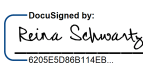


REGIONAL HOUSING NEEDS ALLOCATION

Association of Bay Area Governments

2023-2031 Regional Housing Needs Assessment (RHNA) Appeal Request*Submit appeal requests and supporting documentation via DocuSign by 5:00 pm PST on July 9, 2021.****Late submissions will not be accepted.*** Send questions to rhna@bayareametro.govJurisdiction Whose Allocation is Being Appealed: City of ClaytonFiling Party: HCD Jurisdiction: City of ClaytonContact Name: Reina Schwartz Title: City ManagerPhone: 925-673-7313 Email: reinas@claytonca.gov**APPEAL AUTHORIZED BY:**Name: Reina J. SchwartzSignature: Date: 7/8/2021**PLEASE SELECT BELOW:**

- Mayor
- Chair, County Board of Supervisors
- City Manager
- Chief Administrative Officer
- Other: _____

IDENTIFY ONE OR MORE BASES FOR APPEAL [Government Code Section 65584.5(b)]

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey regarding RHNA Factors (Government Code Section 65584.04(e)) and Affirmatively Furthering Fair Housing (See Government Code Section 65584.04(b)(2) and 65584(d)(5)):
- Existing and projected jobs and housing relationship.
 - Sewer or water infrastructure constraints for additional development due to laws, regulatory actions, or decisions made by a provider other than the local jurisdiction.
 - Availability of land suitable for urban development or for conversion to residential use.
 - Lands protected from urban development under existing federal or state programs.
 - County policies to preserve prime agricultural land.
 - Distribution of household growth assumed for Plan Bay Area 2050.
 - County-city agreements to direct growth toward incorporated areas of county.
 - Loss of units contained in assisted housing developments.
 - Households paying more than 30% or 50% of their income in rent.
 - The rate of overcrowding.
 - Housing needs of farmworkers.
 - Housing needs generated by the presence of a university campus within a jurisdiction.
 - Housing needs of individuals and families experiencing homelessness.
 - Loss of units during a declared state of emergency from January 31, 2015 to February 5, 2020.
 - The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050.
 - Affirmatively furthering fair housing.
- ABAG failed to determine the jurisdiction's Draft RHNA Allocation in accordance with the Final RHNA Methodology and in a manner that furthers, and does not undermine the RHNA Objectives (see Government Code Section 65584(d) for the RHNA Objectives).
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted in the Local Jurisdiction Survey (*appeals based on change of circumstance can only be made by the jurisdiction or jurisdictions where the change occurred*).

Pursuant to Government Code Section 65584.05, appeals shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation, and shall include a statement as to why the revision is necessary to further the intent of the objectives listed in Government Code Section 65584(d). An appeal shall be consistent with, and not to the detriment of, [the development pattern in the sustainable communities strategy \(Plan Bay Area 2050 Final Blueprint\)](#). (Click here)

Number of units requested to be reduced or added to jurisdiction’s Draft RHNA Allocation:

Decrease Number of Units: 285 Increase Number of Units: _____

Brief description of appeal request and statement on why this revision is necessary to further the intent of the objectives listed in Government Code Section 65584(d) and how the revision is consistent with, and not to the detriment, of the development pattern in Plan Bay Area 2050. Please include supporting documentation for evidence as needed, and attach additional pages if you need more room.

The allocation of 570 units for the City of Clayton is not consistent with the development and environmental goals and principles incorporated in Plan Bay Area 2050 which is intended to be the foundation for the 6th Cycle RHNA allocations. More specifically:

- Clayton has very limited employment opportunities and almost no public transportation. Further, there is not sufficient land for significant future job growth and, as such, the Plan Bay Area 2050 growth patterns do not show any significant growth in jobs in Clayton.
- Clayton is a largely built-out community with minimum land available for urban development. The 6th cycle number of 570 units is nearly 400% greater than the 5th Cycle number and does not reflect the limited land available for development in the city.
- The City does not provide its own water or sewer capacity. Growth and development may be constrained over the 6th Cycle timeframe well beyond the City’s control.
- A significant amount of Clayton’s land is constrained relative to future development based on environmental considerations.

List of supporting documentation, by title and number of pages

1. LTR to ABAG Clayton RHNA Appeal 070621 (2pp)
2. 42-2021 Signed (2pp)
3. ATT LTR to ABAG Clayton RHNA Appeal 070821 final (9pp)



Click here to attach files

The maximum file size is 25MB. To submit larger files, please contact rhna@bayareametro.gov.



