal. It was found that the more compact urban development resulting from introduction of the ABAG proposal into the computation affected, among other things, significant savings in the cost of various urban public services from 1970 to 2000: \$300 million (present value) for municipal services, and \$835 million (present value) for gas, electric, and phone services. Such compact urban development, it was emphasized, would not, however, bring about any massive shift to apartment living or a change in the residential living habits of a majority of the population. Rather, as Whyte has also pointed out, slight overall density increases and selected spot increases together with more efficient use of unused or under-used urban land could significantly effect the extent of the metropolis. It was also found that losses of assessed value resulting from removal of open space lands from tax roles would be offset by increased values in those lands adjacent to the open spaces. Local tax inequities would occur, but could be corrected by some sort of regional tax equalization scheme.⁶

⁶Case for Open Space, op. cit., p. 12; Development Research Associates, op. cit., pp. 23, 29-31. Without the

The study presented four alternatives for implementing the ABAG open space proposal:

Use of California's Williamson Act provisions;

Alternative I: Purchase of all proposed open space lands;

Alternative II: Selective purchase plus zoning; and

Alternative III: Zoning with compensation

Under the Williamson Act alternative, it was found:⁷

The projected loss in assessed values under the Williamson Act is expected to approximate two-thirds of that which would be incurred by purchase of all of the permanent open space lands of the ABAG Plan.

The northern counties of the Bay Area would actually lose less in assessed values under the open space plan than they are likely to lose under a continuation of the Williamson Act. The reason for this is that the total assessed values of land expected to go into the Williamson Act is greater than would be removed by purchase of the permanent open space.

It was found under Alternative I that the total cost would amount to about \$2 billion over the thirty-year period beginning in 1970 (present value) or an annual per-capita cost of \$10.00. Income to be derived from the leasing of acquired lands and savings in urban services (as pointed out above), however, would reduce the per-capita cost to

Association of Bay Area Governments open space proposal, densities in Bay Area counties would average 5,000 person per square-mile or eight persons and under three families per acre. With the Association of Bay Area Governments open space proposal, the average densities would rise to 6,200 persons per square mile or under ten persons and slightly over three families per acre (assuming an average family size of three persons).

⁷Development Research Associates, op. cit., p. 41.

#3.00 thus producing a benefit-cost ratio of .71:1.⁸ The following table summarizes this computation:

BENEFIT-COST COMPARISON, ALTERNATIVE NO. 1 (PUBLIC
ACQUISITION) PRESENT VALUE OF CUMULATIVE
BENEFITS AND COSTS, 1970-2000
(Millions of Dollars)

Benefits			
Lease Income (including recreational)	\$354		
Recreation User Benefits	15		
Utilities:			
Gas	145		
Electricity	213		
Water	416		
Telephone	65		
Governmental Services:			
General Government	121		
Public Works	112		
Public Safety	86		
Total Benefits	\$1,527		
Costs			
Acquisition	\$2,123	Ratio	
Administration and Maintenance	28	71:1	
Total Costs	\$2,151		

Source: Development Research Associates.

The table below summarizes the benefit-cost ratios for all three of the alternatives named above:

⁸Case for Open Space, op. cit., pp. 7-8.

SUMMARY AND COMPARISON OF ALTERNATIVES AND
PRESENT VALUE BENEFIT-COST RATIOS
(Millions of Dollars)

	Total Benefits	Total Costs	Present Value Benefit-Cost Ratio	Comments
1. <u>Total Public Acquisition</u>	\$1,527	\$2,151	71:1	Lowest benefit cost ratio, but all land would be owned in fee and have highest asset value for public. Acquisition costs could be higher, due to major public acquisition.
2. <u>Acquisition Plus Zoning</u>				Same benefit-cost ratio as Alternative No. Lower costs because of use of zoning and limited purchases in areas with little pressure, but staged acquisition may well be more costly in long run because of rapidly accelera- ting land costs. May be most practical solution. Asset value high. Also, will eventually have to keep acquiring additional land in face of development pressure.
A. Acquire in stages	1,289	1,720	75:1	
B. Acquire all in a term	1,336	1,228	108:1	Benefits almost exactly equal to costs. Near term acquisition brings costs of

	Total Benefits	Total Costs	Present Value Benefit-Cost Ratio	Comments
<u>3. Compensable Regulation</u>				
A. Permanent open space	1,217	1,400	87:1	this alternative below No. 2 Other factors the same. Will face problems of continuing pressure to break zoning; alternative will be to acquire additional land.
				Slightly higher ratio than acquisition plus zoning. Payment of compensation over time requires present value, but asset values and revenues considerably lower than Alternative No. 1 and No. 2.
B. Acquisition plus zoning	1,217	804	1.5:1	Most favorable benefit-cost ratio. However, may encounter legal questions in drawing line between zoning and compensable regulation. Also problems of pressure on zoning in future as described in 2B, above.

