

TO: ABAG Administrative Committee DATE: September 24, 2021  
 FROM: Therese W. McMillan, Executive Director  
 SUBJECT: City of Lafayette Appeal of Draft RHNA Allocation and Staff Response

## OVERVIEW

---

**Jurisdiction:** City of Lafayette

**Summary:** The City of Lafayette requests the reduction of its Draft RHNA Allocation by 822 units (39 percent) from 2,114 units to 1,292 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - Availability of land suitable for urban development or for conversion to residential use.
- ABAG failed to determine the jurisdiction’s Draft Allocation in accordance with the Final RHNA Methodology and in a manner that furthers, and does not undermine, the RHNA Objectives.
- Other:
  - Long-term impacts of COVID were not adequately considered.
  - Jobs-housing balance, GHG will worsen, because housing should go where jobs are and will be.
  - Addition of 10 strategies to Final Blueprint achieved region-wide GHG reduction target, but did not consider impacts of increased VMT at the jurisdiction level.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

---

### Draft RHNA Allocation

Following adoption of the Final RHNA Methodology on May 20, 2021, the City of Lafayette received the following draft RHNA allocation on May 25, 2021:

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
<b>City of Lafayette</b>	599	344	326	845	2,114

### Local Jurisdiction Survey

City of Lafayette did submit a Local Jurisdiction Survey. A [compilation of the surveys submitted](#) is available on the ABAG website.

## Comments Received during 45-Day Comment Period

ABAG received nearly 450 comments during the 45-day public comment period described in Government Code section 65584.05(c). Some comments encompassed all of the appeals submitted, but there were none that specifically relate to the appeal filed by the City of Lafayette. [All comments received](#) are available on the ABAG website.

## ANALYSIS

---

**Issue 1:** *The City argues that ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey regarding the availability of land suitable for urban development or for conversion to residential use. Specifically, the City asserts that public lands in Very High Fire Hazard Severity Zones, particularly the Lafayette BART station parking lots, were not excluded from Growth Geographies in the Plan Bay Area 2050 Blueprint.*

**ABAG-MTC Staff Response:** The City is correct that the Final Blueprint Growth Geographies exclude CAL FIRE designated *Very High Fire Hazard Severity Zones*. However, the public lands strategy (Strategy H8) included in the resolution adopting the Final Blueprint strategies did not indicate that the sites in this strategy would be constrained by the criteria applied to the Growth Geographies.<sup>1</sup> Furthermore, the Growth Geographies are not inclusive of all development in the Blueprint, and therefore the Growth Geographies do not represent the full geographic area of the Blueprint growth forecast that informs the RHNA Methodology's baseline allocation and Lafayette's RHNA.

The public lands sites are in locations that meet Growth Geography criteria generally, but public lands sites that fall within *Very High Fire Hazard Severity Zones* are not excluded from this strategy, as these sites represent some of the region's most critical locations for walkable transit-oriented development. ABAG acknowledges that the Plan Bay Area 2050 Draft Forecasting and Modeling Report incorrectly states that the lands in Strategy H8 are within the Growth Geographies.<sup>2</sup> Staff updated the Draft Plan Bay Area 2050 errata to note this error in the document and state the correction that lands in Strategy H8 are *not* limited to the Growth Geographies, consistent with the MTC/ABAG actions taken in September 2020 and January 2021.<sup>3</sup>

The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands the City's concerns about the potential for future growth in areas at risk of natural hazards. However, with only a small exception, Housing Element Law does not

---

<sup>1</sup> See page 68 of [this memo](#) included as part of the resolution adopting the revisions to Strategies and Growth Geographies for Plan Bay Area 2050 Final Blueprint.

<sup>2</sup> See page 54 of the [Plan Bay Area 2050 Draft Forecasting and Modeling Report](#).

<sup>3</sup> See the [Draft Plan Bay Area 2050 Errata](#).

identify areas at risk of natural hazards as a potential constraint to housing development.”<sup>4</sup> As HCD notes in its comment letter on submitted appeals, Government Code Section 65584.04(e)(2)(B) states that ABAG “may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and land use restrictions....In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out or limited due to other natural constraints such as fire and flood risk areas must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.”<sup>5</sup>

Given the significant natural hazard risks in the Bay Area, whether to incorporate information about hazard risks when allocating RHNA units was one of the topics most thoroughly discussed by the Housing Methodology Committee (HMC) during the methodology development process. At the four HMC meetings that occurred between December 2019 and May 2020, HMC members discussed how a methodology factor related to hazard risk might be defined and whether to include it in the methodology. Ultimately, on June 19, 2020, HMC members took a vote and came to consensus that though housing in high hazard areas is a concern, adding a specific hazard factor to the RHNA methodology may not be the best tool to address this issue. In large part, this is because the Plan Bay Area 2050 Final Blueprint, which forms the baseline of the final RHNA methodology, already addresses concerns about natural hazards, as the Final Blueprint excludes areas with unmitigated high hazard risk from Growth Geographies.

