



375 Beale Street  
Suite 700  
San Francisco, California  
94105

## Meeting Agenda - Final

### ABAG Administrative Committee

*Chair, Jesse Arreguin, Mayor, City of Berkeley*  
*Vice Chair, Belia Ramos, Supervisor, County of Napa*

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Friday, November 12, 2021

12:30 PM

REMOTE

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#### Special Meeting

##### Association of Bay Area Governments Administrative Committee

In light of Governor Newsom's State of Emergency declaration regarding COVID-19 and in accordance with the recently signed Assembly Bill 361 allowing remote meetings, this meeting will be accessible via webcast, teleconference, and Zoom for all participants.

A Zoom panelist link for meeting participants will be sent separately to committee, commission, or board members.

The meeting webcast will be available at: <https://abag.ca.gov/meetings-events/live-webcasts>

Members of the public are encouraged to participate remotely via Zoom at the following link or phone number:

Please click the link below to join the webinar:

<https://bayareametro.zoom.us/j/88148369905>

Or One tap mobile :

US: +16699006833,,88148369905# or +14086380968,,88148369905#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 408 638 0968 or +1 346 248 7799 or +1 253 215 8782 or +1 646 876 9923 or +1 301 715 8592 or +1 312 626 6799 or 888 788 0099 (Toll Free) or 833 548 0276 (Toll Free) or 833 548 0282 (Toll Free) or 877 853 5247 (Toll Free)

Webinar ID: 881 4836 9905

Detailed instructions on participating via Zoom are available at:

<https://abag.ca.gov/zoom-information>

Committee members and members of the public participating by Zoom wishing to speak should use the "raise hand" feature or dial "\*9".

In order to get the full Zoom experience, please make sure your application is up to date.

Members of the public may participate by phone or Zoom or may submit comments by email at [info@bayareametro.gov](mailto:info@bayareametro.gov) by 5:00 p.m. the day before the scheduled meeting date. Please include the committee or board meeting name in the subject line. Due to the current circumstances there may be limited opportunity to address comments during the meeting. All comments received will be submitted into the record.

The ABAG Administrative Committee may act on any item on the agenda.

The meeting is scheduled to begin at 12:30 p.m.

Agenda, roster, and webcast available at <https://abag.ca.gov>

For information, contact Clerk of the Board at (415) 820-7913.

**Roster**

Jesse Arreguin, Pat Eklund, Neysa Fligor, Dave Hudson, Otto Lee, Rafael Mandelman,  
Karen Mitchoff, Raul Peralez, David Rabbitt, Belia Ramos, Carlos Romero, Lori Wilson

**1. Call to Order / Roll Call / Confirm Quorum**

**2. Public Comment**

*Information*

**3. Committee Member Announcements**

*Information*

**4. Chair's Report**

- 4.a. [21-1273](#) ABAG Administrative Committee Chair's Report for November 12, 2021

**Action:** Information

**Presenter:** Jesse Arreguin

**Attachments:** [Item 4a 1 ABAG\\_Response\\_Lafayette\\_RHNA\\_Appeal\\_Comment\\_101521.pdf](#)  
[Item 4a 2 Lafayette 2021-10-15 RHNA Errata Letter to ABAG.pdf](#)  
[Item 4a 3 ABAG\\_Response\\_Sausalito\\_RHNA\\_Appeal\\_Comment\\_102721 v2.pr](#)  
[Item 4a 4 Sausalito ABAG Appeal Hearing Response 10-27-2021.docx.pdf](#)  
[Item 4a 5 Discussion Topics from RHNA Appeal Hearing1022update.pdf](#)  
[Item 4a 6 HCD RE RHNA appeals - request for clarification on SB35.pdf](#)

**5. Executive Director's Report**

- 5.a. [21-1275](#) Executive Director's Report for November 12, 2021

**Action:** Information

**Presenter:** Therese W. McMillan

**6. Consent Calendar**

- 6.a. [21-1276](#) Approval of ABAG Administrative Committee Minutes of September 24, 2021, September 29, 2021, October 8, 2021, October 15, 2021, October 22, 2021, and October 29, 2021 Special Meetings

**Action:** Approval

**Presenter:** Clerk of the Board

**Attachments:** [Item 6a Minutes 20210924 Special RHNA Draft.pdf](#)  
[Item 6a Minutes 20210929 Special RHNA Draft.pdf](#)  
[Item 6a Minutes 20211008 Special RHNA Draft.pdf](#)  
[Item 6a Minutes 20211015 Special RHNA Draft.pdf](#)  
[Item 6a Minutes 20211022 Special RHNA Draft.pdf](#)  
[Item 6a Minutes 20211029 Special RHNA Draft.pdf](#)

## 7. Regional Housing Needs Allocation (RHNA)

7.a. [21-1466](#) Regional Housing Needs Allocation (RHNA) Appeal Final Determinations

Approval of the final determinations for the RHNA appeals, heard by the ABAG Administrative Committee at a public hearing in September and October, and authorization to issue the proposed final allocation plan prior to Executive Board consideration of adoption in December.