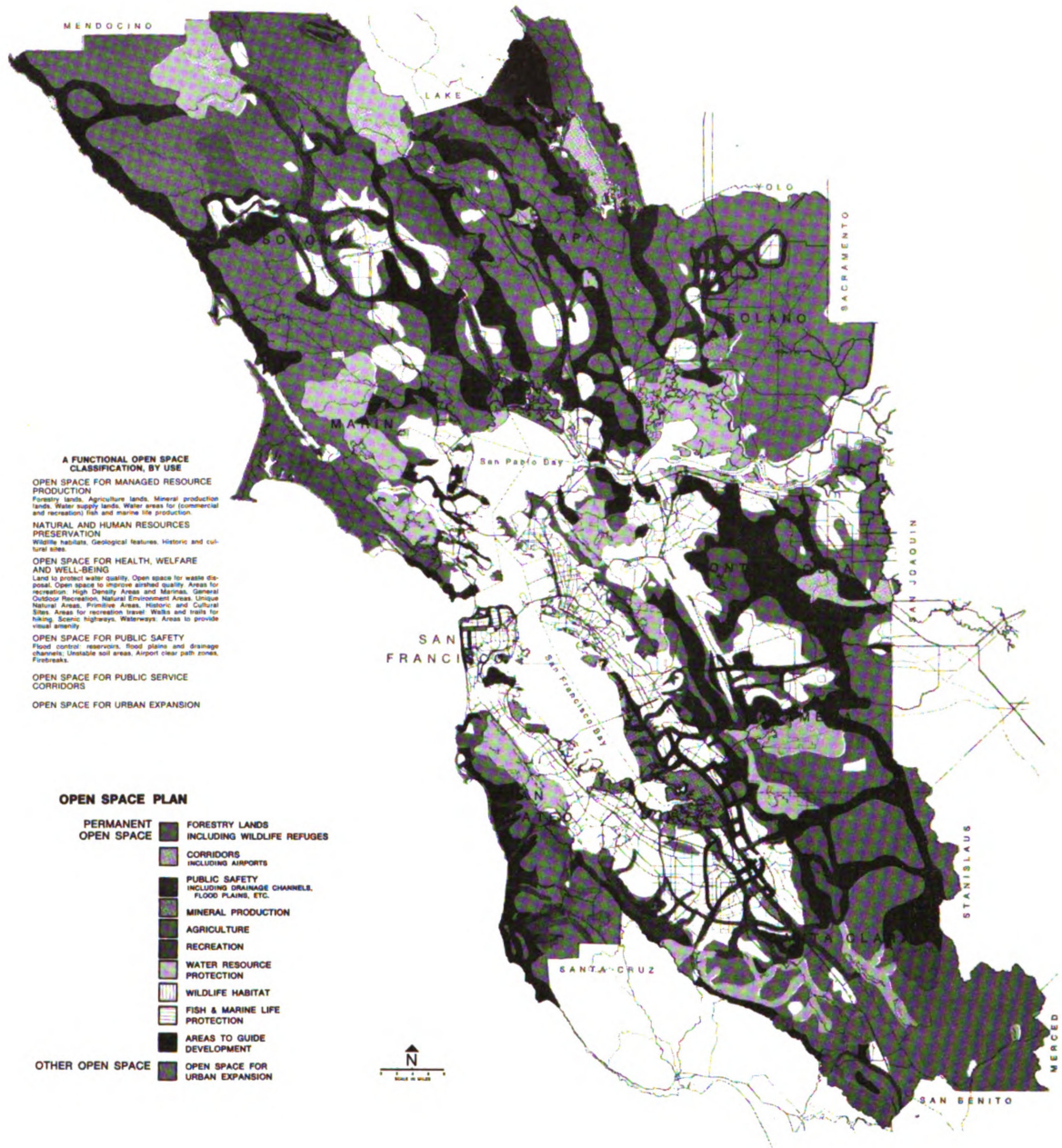
Source: Development Research Associates.

In two of the alternatives, IIb and IIIb, positive benefit-cost ratios are indicated.

Finally, the study listed the following non-quantifiable benefits of a Bay Area open space system:⁹

1. The contribution of open space to the ability of the Bay Area to attract and hold high quality industrial, commercial, and institutional development;
2. The advantages of open space to the physical and mental well-being of the people who live in the Bay Area;
3. The significant effect of open space on the control of air pollution;
4. The increased availability of recreational opportunities for the disadvantaged;
5. The savings in transportation time and cost that result from a more compact urban pattern;
6. The potential financial returns for uses of small portions of open space that do not conflict with open space objectives; and
7. The enhancement of values of lands that surround open space.

⁹Development Research Associates, op. cit., pp. 41-42.



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