Throughout the region, it is essentially impossible to avoid all hazards when siting new development, but jurisdictions can think critically about which areas in the community have the *highest* hazard risk. Notably, residents of new development are likely to be safer from hazards than current residents living in older structures, as new construction is built to modern standards that more effectively address hazard risk. ABAG provides additional guidance on how to integrate resilience into the Sites Inventory and the Housing Element more broadly in the Resilient Housing Instruction Guide and associated resources.<sup>6</sup>

The evidence provided in the appeal does not establish that ABAG failed to consider the availability of land suitable for urban development or for conversion to residential use, as fire hazards are not one of the factors named in statute as a constraint on available land. As HCD

---

<sup>4</sup> Government Code Section 65584.04(e)(2)(B) states “The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.”

<sup>5</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>6</sup> The Resilient Housing Instruction Guide is available on ABAG’s website: [https://abag.ca.gov/sites/default/files/documents/2021-07/0\\_ResilientHousingInstructionGuide.docx](https://abag.ca.gov/sites/default/files/documents/2021-07/0_ResilientHousingInstructionGuide.docx). Additional resources for incorporating resilience in Housing Element updates are available here: <https://abag.ca.gov/our-work/resilience/planning/general-plan-housing-element-updates>.

notes in its comment letter on submitted appeals, Government Code Section 65584.04(e)(2)(B) states that ABAG:

*“may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out or limited due to other natural constraints such as fire and flood risk areas must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.”<sup>7</sup>*

Furthermore, the City is incorrect in stating that there are errors in the Blueprint that should result in a reduced RHNA for Lafayette. However, ABAG acknowledges the difficulties that fire risk and other hazards pose for jurisdictions throughout the region, and ABAG staff is committed to working with local jurisdictions to ensure that hazard mitigation and other resiliency measures are effectively incorporated in all housing planning.

**Issue 2:** *Lafayette argues that the RHNA determination process was flawed because the long-term impacts of COVID were not adequately considered, and the City asserts that the pandemic represents a significant and unforeseen change in circumstances that merits revisions to the information submitted in the Local Jurisdiction Survey.*

**ABAG-MTC Staff Response:** ABAG-MTC staff appreciates Lafayette’s concerns about the significant economic and societal changes resulting from COVID-19. However, in its comment letter on submitted appeals, HCD indicated that RHNA appeals based on changes caused by COVID-19 do not fall within the appeal criteria defined by statute, stating “The COVID-19 pandemic has only increased the importance of ensuring that each community is planning for sufficient affordable housing as essential workers, particularly lower income ones, continue to commute to their places of business.”<sup>8</sup>

Potential impacts of COVID-19, including an accelerated shift toward telecommuting and the associated economic boom/bust cycle, are incorporated into the Final RHNA Methodology through integration of the Plan Bay Area 2050 Final Blueprint. Approved in January 2021, the Final Blueprint was crafted throughout the entirety of 2020, taking into account the best

---

<sup>7</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>8</sup> See [HCD’s comment letter on appeals](#) for more details.

information available on future impacts related to telecommuting, locational preferences, and more. External forces, including long-term projections for telecommuting and office square footage needs per employee, were updated to reflect potential post-COVID conditions. Long-range household and job projections were adjusted in the short-to-medium term to capture the weak economic conditions of 2020 and a multi-year recovery period in the years ahead. Additionally, strategies in the Final Blueprint were updated, including new strategies to encourage an accelerated shift toward telecommuting and other sustainable modes of travel, to support job training programs to assist in economic recovery, and to expand opportunities to rebuild aging malls and office parks into housing-rich neighborhoods as e-commerce continues to boom.

Importantly, the eight-year RHNA cycle (which starts in 2023) represents a longer-term outlook than the current impacts of the pandemic in 2020 and 2021. Lafayette has not provided evidence to suggest that COVID-19 reduces Lafayette's housing need for the entirety of the 2023-2031 RHNA planning period. Additionally, impacts from COVID-19 are not unique to any single jurisdiction, and the appeal does not indicate that the City's housing need has been disproportionately impacted relative to the rest of the Bay Area. Therefore, the pandemic is not cause for a reduction in RHNA for any particular jurisdiction. Regardless of the impacts of the pandemic, demand for housing remains high across the region, as reflected in home prices that continue to rise. Accordingly, jurisdictions must maintain their statutory obligation to plan for additional housing.