**Action:** Approval

**Presenter:** Gillian Adams



**Attachments:**

[Item 7a 1 Summary Sheet - RHNA Appeals Final Determinations.pdf](#)  
[Item 7a 1a RHNA Appeals Final Determinations.pdf](#)  
[Item 7a Attachment A - RHNA Appeals Final Determination Alameda.pdf](#)  
[Item 7a Attachment A - RHNA Appeals Final Determination Alameda Attachm](#)  
[Item 7a Attachment B - RHNA Appeals Final Determination Dublin.pdf](#)  
[Item 7a Attachment B - RHNA Appeals Final Determination Dublin Attachme](#)  
[Item 7a Attachment C - RHNA Appeals Final Determination Pleasanton.pdf](#)  
[Item 7a Attachment C - RHNA Appeals Final Determination Pleasanton Attac](#)  
[Item 7a Attachment D - RHNA Appeals Final Determination Clayton.pdf](#)  
[Item 7a Attachment D - RHNA Appeals Final Determination Clayton Attachm](#)  
[Item 7a Attachment E - RHNA Appeals Final Determination Danville.pdf](#)  
[Item 7a Attachment E - RHNA Appeals Final Determination Danville Attachm](#)  
[Item 7a Attachment F - RHNA Appeals Final Determination Lafayette.pdf](#)  
[Item 7a Attachment F - RHNA Appeals Final Determination Lafayette Attach](#)  
[Item 7a Attachment G - RHNA Appeals Final Determination Pleasant Hill.pdf](#)  
[Item 7a Attachment G - RHNA Appeals Final Determination Pleasant Hill Att](#)  
[Item 7a Attachment H - RHNA Appeals Final Determination San Ramon.pdf](#)  
[Item 7a Attachment H - RHNA Appeals Final Determination San Ramon Att](#)  
[Item 7a Attachment I - RHNA Appeals Final Determination Contra Costa Co](#)  
[Item 7a Attachment I - RHNA Appeals Final Determination Contra Costa Co](#)  
[Item 7a Attachment J - RHNA Appeals Final Determination Belvedere.pdf](#)  
[Item 7a Attachment J - RHNA Appeals Final Determination Belvedere Attach](#)  
[Item 7a Attachment K - RHNA Appeals Final Determination Corte Madera.pc](#)  
[Item 7a Attachment K - RHNA Appeals Final Determination Corte Madera A](#)  
[Item 7a Attachment L - RHNA Appeals Final Determination Fairfax.pdf](#)  
[Item 7a Attachment L - RHNA Appeals Final Determination Fairfax Attachme](#)  
[Item 7a Attachment M - RHNA Appeals Final Determination Larkspur.pdf](#)  
[Item 7a Attachment M - RHNA Appeals Final Determination Larkspur Attach](#)  
[Item 7a Attachment N - RHNA Appeals Final Determination Mill Valley.pdf](#)  
[Item 7a Attachment N - RHNA Appeals Final Determination Mill Valley Attac](#)  
[Item 7a Attachment O - RHNA Appeals Final Determination Ross.pdf](#)  
[Item 7a Attachment O - RHNA Appeals Final Determination Ross Attachmen](#)  
[Item 7a Attachment P - RHNA Appeals Final Determination San Anselmo.pd](#)  
[Item 7a Attachment P - RHNA Appeals Final Determination San Anselmo At](#)  
[Item 7a Attachment Q - RHNA Appeals Final Determination Sausalito.pdf](#)  
[Item 7a Attachment Q - RHNA Appeals Final Determination Sausalito Attach](#)  
[Item 7a Attachment R - RHNA Appeals Final Determination Tiburon.pdf](#)  
[Item 7a Attachment R - RHNA Appeals Final Determination Tiburon Attachm](#)  
[Item 7a Attachment S - RHNA Appeals Final Determination Marin County.pd](#)

[Item 7a Attachment S - RHNA Appeals Final Determination Marin County At](#)  
[Item 7a Attachment T - RHNA Appeals Final Determination Los Altos.pdf](#)  
[Item 7a Attachment T - RHNA Appeals Final Determination Los Altos Attach](#)  
[Item 7a Attachment U - RHNA Appeals Final Determination Los Altos Hills.p](#)  
[Item 7a Attachment U - RHNA Appeals Final Determination Los Altos Hills /](#)  
[Item 7a Attachment V - RHNA Appeals Final Determination Monte Sereno.p](#)  
[Item 7a Attachment V - RHNA Appeals Final Determination Monte Sereno A](#)  
[Item 7a Attachment W - RHNA Appeals Final Determination Palo Alto.pdf](#)  
[Item 7a Attachment W - RHNA Appeals Final Determination Palo Alto Attac](#)  
[Item 7a Attachment X - RHNA Appeals Final Determination Saratoga.pdf](#)  
[Item 7a Attachment X - RHNA Appeals Final Determination Saratoga Attach](#)  
[Item 7a Attachment Y - RHNA Appeals Final Determination Santa Clara Co](#)  
[Item 7a Attachment Y - RHNA Appeals Final Determination Santa Clara Co](#)  
[Item 7a Attachment Z - RHNA Appeals Final Determination Sonoma County.](#)  
[Item 7a Attachment Z - RHNA Appeals Final Determination Sonoma County.](#)  
[Item 7a Attachment ZZ - RHNA Appeals Final Determination Windsor.pdf](#)  
[Item 7a Attachment ZZ - RHNA Appeals Final Determination Windsor Attach](#)

## **8. Adjournment / Next Meeting**

*The next regular meeting of the ABAG Administrative Committee is on December 10, 2021.*

**Public Comment:** The public is encouraged to comment on agenda items at Committee meetings by completing a request-to-speak card (available from staff) and passing it to the Committee secretary. Public comment may be limited by any of the procedures set forth in Section 3.09 of MTC's Procedures Manual (Resolution No. 1058, Revised) if, in the chair's judgment, it is necessary to maintain the orderly flow of business.

**Meeting Conduct:** If this meeting is willfully interrupted or disrupted by one or more persons rendering orderly conduct of the meeting unfeasible, the Chair may order the removal of individuals who are willfully disrupting the meeting. Such individuals may be arrested. If order cannot be restored by such removal, the members of the Committee may direct that the meeting room be cleared (except for representatives of the press or other news media not participating in the disturbance), and the session may continue.

**Record of Meeting:** Committee meetings are recorded. Copies of recordings are available at a nominal charge, or recordings may be listened to at MTC offices by appointment. Audiocasts are maintained on MTC's Web site ([mtc.ca.gov](http://mtc.ca.gov)) for public review for at least one year.

**Accessibility and Title VI:** MTC provides services/accommodations upon request to persons with disabilities and individuals who are limited-English proficient who wish to address Commission matters. For accommodations or translations assistance, please call 415.778.6757 or 415.778.6769 for TDD/TTY. We require three working days' notice to accommodate your request.

**可及性和法令第六章:** MTC 根據要求向希望來委員會討論有關事宜的殘疾人士及英語有限者提供服務/方便。需要便利設施或翻譯協助者，請致電 415.778.6757 或 415.778.6769 TDD / TTY。我們要求您在三個工作日前告知，以滿足您的要求。

**Acceso y el Titulo VI:** La MTC puede proveer asistencia/facilitar la comunicación a las personas discapacitadas y los individuos con conocimiento limitado del inglés quienes quieran dirigirse a la Comisión. Para solicitar asistencia, por favor llame al número 415.778.6757 o al 415.778.6769 para TDD/TTY. Requerimos que solicite asistencia con tres días hábiles de anticipación para poderle proveer asistencia.

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Attachments are sent to Committee members, key staff and others as appropriate. Copies will be available at the meeting.

All items on the agenda are subject to action and/or change by the Committee. Actions recommended by staff are subject to change by the Committee.