COMMUNITY DEVELOPMENT (925) 673-7340
ENGINEERING (925) 969-8181

6000 HERITAGE TRAIL • CLAYTON, CALIFORNIA 94517-1250
TELEPHONE (925) 673-7300 FAX (925) 672-4917

City Council
CARL "CW" WOLFE, MAYOR
PETER CLOVEN, VICE MAYOR
JIM DIAZ, COUNCILMEMBER
HOLLY TILLMAN, COUNCILMEMBER
JEFF WAN, COUNCILMEMBER

July 6, 2021

Therese McMillan, Executive Director
Association of Bay Area Governments
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105

SUBJECT: CITY OF CLAYTON APPEAL OF THE SIXTH CYCLE DRAFT REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) ASSESSMENT

Dear Ms. McMillan,

The City of Clayton hereby submits this appeal to the Association of Bay Area Governments (ABAG) of the Regional Housing Needs Assessment (RHNA) allocation received as of May 25, 2021, for the Sixth Housing Element Cycle (2023-2031). While the City of Clayton appreciates and supports efforts to address housing needs, the 6th cycle proposed RHNA allocation exceeds what is reasonable and realistic.

A revision to the Draft RHNA allocation is necessary to further the intent of the statutorily mandated objectives listed in Government Code Section 65584(d). In addition, this appeal is consistent with, and not to the detriment of, the development pattern in the Plan Bay Area 2050 draft that is about to be approved.

The RHNA Appeals Process lays out three bases under which an appeal can be filed. The City of Clayton is filing this appeal on the basis of the first two grounds, as listed below.

1. Information about Local Planning Factors and Affirmatively Furthering Fair Housing from the Local Jurisdiction Survey – That ABAG failed to consider information submitted relating to certain local factors outlined in Government Code Section 65584.04(e) and 65584.04(b)(2) and 65584(d)(5). This includes: the jurisdiction’s existing and projected jobs and housing relationship; the ability of the local jurisdiction to control water and sewer supply or distribution; the availability of land suitable for urban development or for conversion to residential use; the distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure; and the region’s greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080, to be met by Plan Bay Area 2050.
 - Clayton is a largely built-out community with minimum land available for urban development. The 6th cycle number of 570 units is nearly 400% greater than the 5th Cycle number and does not reflect the limited land available for development in the city.

Do The Right Thing
Integrity - Responsibility - Inclusion - Courage - Kindness - Self-Discipline - Respect
Because It's The Right Thing To Do!

- The City does not provide its own water or sewer capacity. Growth and development may be constrained over the 6th Cycle timeframe well beyond the City's control.
2. ABAG failed to determine the jurisdiction's share of the regional housing needs in accordance with the information describe din the Final RHNA Methodology approved by ABAG on May 20, 2021 and in a manner that furthers, and does not undermine the five objectives listed in Government code Section 65584(d), specifically promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, the encouragement of efficient development patterns and the achievement of the region's greenhouse gas reduction targets provided by the State Air Resources Board pursuant to Section 65080.
- Clayton has very limited employment opportunities and almost no public transportation. Further, there is not sufficient land for significant future job growth and, as such, the Plan Bay Area 2050 growth patterns do not show any significant growth in jobs in Clayton.
 - A significant amount of Clayton's land is constrained relative to future development based on environmental considerations.

A complete description and analysis of the data supporting the City of Clayton's appeal is included as an Attachment to this letter. The City of Clayton looks forward to working with ABAG to identify an appropriate contribution for Clayton toward meeting critical regional housing needs. Thank you in advance for your consideration.

Respectfully submitted,



Reina J. Schwartz

City Manager, City of Clayton

Cc: Clayton Mayor and City Council

Attachments

1. Resolution 42-2021: Resolution of the City Council of the City of Clayton Authorizing an Appeal of the City of Clayton's 6th Cycle Regional Housing Needs Assessment (RHNA) Allocation
2. Detail of Clayton Appeal

RESOLUTION NO. 42-2021

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLAYTON
AUTHORIZING AN APPEAL OF THE CITY OF CLAYTON'S 6TH CYCLE
REGIONAL HOUSING NEEDS ASSESSMENT (RHNA) ALLOCATION**

WHEREAS, California State housing law requires that each city and county plan for existing and future housing needs in accordance with the allocations determined through the Regional Housing Needs Assessment (RHNA) process;

WHEREAS, the Association of Bay Area Governments (ABAG) is responsible for developing a uniform methodology for distribution of the RHNA allocations among member counties and cities;

WHEREAS, Clayton's allocation of 570 units for the 6th Cycle represents an increase of nearly 400% over the 5th Cycle allocation, significantly greater than the average increase across the ABAG region of approximately 135%;

WHEREAS, Clayton's allocation of 570 units also represents a significant amount of housing for a largely built-out city to absorb; and

WHEREAS, there exists an imbalance of jobs and housing in Clayton as well as adequate public transportation resulting in the vast majority of working Clayton residents commuting by automobile to work outside the City;

WHEREAS, the proposed RHNA allocations are based on and intended to be consistent with Plan Bay Area 2050, which does not identify Clayton as a growth geography;

WHEREAS, Clayton has numerous natural hazards and sensitive biological resources which create environmental constraints to development, including housing; and

WHEREAS, Clayton does not control the level of water development capacity planned for the future and the capacity anticipated by the current Urban Water Management Plan in effect for the 2020-2030 period would be approximately 107 units.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CLAYTON, CA
DOES RESOLVE AS FOLLOWS:**

SECTION 1. The City Council of the City of Clayton, California, finds that the above recitals are true and correct.