***Issue 3:*** *Lafayette argues that the RHNA Methodology fails to promote an improved jobs-housing balance and will result in worse greenhouse gas emissions.*

***ABAG-MTC Staff Response:*** This argument by the City challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD. A valid appeal must show ABAG made an error in the application of the methodology in determining the jurisdiction's allocation; a critique of the adopted methodology itself falls outside the scope of the appeals process. Jurisdictions had multiple opportunities to comment as the methodology was developed and adopted between October 2019 and May 2021. Housing Element Law gives HCD the authority to determine whether the RHNA methodology furthers the statutory objectives described in Government Code Section 65584(d), and HCD made this determination.<sup>9</sup> Regarding the RHNA objective related to "*Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction,*" HCD made the following findings:

---

<sup>9</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

*The draft ABAG methodology<sup>10</sup> allocates more RHNA units to jurisdictions with more jobs. Jurisdictions with a higher jobs/housing imbalance receive higher RHNA allocations on a per capita basis. For example, jurisdictions within the healthy range of 1.0 to 1.5 jobs for every housing unit receive, on average, a RHNA allocation that is 61% of their current share of households. Jurisdictions with the highest imbalances – 6.2 and higher – receive an average allocation 1.21 times their current share of households. Lastly, higher income jurisdictions receive larger lower income allocations relative to their existing lower income job shares.*

The RHNA methodology incorporates each jurisdiction's jobs-housing relationship through use of the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The Final Blueprint incorporates information about each jurisdiction's existing and projected jobs and households. The Final Blueprint emphasizes growth near job centers and in locations near transit, including in high-resource areas, with the intent of reducing greenhouse gas (GHG) emissions. It includes strategies related to increased housing densities and office development subsidies to reduce jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation strategies in an effort to ensure past and future transportation investments are maximized. The strategies incorporated into the Final Blueprint help improve the region's jobs-housing balance, leading to shorter commutes—especially for low-income workers. The Draft RHNA Allocation was also found to be consistent with Plan Bay Area 2050, which meets the statutory GHG reduction target.

The final RHNA methodology amplifies the Plan Bay Area 2050 Final Blueprint's emphasis on improving jobs-housing balance by using factors related to job proximity to allocate nearly half of the Regional Housing Needs Determination (RHND). It is important to note that Housing Element Law requires that the RHNA methodology improve the *intraregional* relationship between jobs and housing—not the jobs-housing balance in any particular jurisdiction. The job proximity factors direct housing units to those jurisdictions with the most jobs that can be accessed with a 30-minute commute by automobile and/or a 45-minute commute by transit. The inclusion of the Job Proximity – Transit factor encourages growth that capitalizes on the Bay Area's existing transit infrastructure, while the Job Proximity – Auto factor recognizes that most people in the region commute by automobile.

These factors measure job access based on a commute shed to better capture the lived experience of accessing jobs irrespective of jurisdiction boundaries. Housing and job markets extend beyond jurisdiction boundaries—in most cities, a majority of workers work outside their jurisdiction of residence, and demand for housing in a particular jurisdiction is substantially

---

<sup>10</sup> Pursuant to Government Code Section 65584.04(i), HCD must review the Draft RHNA Methodology developed by the Council of Governments. On May 20, 2021, ABAG adopted the Draft RHNA Methodology without any modifications as the Final RHNA Methodology.

influenced by its proximity and accessibility to jobs in another community. Even in jurisdictions that lack robust transit service or where most residents commute by automobile, adding more housing in areas with easy access to jobs can lead to shorter commutes, helping to reduce vehicle miles travelled (VMT) and GHG.

Notably, state law also requires the RHNA methodology to consider the balance between the number of low-wage jobs and the number of affordable housing units in each jurisdiction, as described in Government Code Section 65584.04(e)(2)(B). Data from the Census Bureau indicates that Lafayette has an imbalanced ratio between low-wage jobs and affordable housing units, with 13 low-wage jobs per unit of rental housing affordable to low-wage workers and their families.<sup>11</sup> Accordingly, the allocation of 943 units of lower-income RHNA assigned to Lafayette could enable many of the low-wage workers in Lafayette to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower GHG.

**Issue 4:** *The City argues that while the addition of 10 strategies to Final Blueprint achieved the regionwide GHG reduction target, these strategies will result in increased VMT at the local level.*

**ABAG-MTC Staff Response:** The City's argument is a critique of Plan Bay Area 2050 and does not relate directly to the statutory bases for appealing its Draft RHNA. The required GHG target for Plan Bay Area 2050 is set at the regional level; while there are no state targets for VMT under Senate Bill 375, regional VMT trends are also forecasted to understand effects of strategies on this metric as well. The additional strategies in the Final Blueprint resulted in reduced per-capita GHG and VMT compared to the Draft Blueprint. Moreover, the strategies incorporated into the Blueprint help improve the region's jobs-housing balance, leading to shorter commutes and reduced VMT—especially for low-income workers.

## **RECOMMENDED ACTION**

---

ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the City of Lafayette to reduce its Draft RHNA Allocation by 822 units (from 2,114 units to 1,292 units).

---

<sup>11</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Lafayette>.