# Metropolitan Transportation Commission

375 Beale Street, Suite 800  
San Francisco, CA 94105

## Legislation Details (With Text)

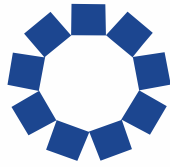
**File #:** 21-1273      **Version:** 1      **Name:**  
**Type:** Report      **Status:** Informational  
**File created:** 9/22/2021      **In control:** ABAG Administrative Committee  
**On agenda:** 11/12/2021      **Final action:**  
**Title:** ABAG Administrative Committee Chair's Report for November 12, 2021  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [Item 4a 1 ABAG Response Lafayette RHNA Appeal Comment 101521.pdf](#)  
[Item 4a 2 Lafayette 2021-10-15 RHNA Errata Letter to ABAG.pdf](#)  
[Item 4a 3 ABAG Response Sausalito RHNA Appeal Comment 102721 v2.pdf](#)  
[Item 4a 4 Sausalito ABAG Appeal Hearing Response 10-27-2021.docx.pdf](#)  
[Item 4a 5 Discussion Topics from RHNA Appeal Hearing1022update.pdf](#)  
[Item 4a 6 HCD RE\\_ RHNA appeals - request for clarification on SB35.pdf](#)

Date	Ver.	Action By	Action	Result
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ABAG Administrative Committee Chair's Report for November 12, 2021

Jesse Arreguin

Information



ASSOCIATION  
OF BAY AREA  
GOVERNMENTS

Bay Area Metro Center  
375 Beale Street, Suite 700  
San Francisco, CA 94105  
415.820.7900  
[www.abag.ca.gov](http://www.abag.ca.gov)

November 9, 2021

*Jesse Arreguin, President*  
Mayor, City of Berkeley

*Belia Ramos, Vice President*  
Supervisor, Napa County

*David Rabbit*  
*Immediate Past President*  
Supervisor, Sonoma County

*Karen Mitchoff*  
*Chair, Regional*  
*Planning Committee*  
Supervisor, Contra Costa County

*Jesse Arreguin*  
*Chair, Legislation Committee*  
Mayor, City of Berkeley

*Karen Mitchoff,*  
*Chair, Finance Committee*  
Supervisor, Contra Costa County

Susan Candell, Mayor  
City of Lafayette  
3675 Mount Diablo Boulevard, Suite 210  
Lafayette, CA 94549

RE: City of Lafayette Letter Regarding Objection to the Use of Errata to Change Policy

Dear Mayor Candell and City Councilmembers:

On behalf of the MTC Commissioners, ABAG Executive Board members and staff, thank you for your partnership throughout the Regional Housing Needs Allocation (RHNA) process and for your comment on the use of errata in the Plan Bay Area 2050 process.

The City of Lafayette's letter raises an issue with the documentation of *Strategy H8: Accelerate Reuse of Public and Community-Owned Land for Mixed-Income Housing and Essential Services*. Contrary to the statement by the City, the change listed in the "Errata" document did not alter how this strategy was applied in Plan Bay Area 2050. The correction in the erratum was made to align the description of the strategy in one of the Plan's supplemental reports with the language already adopted by the MTC Commission and ABAG Executive Board in September 2020 and January 2021.

The intent of the Draft Plan Bay Area 2050 errata document was to increase transparency by highlighting errors in the Draft Plan Bay Area 2050 plan document and supplemental reports at the time they were identified, which were then corrected in the Final Plan Bay Area 2050 plan document and supplemental reports. All items included in the errata document were technical corrections to amend errors in the draft documentation.

The *Draft Plan Bay Area 2050 Forecasting and Modeling Report* originally included an error stating that all public and community-owned lands identified as places for accelerated reuse were located within Plan Bay Area 2050 Growth Geographies. The language included in the modeling report was not consistent with the strategy description adopted by the MTC Commission and ABAG Executive Board, which defined the strategy as:

"Establish a regional network of land owned by public agencies, community land trusts, and other non-profit land owners and coordinate its reuse as deed-restricted mixed-income affordable housing, essential services, and public spaces. Align with the *Build Adequate Affordable Housing to Ensure Homes for All* and *Provide Targeted Mortgage, Rental, and Small Business Assistance* strategies to match sites

with funding, developers, and service providers, and to ensure projects benefit communities of color and other historically disinvested communities.”<sup>1</sup>

As shown here, the strategy description presented to and adopted by the MTC Commission and ABAG Executive Board did not include any reference to constraining public and community-owned land within the boundaries of the Growth Geographies.

The City’s letter correctly summarizes that unmitigated Very High Fire Hazard Severity Zones are excluded from the Growth Geographies. However, it is important to distinguish between Growth Geographies and the sites included in the public lands strategy (Strategy H8). Growth Geographies are areas used to shape future housing and job growth in some Plan Bay Area 2050 strategies such as *H3: Allow a Greater Mix of Housing Densities and Types in Growth Geographies* and *EC4: Allow Greater Commercial Densities in Growth Geographies*. However, Growth Geographies do not represent all areas envisioned for future growth. Public and community-owned lands such as the Lafayette BART station parking lot encompass a separate set of places that are envisioned for growth in Strategy H8. Although many of these sites are within Growth Geographies, the description of the strategy adopted by MTC and ABAG shows that application of Strategy H8 is not limited to only those sites within Growth Geographies.

Thus, the preliminary decision made by the ABAG Administrative Committee on the City of Lafayette’s RHNA appeal is consistent with the Plan Bay Area 2050 strategies adopted by ABAG and MTC.

Once again, we appreciate the City of Lafayette’s engagement throughout the RHNA and Plan Bay Area 2050 processes.

Sincerely,



Therese W. McMillan  
Executive Director

TWM: GA

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Action\ABAG\_Response\_Lafayette\_RHNA\_Appeal\_Comment\_101521.docx

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<sup>1</sup> See Updated Attachment I – Plan Bay Area 2050 Final Blueprint: Strategy Descriptions. Adopted by the ABAG Executive Board under Resolution No. 16-2020 and by the Metropolitan Transportation Commission under Resolution No. 4437.  
<https://mtc.legistar.com/LegislationDetail.aspx?ID=4633798&GUID=F91D833F-21F5-400B-895E-815F1B05D0C8>



City Council

Susan Candell, Mayor  
Teresa Gerringer, Vice Mayor  
Carl Anduri, Council Member  
Gina Dawson, Council Member  
Wei-Tai Kwok, Council Member

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October 15, 2021

Jesse Arreguin, President  
Members of the ABAG Executive Board  
375 Beale Street, Suite 800  
San Francisco, CA 94105-2006

SUBJECT: Objection to the use of errata to change policy

President Arreguin and Member of the Board,

Over more than a year, the City of Lafayette has been actively engaged in the RHNA process, providing feedback at key milestones during the time that the Housing Methodology Committee (HMC) met, providing written comment letters to ABAG leadership, and requesting one-on-one office hours with key staff at ABAG.