SECTION 2. The City Council disagrees with the determinations and
Resolution 42-2021

methodology used by California Department of Housing and Community Development and the Association of Bay Area Governments in determining the 6th cycle RHNA allocations.

SECTION 3. The City Manager is authorized to submit an appeal of Clayton's allocation of 570 units for the 6th RHNA Cycle based on the factors enumerated in the recitals.

ADOPTED ON June 29, 2021 by the City Council of the City of Clayton by the following vote count:

AYES: Mayor Wolfe, Vice Mayor Cloven, Councilmembers Diaz, Tillman, and Wan.

NOES: None.

ABSENT: None.

ABSTAIN: None.

THE CITY COUNCIL OF CLAYTON, CA



Carl Wolfe, Mayor

ATTEST



Janet Calderon, City Clerk

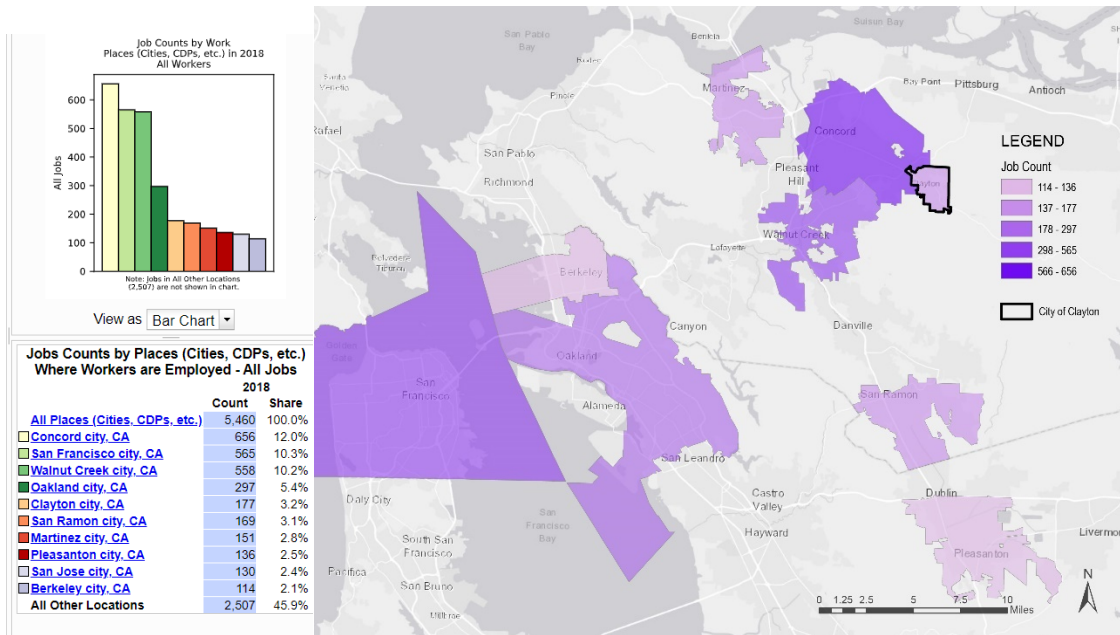
Attachment 2: City of Clayton Regional Housing Needs Assessment (RHNA) Appeal Detail

Appeal Point # 1 – Imbalance of Jobs and Housing/Lack of Multimodal Transportation

Objective 3 of Government Code Section 65584.04 (a) requires that the RHNA methodology promote "an improved intraregional relationship between jobs and housing." Currently, the City of Clayton has a significant jobs/housing imbalance, with a vast majority of employed residents commuting out of the city to access jobs. As reported by Longitudinal Employer Household Dynamics (LEHD) data, 5,238 out of 5,460 (96.8%) of employed Clayton residents commute to other jurisdictions, while only 1,145 workers commute from other jurisdictions into Clayton. The top four destinations for employment are Concord, San Francisco, Walnut Creek, and Oakland. ¹ Given the limited land area available and devoted to business enterprises in Clayton, this is not surprising; Clayton is a small residential community with commercial space largely devoted to local services and dining.

Employment Trends

- Of the 5,460 workers who live in Clayton, 5,283 (96.8%) work outside of the City.
- Only 177 workers live and work in Clayton, and 1,145 people commute to the City from other locations.