Our appeal of our draft allocation was submitted in a timely fashion, and we provided clear documentation that Plan Bay Area 2050, which provided housing growth projections that were subsequently used as the baseline for the RHNA allocation process, failed to exclude public lands located in Very High Fire Hazard Severity Zones from its Growth Geographies, thereby increasing the number of units allocated to Lafayette in error.

The Draft RHNA Allocation Plan adopted by the Executive Board notes, on page 36, that: "The Final Blueprint Growth Geographies exclude CalFire designated VHFHSZs and county designated WUIs" and "The Final Blueprint Strategies focus future growth away from the highest fire risk zones." The January 21, 2021 Executive Board meeting transcript reads in part: "...[w]hen we're trying to accommodate 1.5 million homes across the region it's hard to take everything off the table. We've taken off the table large parts of the region that are not growth geographies. We're protecting public buildings, protecting public parks and open spaces. All those things are protected. We took off the table high risk fire areas and the like and any sort of areas that wouldn't be protected from sea level rise." [emphasis added]

ABAG's response to our appeal states: "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."

We agree, and it is clear that ABAG did precisely this at a regional scale, excluding high fire hazards zones from Growth Geographies. It is clear that an error was made when public lands which lie within VHFHSZs were included in the RHNA calculations, which staff acknowledges. All of the information available to the public and Executive Board stated that Growth Geographies excluded VHFHSZ's and that Public Lands were within Growth Geographies. However, the week of our appeal hearing, ABAG issued an erratum in an attempt to correct it at the last minute. In our view, it is inappropriate to use an erratum to change a policy that had been clearly stated throughout Plan Bay Area 2050 documentation, and it is inconsistent with the information provided to the public and the Executive Board before it voted on May 20th. The definition of erratum is an error in writing or printing, not a change in policy.

### **Next Steps**

1. We understand that the Administrative Committee took a preliminary action to deny Lafayette's appeal, however we respectfully request that the error be corrected by reducing our allocation when the final action is taken.
2. The issuance of an errata (see attached) should not be used to change policy moving forward and should be limited to factual and technical corrections. Policy changes should be made by the Executive Board through a public hearing process.

Sincerely,



Susan Candell, Mayor

On Behalf of the Lafayette City Council

Cc: Therese Watkins McMillan, Executive Director, Association of Bay Area Governments  
Gillian Adams, Principal Planner, ABAG Regional Planning Program  
Dave Vautin, Plan Bay Area 2050  
Members of the Metropolitan Transportation Commission

Enc. Draft Plan Bay Area 2050 Errata • Updated September 13, 2021



## Draft Plan Bay Area 2050 Errata

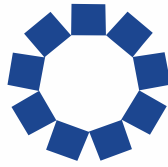
Updated September 13, 2021

The Metropolitan Transportation Commission and Association of Bay Area Governments note the following errors in the Draft Plan Bay Area 2050 document and supplemental reports. This document is regularly updated on the Plan Bay Area 2050 website.

Document	Page Number	Paragraph or Table Number	Correction
Draft Plan and Supplemental Reports	Various	N/A	Add Rohnert Park Councilmember Susan Adams to the list of ABAG Executive Board City Representatives and remove the vacant Cities in Sonoma County board seat
Forecasting and Modeling Report	41	Table 11	Change “2 BART routes” to “3 BART routes”
	53	Paragraph 2	In order to make the description consistent with the MTC/ABAG actions taken in September 2020 and January 2021, delete “were within the Growth Geographies and”
Statutorily Required Plan Maps	19	N/A	The following Priority Conservation Areas were omitted from the map of Alameda County: <ul style="list-style-type: none"> <li>• Arroyo Las Positas Trail</li> <li>• First Street</li> </ul>
	20	N/A	The following Priority Conservation Area was omitted from the map of Contra Costa County: <ul style="list-style-type: none"> <li>• Northwest Waterfront</li> </ul>
	21	N/A	The following Priority Conservation Area was omitted from the map of Marin County: <ul style="list-style-type: none"> <li>• Tiburon Open Space</li> </ul>
	22	N/A	The following Priority Conservation Area was omitted from the map of Napa County: <ul style="list-style-type: none"> <li>• Napa County Agricultural Lands and Watersheds</li> </ul>

	23	N/A	<p>The following Priority Conservation Areas were omitted from the map of San Francisco County:</p> <ul style="list-style-type: none"> <li>• Central Waterfront</li> <li>• Excelsior/OMI Park Connections</li> <li>• India Basin</li> <li>• Lake Merced/Ocean Beach</li> <li>• Northern Waterfront</li> <li>• Treasure Island</li> </ul>
	25	N/A	<p>The following Priority Conservation Areas were omitted from the map of Santa Clara County:</p> <ul style="list-style-type: none"> <li>• Palo Alto Baylands</li> <li>• Palo Alto Foothills</li> </ul>
	26	N/A	<p>The following Priority Conservation Areas were omitted from the map of Solano County:</p> <ul style="list-style-type: none"> <li>• Cache Slough</li> <li>• Dixon Agricultural Service Area</li> <li>• Mare Island Open Space</li> <li>• Napa-Sonoma Marshes Wildlife Area</li> <li>• White Slough Wetlands Area</li> </ul>
	27	N/A	<p>The following Priority Conservation Area was omitted from the map of Sonoma County:</p> <ul style="list-style-type: none"> <li>• Southeast Greenway</li> </ul>
Technical Assumptions Report	2	Paragraph 1	Change “\$466 billion” to “\$469 billion”
	3	Paragraph 1	Change “\$113 billion” to “\$110 billion”
	15	Table 7	Combine “FHWA STP/CMAQ - Regional” and “FHWA STP/CMAQ - County” into one row, titled “FHWA STBG/CMAQ”
Transportation Project List	4	N/A	Delete “and Clayton Rd” from the scope of RTP ID 21-T06-033
	5	N/A	Move “(i.e., highway or freeway lane, auxiliary lane, or HOV lane)” to follow “lane extensions of less than 1/4-mile” in scope of RTP ID 21-T06-048
	6	N/A	Delete “(less than 1/4-mile)” from scope of RTP ID 21-T07-056
	12	N/A	Make the following changes to the scope of RTP ID 21-T12-116: change “I-80 (ALA)” to

			“I-80 (ALA, CC) and SR-4 (CC)” and “I-680 (ALA)” to “I-680 (ALA, CC)”
	12	N/A	Change “Service Expansion” to “Modernization” in the title of RTP ID 21-T12-124



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Mayor, City of Berkeley

*Karen Mitchoff*  
*Chair, Finance Committee*  
Supervisor, Contra Costa County

November 9, 2021

Chris Zapata, City Manager  
City of Sausalito  
420 Litho Street  
Sausalito, CA 94965

RE: City of Sausalito Letter Regarding ABAG Administrative Committee RHNA Public Hearing – Comment Letter on All Appeal Deliberations and on City of Sausalito Appeal

Dear Mr. Zapata:

On behalf of the ABAG Executive Board members and staff, thank you for your partnership throughout the Regional Housing Needs Allocation (RHNA) process and for your comment letter on the RHNA appeal deliberations.

The City notes in its comment letter that the April 12, 2021 letter from HCD is limited to confirmation that ABAG's adopted RHNA methodology furthers the RHNA objectives. ABAG-MTC staff concurs with this statement. ABAG-MTC staff's response to the City of Sausalito's appeal cites this letter from HCD only in response to arguments from the City related to whether the final RHNA methodology advances the statutory objectives. However, several of the arguments in the City's appeal represented critiques of the final RHNA methodology or recommended changes to the methodology, such as the City's suggestion to include methodology factors related to overcrowding and vacancies. In these instances, ABAG-MTC staff noted that a critique of the methodology was not a valid basis for an appeal.

Working with the Housing Methodology Committee (HMC), ABAG conducted a multi-year effort to develop and adopt the final RHNA methodology that involved significant participation from local governments, regional stakeholders, and members of the public throughout the process. The basis for an appeal outlined in Government Code Section 65584.05(b)(2) is not intended to provide an opportunity to change the RHNA methodology that has already been adopted by the ABAG Executive Board. Instead, Government Code Section 65584.05(b)(2) requires the appellant jurisdiction to show that ABAG did not correctly apply the adopted RHNA methodology when determining the jurisdiction's draft RHNA. Accordingly, ABAG-MTC staff's response to the City's appeal noted where arguments by Sausalito challenged the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, which is outside the scope of the appeals process.

The City's comment letter also asserts that ABAG did not analyze factors in Government Code Section 65584.04(e) for each member jurisdiction. The two factors where this is specifically identified in statute are "each member jurisdiction's existing and projected jobs and housing relationship" and "the opportunities and constraints to development of

additional housing in each member jurisdiction.” As noted in the ABAG-MTC staff response to the City’s appeal, the final RHNA methodology addresses each of these factors through use of the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The Final Blueprint was developed using the UrbanSim 2.0 land use model, which incorporates parcel-specific data about locations of existing housing and jobs; local plans and zoning; and physical site characteristics, including development constraints such as steep hillsides.

Use of parcel-specific data enables the evaluation of the jobs-housing relationship and development opportunities and constraints at the jurisdiction level. Accordingly, the Final Blueprint incorporates information about each jurisdiction’s existing and projected jobs and households as well as each jurisdiction’s potential for future development. As noted in the response to the City’s appeal, while only county and sub-county projections are included as part of the adopted Plan Bay Area 2050, the jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were then provided for use as the baseline allocation for the RHNA Methodology. While the April 12, 2021, letter from HCD only confirms the final RHNA methodology achieves the statutory objectives described in Government Code Section 65584, the methodology also meets all of the requirements established by Government Code Section 65584.04. Pages 34 through 43 of [ABAG’s Draft RHNA Plan](#) provide additional information about how the methodology meets these requirements.

Contrary to the City’s conclusion in its comment letter, ABAG-MTC staff did consider the analysis of development capacity provided by the City in its appeal. However, the City’s capacity analysis did not conclusively demonstrate that it cannot accommodate its draft RHNA allocation. In particular, the City excluded areas with natural hazards and environmental constraints from its analysis, which is not consistent with Housing Element Law. As noted in the ABAG-MTC staff response to the City’s appeal, with only a small exception, Housing Element Law does not identify areas at risk of natural hazards as a potential constraint to housing development.”<sup>1</sup> The HMC extensively considered whether to include a factor related to natural hazards in the RHNA methodology, and ultimately decided not to do so. While the City is correct that Housing Element Law does not restrict ABAG from reducing potential development capacity on sites subject to hazards, there is also nothing in statute *requiring* that ABAG do so.

Additionally, HCD’s guidance that hazard risk should be considered when evaluating potential sites in a jurisdiction’s Housing Element does not, in fact, demonstrate that hazards should be a factor in determining each jurisdiction’s capacity for growth. Instead, this guidance is consistent with ABAG-MTC staff’s response to the City’s appeal, which states:

*“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, the 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. In developing its Housing Element, Sausalito has*

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<sup>1</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.”

*the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the City can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.”*

As noted on page 6 of the *ABAG 2023-2031 RHNA Appeals Procedures*, “The burden is on the applicants to prove that adjustment of the Allocation is appropriate under the statutory standards set forth in Government Code.” As reaffirmed in this letter, the adopted RHNA methodology does adequately consider development opportunities and constraints at the member jurisdiction level, consistent with Government Code Section 65584.04. The City of Sausalito’s appeal does not identify any mistakes in the application of the adopted RHNA methodology and thus does not fulfill the requirements outlined by Government Code Section 65584.05(b)(2). Lastly, the City’s capacity analysis did not demonstrate conclusively that the City could not accommodate its draft RHNA allocation.

As a result, Sausalito has not shown that an adjustment to its draft RHNA allocation is appropriate under the statutory standards set forth in Government Code, which supports the preliminary decision made by the ABAG Administrative Committee to deny the City of Sausalito’s RHNA appeal.

Once again, we appreciate the City of Sausalito’s engagement throughout the RHNA process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Therese W. McMillan', with a stylized flourish at the end.

Therese W. McMillan  
Executive Director

TWM: GA

J:\COMMITTEE\ABAG Administrative\Agendas\2021\AC 20211112 RHNA  
Action\ABAG\_Response\_Sausalito\_RHNA\_Appeal\_Comment\_102721.docx





# CITY OF SAUSALITO

420 Litho Street • Sausalito, CA 94965  
Telephone: (415) 289-4100  
www.sausalito.gov

October 27, 2021

***Via EMail***

Association of Bay Area Governments (ABAG) Executive Board  
Association of Bay Area Governments Administrative Committee  
C/O Fred Castro, ABAG Clerk of the Board  
375 Beal Street, Suite 700  
San Francisco, CA 94105-2066

**RE: ABAG Administrative Committee Regional Housing Needs Allocation Appeals Public Hearing – Comment Letter on All Appeal Deliberations and on City of Sausalito Appeal**

Dear Board, Administrative Committee Chair Arreguin, and Administrative Committee members,

Thank you for the difficult work to ensure the 6<sup>th</sup> Cycle RHNA is distributed in an equitable way that both seeks to provide opportunity to those in need of housing and ensures that our shared goals to put housing near services and jobs to address climate change are addressed. The City of Sausalito (Sausalito) would like to stress that we are an active partner in this process and are willing to take on our fair share of the region's housing needs.