¹ LEHD 2018 – Clayton, CA

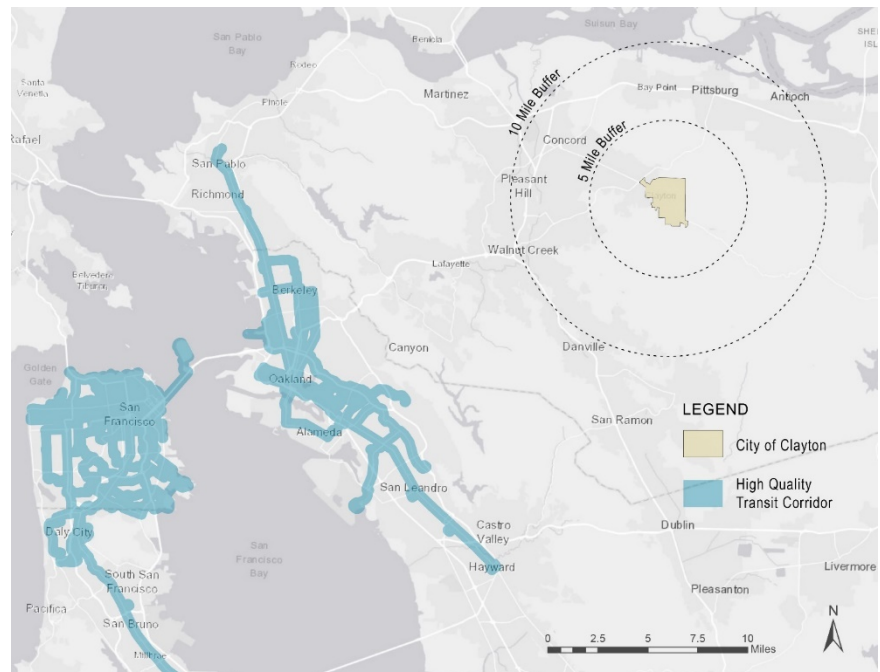
Additionally, Objective 2 of Government Code Section 65584.04 (a) requires that the RHNA methodology promote “achievement of the region’s greenhouse gas reductions targets.” American Community Survey data also reveal that 79% of employed residents in Clayton drive to their jobs instead of using sustainable transportation modes such as transit, biking, or walking. Commuters have a mean travel time of 42.8 minutes.² Clayton lies approximately four and one-half miles from the nearest freeway (State Highway 4), connected via Ygnacio Valley Road/Kirker Pass Road, a four-lane roadway that is not defined as a high-quality transit corridor (i.e., fixed-route bus corridor with 15-minute headways during morning and evening peak periods). The closest BART station lies six miles away (approximately 14-minute drive), with train travel times of at least 45 minutes to San Francisco (total commute time of one hour). This lack of convenient transit service means Clayton residents are largely dependent on private vehicles for work commutes. This volume of driving adds vehicles to crowded roadways and freeways and requires that commuters drive to or through cities—including Concord, Pittsburg, and Martinez—which already experience high pollutant loads. CalEnviroScreen 4.0 reveals that these communities have pollution burden scores up to the 82nd percentile.³

Transportation

- 79% of workers drive to work, with a mean travel time of 42.8 minutes .

Transit Service

- No [high-quality transit corridors](#) exist in the far eastern portion of Contra Costa County.
- No projects are presented in the Plan Bay Area 2050 transportation project list for Clayton or its corridors.