Please consider this comment letter as it relates to the Administrative Committee's consideration of all RHNA appeals, including but not limited to, the City of Sausalito's appeal and final deliberations.

There is a significant misunderstanding on the part of ABAG staff and the Administrative Committee regarding what HCD reviewed and approved and the basis for an appeal of the RHNA.

## **ABAG RESPONSE TO APPEAL AND RELIANCE ON HCD FINDINGS**

ABAG's response to Sausalito's appeal included the following statements:

*"The final RHNA methodology adequately considers the potential development constraints described in Sausalito's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation."*

*"As stated previously, critiques of the RHNA methodology itself do not represent a valid basis for a RHNA appeal."*

Committee Member Mayor Romero commented on Sausalito's appeal, referring to the appeal as allegations within the rather lengthy report presented from Sausalito consistently arguing that the RHNA Methodology is inconsistent State law. Mayor Romero identified that the Committee has abundant correspondence from the State that indicates the document and process and methodology the Committee used passes muster with the State.

Committee Chair Mayor Arreguin followed Mayor Romero's comments with a statement that HCD (the Department of Housing and Community Development) approved the methodology and found that it met the statutory requirements.

## **HCD FINDINGS DO NOT APPROVE ABAG'S APPLICATION OF GOVERNMENT CODE SECTION 65584.04**

As shown above, ABAG staff and Administrative Committee members repeatedly identified that HCD has approved their methodology and that the City's appeal falls outside of the scope of the appeal process. ABAG staff and the members of the Administrative Committee are acting on the basis HCD has endorsed the methodology as being fully consistent with State law, including the factors prescribed Government Code Section 65584.04(e) that address opportunities and constraints, including suitable land for urban and residential development as well as a number of other factors, for each jurisdiction.

However, as described below, HCD has not approved the full methodology. *HCD's approval and findings have been limited to whether the methodology furthers the statutory objectives under Government Code Section 65584(d).* HCD's April 12, 2021 letter (Attachment 1) only addressed the consistency of the ABAG RHNA methodology with the RHNA statutory objectives under Government Code Section 65584(d) and does not address nor endorse the Draft RHNA Plan or methodology in terms of consistency with Government Code Section 65584.04(e).

Government Code Section 65584.04(e) requires ABAG to address specific factors for each jurisdiction (jobs/housing ratio, water/sewer service, suitability of sites for residential/urban development, etc.) in the development of its methodology. As stated in ABAG's response, ABAG relied on Plan Bay Area 2050 for this analysis and Plan Bay Area 2050 does not analyze or address each of these factors at the local jurisdiction level. The lack of this analysis is the cause for the disconnect between cities, particularly those that are mostly built out or significantly constrained, and the Draft RHNA Plan.

*Related to the methodology requirements established by Government Code Section 65584.04(e), HCD did not comment on whether ABAG's analysis under this section was adequate.* Rather HCD put the burden on ABAG to review appeals, and specifically identified in its August 30, 2021 letter (Attachment 2) that "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." However, ABAG did not consider whether appeals included documentation of land suitable for urban development, conversion to residential use, underutilized land, infill development and increased residential densities, but focused on the statement that communities that view themselves as built-out or limited due to natural constraints must plan for housing.



## LEGAL REQUIREMENTS FOR APPEALS

Government Code Section 65584.05(b) states that appeals shall be limited to any of the following circumstances:

*(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.*

*(2) The council of governments or delegate subregion, as applicable, failed to determine the share of the regional housing need in accordance with the information described in, and the methodology established pursuant to, Section 65584.04, and in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.*

*(3) A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.*

Sausalito is appealing based on paragraph 2 above. ABAG has not reviewed the appeals to determine if the RHNA Plan distributed allocations based on the information described in 65584.04, which requires significant analysis at the member jurisdiction level, as described in the City's appeal letter dated July 9, 2021.

## REVIEW OF SAUSALITO APPEAL BASED ON GOVERNMENT CODE SECTION 65584.04

Sausalito is not stating that it does not need to plan for housing but is stating that the planning for housing should be based on the factors required by Government Code Section 65584.04, including factors identified by HCD in its August 30, 2021 letter. These factors are documented and analyzed in Sausalito's appeal letter and presentation. However, ABAG did not address whether there were actual opportunities to accommodate in housing through means such as rezoning commercial areas, such as mixed-use areas and upzoning non-vacant land, for each member jurisdiction that appealed its analysis based on ABAG's failure to demonstrate opportunities and constraints at the member jurisdiction level, as is required of ABAG by paragraphs 1 and 2 of Government Code Section 65584.04(e).

HCD's approval of the methodology only as it relates to Government Code Section 65584(d), but not Government Code Section 65584.04(e) is an extremely important distinction to make. The lack of adequate analysis for each member jurisdiction as required by Government Code Section 65584.04(e) is the primary cause of the disconnect between the allocations to local jurisdictions versus their capacity to accommodate the RHNA.

While Sausalito did not have additional opportunity to address this inconsistency during the Administrative Committee's deliberations, which identified HCD's approval of the methodology as a basis for rejecting Sausalito's appeal, it is important to identify that HCD did not approve the methodology as it relates to Government Code Section 65584.04. ABAG is responsible for reviewing the methodology and appeals associated with the application of Government Code Section 65584.04. Any appeal determinations that are based on HCD's approval of the

methodology as it relates to the opportunities and constraints at the member jurisdiction level are not valid. While ABAG's message was that Sausalito was making unfounded allegations, it is clear that the appeal was not reviewed by ABAG based on the requirements of the Government Code.

Sausalito's appeal focused on ABAG's application of GC 65584.04(e) - HCD did not make any findings related to this. It is up to local jurisdictions and interested members of the public to review and comment on ABAG's application of Government Code 65584.04(e) through the appeal process. It is ABAG's responsibility to consider whether the RHNA Plan adequately addresses Government Code Section 65584.04(e) and ABAG is not considering comments on this basis.

## **HCD GUIDANCE RELATED TO IDENTIFICATION OF HOUSING SITES**

ABAG's response to the City's appeal and statements by ABAG staff indicate that HCD prohibits their excluding sites on the basis of hazards, except flooding. However, State law identifies that ABAG may include flooding in its review of sites, but does not define or describe how ABAG should determine suitability and does not restrict ABAG from reducing potential capacity for development on sites subject to hazards. HCD's guidance related to the inventory of sites demonstrates the high bar HCD has set for acceptance of sites in each jurisdiction's inventory of residential sites (see Attachment 3) and specifically requires jurisdictions to address limitations associated with hazards. P. 3 of HCD's Housing Element Site Inventory Guidebook describes characteristics to consider when evaluating the appropriateness of sites and specifically lists slope instability, erosion, and other factors to be considered. P. 20 of HCD's Housing Element Site Inventory Guidebook indicates that the capacity of a site should be adjusted for areas that cannot be developed due to environmental factor such as hazards, wetlands, or topography that cannot be mitigated. HCD's guidance demonstrates that hazards should be a factor in determining each jurisdiction's capacity for growth.