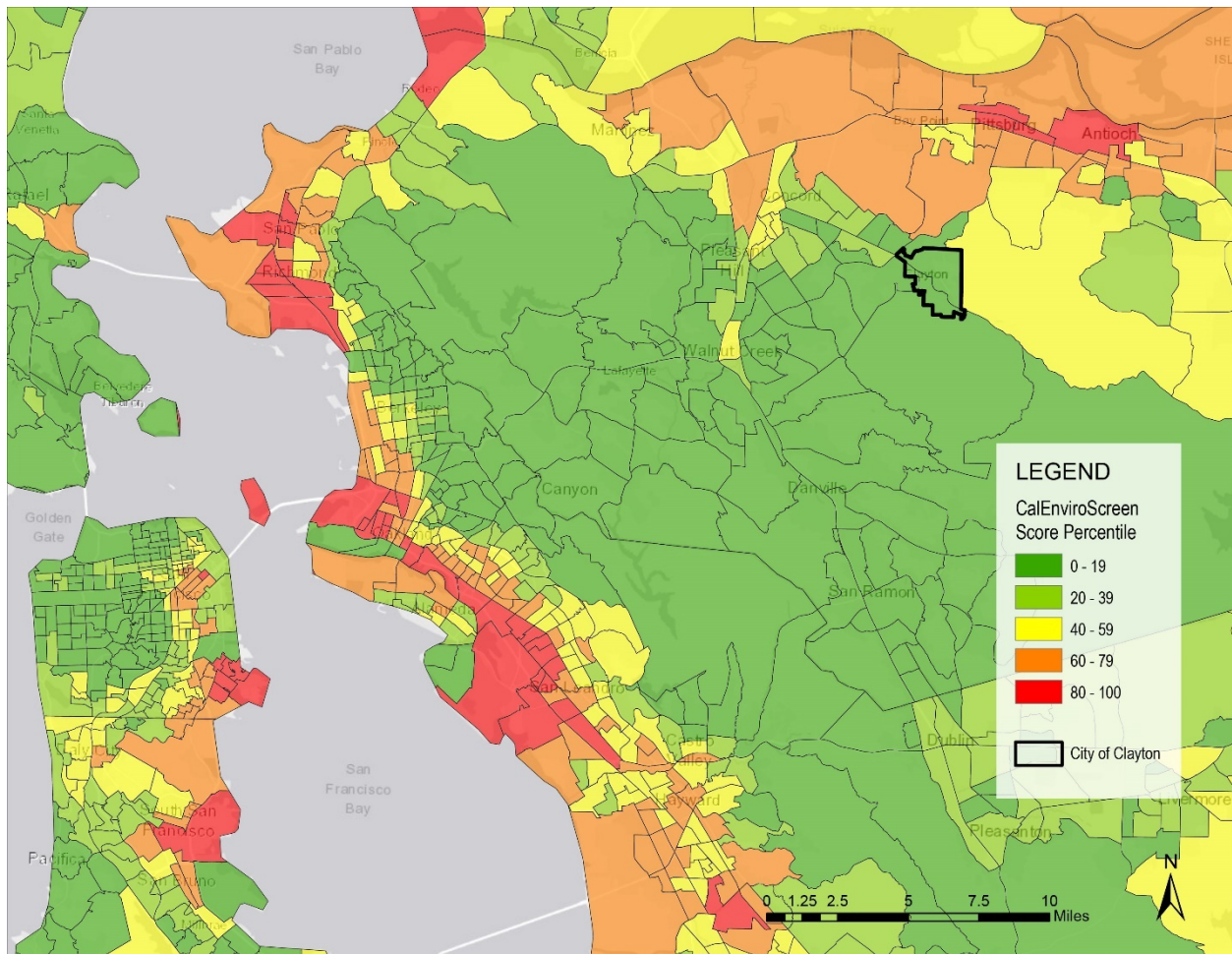
² 2019 5-Year Estimates - ACS Table S0801

³ CalEnviroScreen 4.0

Air Quality

Adjacent communities where Clayton residents commute to are burdened with poor air quality. Adding more housing to Clayton where residents are auto dependent and commuting to these locations will exacerbate existing conditions.

Adding substantial new residential units to Clayton will increase the number of commute trips out of the city every workday and contribute to increased pollutant loads—and particularly greenhouse gas (GHG) emissions. This is counter to regional and statewide objectives to reduce GHG emissions, as well as regional goals to promote transit use through thoughtful, coordinated land use/transportation planning.



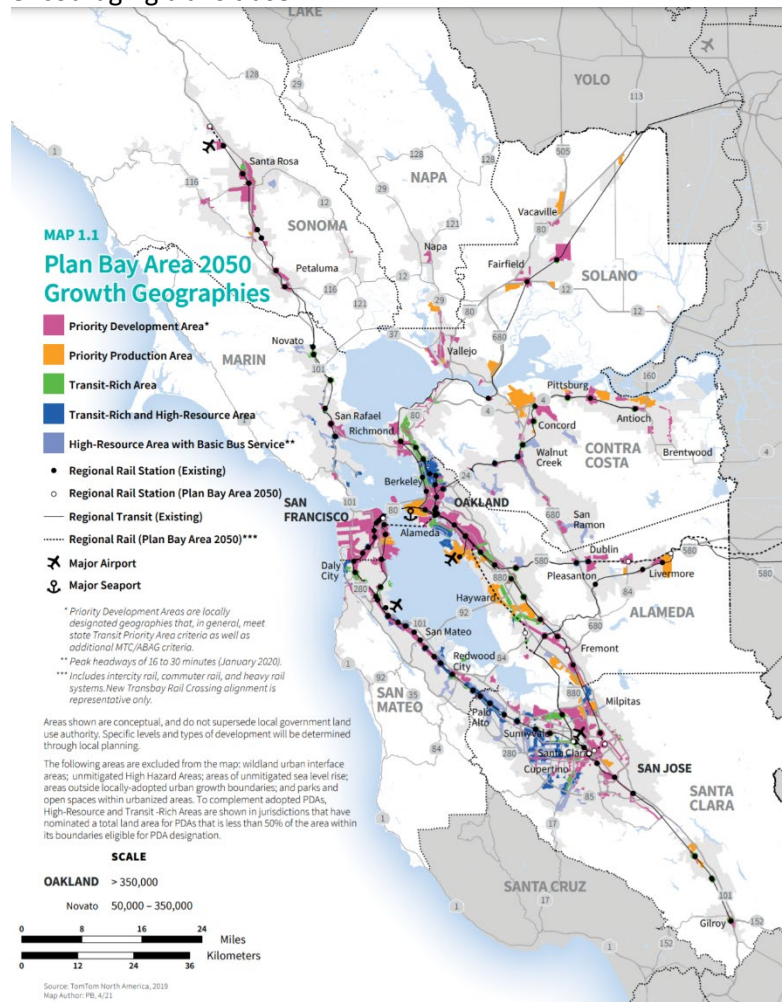
Conclusion

The proposed RHNA allocation, as applied to Clayton, does not account for local commuting, transportation efficiencies, and air quality planning factors.