## **CONCLUSION**

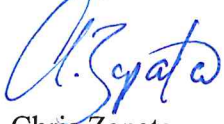
Sausalito does not agree with the Administrative Committee. The Administrative Subcommittee did not consider the details of Sausalito's proposal and did not demonstrate that the RHNA Plan methodology met the requirements of Government Code Section 65584.04. The City's detailed analysis of our capacity, which included an analysis of land suitable for urban development, sites suitable for conversion to residential use, opportunities for underutilized sites and infill sites, and opportunities to increase residential densities, was not considered. Sausalito did not limit our capacity to available land, but considered many sites developed with residential, commercial, public/quasi-public, and other uses. Although Sausalito provided abundant evidence of our capacity, the committee opted to not review whether the Draft RHNA Plan methodology met the stringent requirements of Government Code Section 65584.04 to analyze specific factors at the member jurisdiction level.

In closing, Sausalito reiterates our commitment to accommodating our fair share of the region's housing needs, based on an evaluation of Sausalito's growth potential considering opportunities and constraints at the member jurisdiction level.

We would be happy to meet with ABAG to discuss our data, including readily available data sources, and recommended approaches to accommodate housing needs while addressing local constraints.



Thank you,



Chris Zapata  
City Manager

Cc: Mayor Jill James Hoffman  
Vice-Mayor Kellman  
Councilmember Susan Cleveland-Knowles  
Councilmember Melissa Blaustein  
Councilmember Ian Sobieski  
Mary Wagner, City Attorney  
Heidi Scoble, Interim Community Development Director  
Serge Avila, Acting City Clerk  
Mayor Pat Eklund, ABAG Administrative Committee/City of Novato  
Irene Borba, City of Belvedere Director of Planning and Building  
Adam Wolff, Town of Corte Madera Director of Planning and Building  
Ben Berto, Town of Fairfax Director of Planning and Building Services  
Neal Toft, City of Larkspur Director of Planning and Building  
Patrick Kelly, City of Mill Valley Director of Planning and Building  
Patrick Streeter, Town of Ross Planning and Building Director  
Elise Semonian, Town of San Anselmo Planning Director  
Dina Tasini, Town of Tiburon Director of Community Development  
Thomas Lai, Marin County Community Development Agency Director  
Jillian Zeiger, Marin County Planner

TO: President Arreguin  
DATE: October 22, 2021  
FROM: Matt Maloney, Director, Regional Planning  
SUBJECT: List of Discussion Topics Identified During RHNA Appeals Hearing - UPDATED

At the RHNA Appeals hearing, it was requested that staff maintain a “running list” of planning and policy topics emerging over the course of the discussion. The following topics have been identified to-date through the RHNA Appeals Hearing. We will continue to update this list, as appropriate, following every meeting and forward to you, in case you would like to refer to it as part of your Chair’s Report:

- **Alameda:** Support City efforts to receive funding for sea level rise mitigation investments
- **Alameda:** Support City negotiations with U.S. Navy to reduce or waive impact fee
- **Dublin:** Add table identifying the number of housing units on ten parcels in Dublin, nine of which have no housing units, prior to final approval
- **RHNA Legislation:** Need to engage in dialogue about the definition of “adequacy” of available land
- **RHNA Methodology:** Low property taxes as a limit on RHNA should be a statutory methodology factor
- **RHNA Methodology:** Natural hazards should be a statutory methodology factor, particularly wildfire, why are cities and counties treated differently as far as very high and high fire. CalFire mapping makes this distinction.
- **RHNA Methodology:** Examine excluding high fire hazard areas and WUIs from Growth Geographies/RHNA, including map datasets
- **RHNA Process:** ABAG-MTC staff needs to emphasize to local jurisdictions implications of completing the local jurisdiction survey for appeals for future RHNA cycles; recognize that it is challenging for small jurisdictions to meet all the requirements of regional and state government
- **RHNA Process:** Staff need to do more follow-up regarding the local government survey
- **RHNA Process:** Engage in further dialogue about UrbanSim model, including definition of underutilized land
- **RHNA Process:** Advocate for sub-regions to be formed
- **Housing Policy:** Advocate for providing “credit” to jurisdictions’ RHNA achievements in prior cycles

- **Housing Policy:** Request a written response from HCD about the SB 35 implications for a jurisdiction that exceeds its allocation of very low and low-income RHNA units and does not meet its allocation of above moderate-income units
- **Housing Policy:** Advocate to allow cities & towns to voluntarily transfer RHNA in a manner similar to counties
- **Housing Policy:** Inquire with HCD regarding whether a COG has the ability to change units from market-rate to affordable
- **Other:** Concerns about the way High Opportunity Areas are defined by the State
- **Water:** Underscore concerns about regional water carrying capacity
- **Water:** Seek a better understanding of local jurisdiction remedies with HCD, should it be impossible to accommodate RHNA allocation due to a future water service provider moratorium

**From:** Macedo, Tawny@HCD  
**To:** Gillian Adams  
**Cc:** Dave Vautin; Matt Maloney; Buckley, Tyrone@HCD; Osterberg, Annelise@HCD; Brinkhuis, Tom@HCD  
**Subject:** RE: RHNA appeals - request for clarification on SB 35  
**Date:** Tuesday, October 26, 2021 4:59:55 PM

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**\*External Email\***

Hi Gillian,

For jurisdictions that have not met their allocation of above moderate-income units, they are subject to SB 35 streamlining for developments with at least 10 percent affordability. Progress on allocations at each income level is based upon annual progress report (APR) data.

Warmly,  
Tawny

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**From:** Gillian Adams <gadams@bayareametro.gov>  
**Sent:** Tuesday, October 26, 2021 3:11 PM  
**To:** Macedo, Tawny@HCD <Tawny.Macedo@hcd.ca.gov>  
**Cc:** Dave Vautin <DVautin@bayareametro.gov>; Matt Maloney <mmaloney@bayareametro.gov>  
**Subject:** RHNA appeals - request for clarification on SB 35

Hi Tawny,

I hope that you are doing well. As you are aware, the ABAG Administrative Committee is currently conducting the public hearing to consider the RHNA appeals filed with ABAG.