Appeal Point # 2 – No Growth Geography Designation in Plan Bay Area 2050

Objective 2 of Government Code Section 65584.04 (a) requires that the RHNA methodology promote “the encouragement of efficient development patterns.” The Draft Plan Bay Area 2050 provides several growth geography designations that are based on employment access, transit service, and level of resources to allow development to be targeted to areas that will support the region’s housing and transportation goals.⁴ While the City of Clayton is considered as a high resource area (largely due to quality schools and public services), it is not designated as a Priority Development Area or Transit Rich Area and thus is not designated as a growth geography. Without adequate transit service, encouraging substantial new housing development in the city would not be “efficient,” as the RHNA requires.

Additionally, the methodology for determining the RHNA based on the city being classified as a High Resource Area is flawed because the methodology does not also logically account for the lack of transit service that would connect residents to opportunity. The methodology uses an “equity” factor to balance distribution of units away from Low Resource Areas to High Resource Areas, an important regional goal. However, without also accounting for how new Clayton residents will get to their jobs without transit service, the methodology fails to achieve and balance other objectives for reducing GHG emissions and encouraging transit use.



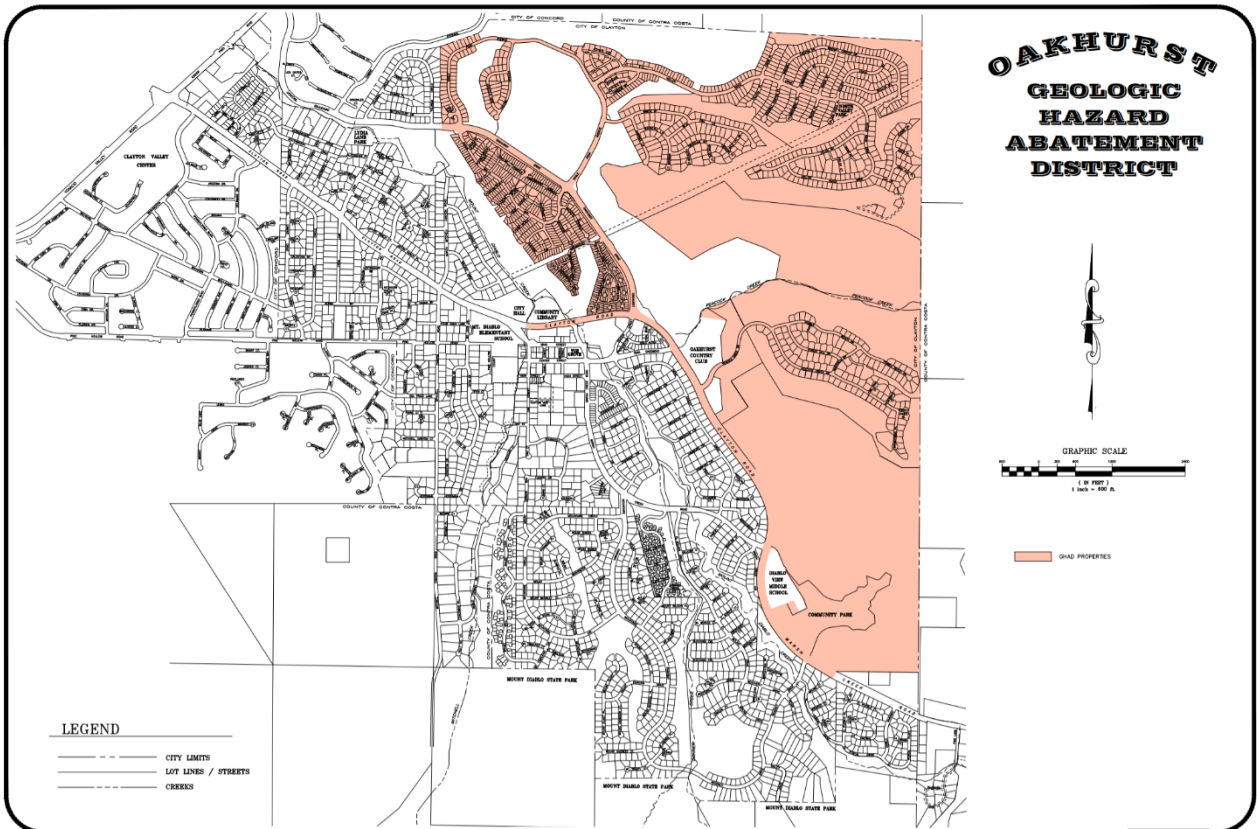
Plan Bay Area

Clayton does not fall within any of growth geographies identified in Plan Bay Area 2050.

⁴ Plan Bay Area 2050 Growth Geographies Map

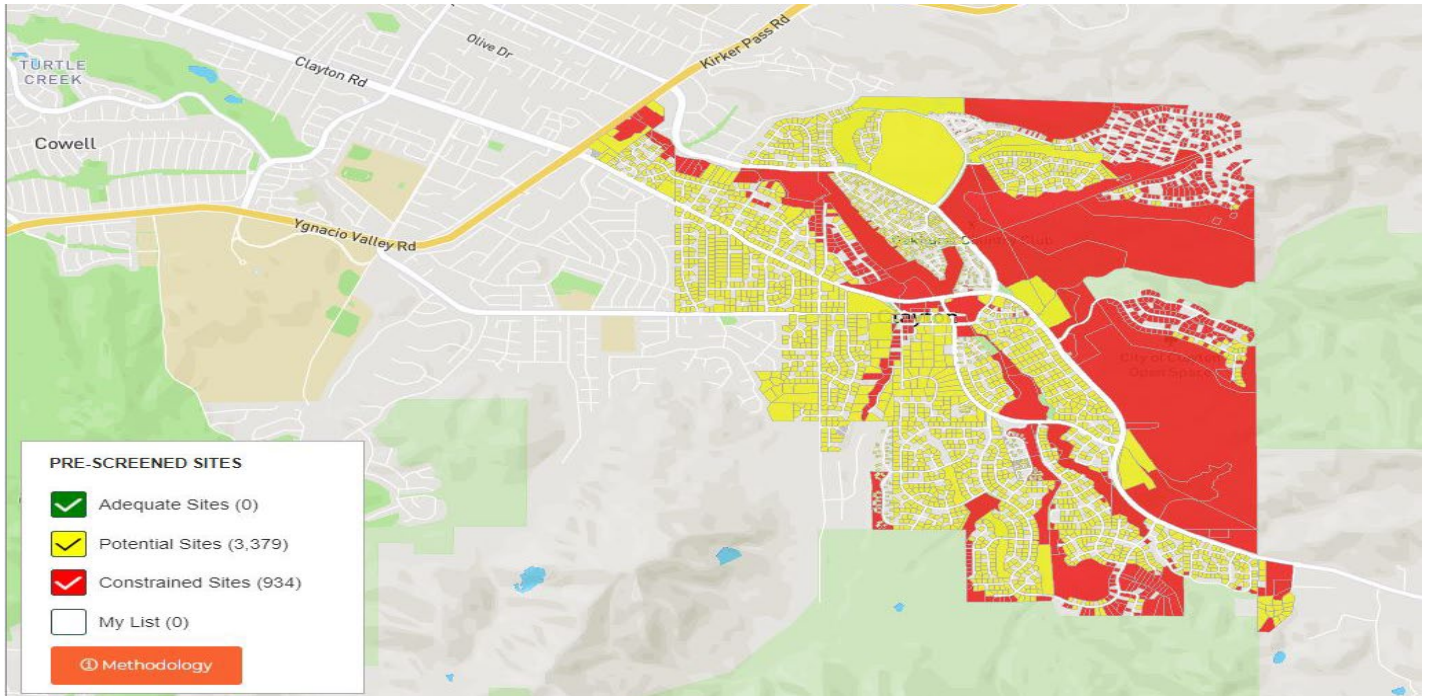
Appeal Point #3 – Natural Hazards and Biological Resources

Objective 2 of Government Code Section 65584.04 (a) also requires that the RHNA methodology promote “the encouragement of efficient development patterns.” Clayton is a hillside community, with little unconstrained vacant land remaining. A significant section of the city is designated as a Geologic Hazard Abatement District due to unstable hillslopes designated as open space to prevent their development and associated risks to residents.⁵ The hillsides also support critical wildlife habitat. These natural hazards and natural resources preclude development on these lands, and the balance of the community is largely built out, with few lots even available for private redevelopment efforts. Planning for housing in the hillsides would not be practical or possible given the constraints.



⁵ City of Clayton, Geologic Hazard Abatement District

Further, the ABAG Housing Element Site Selection (HESS) map below shows the overall number of sites in the City of Clayton that would be available for development to meet the RHNA allocation. Note that no “adequate” sites are identified and that the majority of properties are already either built out or significantly constrained for development.⁶



⁶ Housing Element Site Selection Tool (HESS) Constrained Sites. ABAG (<https://hess.mtcanalytics.org/>)

Appeal Point #4 – Water Demand/Drought Conditions

The City asserts that the important local planning factors related to water services planning have not been considered in the RHNA process. The City of Clayton receives domestic water services from the Contra Costa Water District (CCWD). The CCWD prepares an Urban Water Management Plan (UWMP) as required by state law. In the current and effective UWMP, from 2020 to 2030 the population of Clayton is assumed to grow by only 300 residents. This overlaps with the 2023-2031 Housing Element planning period. Assuming an average household size of 2.81 (California Department of Finance, 2021), this translates to 107 housing units. The City's RHNA for the sixth cycle Housing Element of 570 units represents significantly more homes than water service is planned for in the UWMP.

Data from the National Integrated Drought Information System classifies Contra Costa County as experiencing an extreme drought where "water is inadequate for agriculture, wildlife, and urban needs; reservoirs are extremely low; hydropower is restricted".⁷ If conditions persist, water supply will continue to be significantly constrained. These conditions do not appear to have been seriously considered in the RHNA process.

Water Demand

- The Contra Costa Urban Water Management Plan uses population projections based on 2013 ABAG data. From 2020 to 2030, the population of Clayton was projected to grow by only 300 people, which is not commensurate with the 570 units allocated for the City of Clayton. Similarly, Plan Bay Area 2040 projections (currently in place) showed a household increase from 3,990 to 4,125 for the years 2020 to 2030 (135 households).

⁷ National Integrated Drought Information System – Contra Costa County

Table 1-1: CCWD Service Area Population

	DOF ^(a)		Projections from ABAG ^(b)				
	2010	2015	2020	2025	2030	2035	2040
Antioch	102,370	108,300	108,900	112,400	116,200	120,300	124,600
Brentwood (inside CCWD) ^(c)	10,090	11,070	10,580	10,860	11,130	11,450	11,780
Clayton	10,900	11,290	11,100	11,400	11,400	11,500	11,600
Concord	122,070	126,070	128,500	141,100	154,000	167,500	181,500
Martinez	34,390	35,890	35,620	36,480	37,250	38,210	39,170
Oakley	35,430	38,790	41,600	44,700	48,200	51,700	55,400
Pittsburg	63,260	67,630	72,000	76,500	81,300	86,400	91,600
Pleasant Hill	26,460	27,260	27,450	28,010	28,650	29,370	30,080
Walnut Creek	26,500	27,620	28,870	30,110	31,430	32,870	34,320
Contra Costa County Unincorporated Area	22,370	23,570	23,260	23,760	24,290	24,910	25,550
Subtotal	453,840	477,480	487,880	515,320	543,850	574,210	605,600
Brentwood (remaining) ^(d)	41,390	45,420	43,420	44,540	45,670	46,950	48,320
Total	495,230	522,900	531,300	559,860	589,520	621,160	653,920

NOTES:

(a) Data from California Department of Finance. Estimates include 2010 Census results. Population proportioned based on area for Cities not entirely within the District's boundary.

(b) Data from ABAG's Bay Area Plan Projections 2013.

(c) In 2004 CCWD entered into an agreement with the City of Brentwood for design, construction and operation of the City of Brentwood Water Treatment Plant, adjacent to the Randall-Bold Water Treatment Plant. The plant delivers water to residents within Brentwood City limits.

(d) A portion of the City of Brentwood is within the CCWD's service area. The remaining portion is noted above. The City of Brentwood water supply includes local groundwater and surface water delivered under contract from ECCID. CCWD pumps, treats, and delivers the ECCID water under contract with the City of Brentwood.

Drought Conditions

The U.S. Drought Monitor (USDM) is updated each Thursday to show the location and intensity of drought across the country using a five-category system, from Abnormally Dry (D0) conditions to Exceptional Drought (D4). The USDM is a joint effort of the National Drought Mitigation Center, USDA, and NOAA. [Learn more.](#)



D0 - Abnormally Dry

- Soil is dry; irrigation delivery begins early
- Dryland crop germination is stunted
- Active fire season begins



D1 - Moderate Drought

- Dryland pasture growth is stunted; producers give supplemental feed to cattle
- Landscaping and gardens need irrigation earlier; wildlife patterns begin to change
- Stock ponds and creeks are lower than usual



D2 - Severe Drought

- Grazing land is inadequate
- Fire season is longer, with high burn intensity, dry fuels, and large fire spatial extent
- Trees are stressed; plants increase reproductive mechanisms; wildlife diseases increase



D3 - Extreme Drought

- Livestock need expensive supplemental feed; cattle and horses are sold; little pasture remains; fruit trees bud early; producers begin irrigating in the winter
- Fire season lasts year-round; fires occur in typically wet parts of state; burn bans are implemented
- Water is inadequate for agriculture, wildlife, and urban needs; reservoirs are extremely low; hydropower is restricted



D4 - Exceptional Drought

- Fields are left fallow; orchards are removed; vegetable yields are low; honey harvest is small
- Fire season is very costly; number of fires and area burned are extensive
- Fish rescue and relocation begins; pine beetle infestation occurs; forest mortality is high; wetlands dry up; survival of native plants and animals is low; fewer wildflowers bloom; wildlife death is widespread; algae blooms appear