At the hearing on October 22, a committee member asked ABAG-MTC staff to ask for clarification in writing from HCD about the SB 35 implications for a jurisdiction that exceeds its allocation of very low and low-income RHNA units and does not meet its allocation of above moderate-income units.

Can you provide an explanation of how SB 35 would apply to a jurisdiction in this situation?

Thank you for your help,  
Gillian

Gillian Adams  
Principal Planner, Regional Housing Needs Allocation (RHNA)  
[gadams@bayareametro.gov](mailto:gadams@bayareametro.gov) | (415) 820-7911

**BAY AREA METRO** | BayAreaMetro.gov  
Association of Bay Area Governments  
Metropolitan Transportation Commission



# Metropolitan Transportation Commission

375 Beale Street, Suite 800  
San Francisco, CA 94105

## Legislation Details (With Text)

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**File #:** 21-1275      **Version:** 1      **Name:**  
**Type:** Report      **Status:** Informational  
**File created:** 9/22/2021      **In control:** ABAG Administrative Committee  
**On agenda:** 11/12/2021      **Final action:**  
**Title:** Executive Director's Report for November 12, 2021  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
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Executive Director's Report for November 12, 2021

Therese W. McMillan

Information



# Metropolitan Transportation Commission

375 Beale Street, Suite 800  
San Francisco, CA 94105

## Legislation Details (With Text)

<b>File #:</b>	21-1276	<b>Version:</b>	1	<b>Name:</b>	
<b>Type:</b>	Report	<b>Status:</b>		Consent	
<b>File created:</b>	9/22/2021	<b>In control:</b>		ABAG Administrative Committee	
<b>On agenda:</b>	11/12/2021	<b>Final action:</b>			
<b>Title:</b>	Approval of ABAG Administrative Committee Minutes of September 24, 2021, September 29, 2021, October 8, 2021, October 15, 2021, October 22, 2021, and October 29, 2021 Special Meetings				
<b>Sponsors:</b>					
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	<a href="#">Item 6a Minutes 20210924 Special RHNA Draft.pdf</a> <a href="#">Item 6a Minutes 20210929 Special RHNA Draft.pdf</a> <a href="#">Item 6a Minutes 20211008 Special RHNA Draft.pdf</a> <a href="#">Item 6a Minutes 20211015 Special RHNA Draft.pdf</a> <a href="#">Item 6a Minutes 20211022 Special RHNA Draft.pdf</a> <a href="#">Item 6a Minutes 20211029 Special RHNA Draft.pdf</a>				

Date	Ver.	Action By	Action	Result
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Approval of ABAG Administrative Committee Minutes of September 24, 2021, September 29, 2021, October 8, 2021, October 15, 2021, October 22, 2021, and October 29, 2021 Special Meetings

Clerk of the Board

Approval





375 Beale Street  
Suite 700  
San Francisco, California  
94105

## Meeting Minutes - Draft

### ABAG Administrative Committee

*Chair, Jesse Arreguin, Mayor, City of Berkeley*  
*Vice Chair, Belia Ramos, Supervisor, County of Napa*

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Friday, September 24, 2021

9:00 AM

Board Room - 1st Floor (REMOTE)

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#### Special Meeting

#### Association of Bay Area Governments Administrative Committee

The ABAG Administrative Committee may act on any item on the agenda.

The meeting is scheduled to begin at 9:00 a.m.

Agenda, roster, and webcast available at <https://abag.ca.gov>

For information, contact Clerk of the Board at (415) 820-7913.

#### Roster

Jesse Arreguin, Pat Eklund, Neysa Fligor, Dave Hudson, Otto Lee, Rafael Mandelman, Karen Mitchoff, Raul Peralez, David Rabbitt, Belia Ramos, Carlos Romero, Lori Wilson

#### 1. Call to Order / Roll Call / Confirm Quorum

Chair Arreguin called the meeting to order at about 9:03 a.m. Quorum was present.

**Present:** 9 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:** 3 - Peralez, Rabbitt, and Wilson L

#### 2. Public Comment

#### 3. Committee Member Announcements

#### 4. Chair's Report

4.a. [21-1225](#) ABAG Administrative Committee Chair's Report for September 24, 2021

Chair Arreguin gave the report.

#### 5. Executive Director's Report

5.a. [21-1226](#) Executive Director's Report for September 24, 2021

## 6. Regional Housing Needs Allocation Appeals Public Hearing

6. [21-1227](#) The Administrative Committee will hear appeals from jurisdictions and responses to issues raised by ABAG/MTC staff. Jurisdictions scheduled for this meeting are listed below; the hearing is scheduled to be continued at the special meeting of the ABAG Administrative Committee on September 29, 2021 at 9:00 AM with additional jurisdictions out of the 28 total appeals.

The following submitted public comment: Mat Fogarty, Jay Garfinkle.

### Alameda County

- 6.a. [21-1228](#) Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Alameda

Andrew Thomas, Planning Director, presented the RHNA appeal for the City of Alameda.

ABAG/MTC staff gave the staff response.

The following gave public comment: Carmen, John Knox, Paul Foreman, Trish Herrera Spencer, Zac Bowling, Rick Harmer, Rosalinda.

The following submitted public comment: Alameda Citizens Task Force, Karen Miller, Margie.

**Upon the motion by Mitchoff and second by Ramos, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Alameda. The motion passed unanimously by the following vote:**

**Aye:** 8 - Arreguin, Eklund, Fligor, Hudson, Lee, Mitchoff, Ramos, and Romero

**Absent:** 4 - Mandelman, Peralez, Rabbitt, and Wilson L

- 6.b. [21-1229](#) Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Dublin

Michael Cass, Principal Planner, presented the RHNA appeal for the City of Dublin.

ABAG/MTC staff gave the staff response.

The following gave public comment: Joshua Hawn.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Eklund and second by Ramos, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Dublin. The motion passed unanimously by the following vote:**

**Aye:** 9 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:** 3 - Peralez, Rabbitt, and Wilson L

**6.c.**     [21-1230](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Pleasanton

Ellen Clark, Community Development Director, presented the RHNA appeal for the City of Pleasanton.

ABAG/MTC staff gave the staff response.

The following gave public comment: Jordan Grimes.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Mitchoff and second by Fligor, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Pleasanton. The motion passed unanimously by the following vote:**

**Aye:** 9 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:** 3 - Peralez, Rabbitt, and Wilson L

## **Lunch Break**

## **Contra Costa County**

**6.d.**     [21-1231](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Clayton

Reina Schwartz, City Manager, presented the RHNA appeal for the City of Clayton.

ABAG/MTC staff gave the staff response.

The following gave public comment: Joshua Hawn.

**Upon the motion by Eklund and second by Arreguin, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Clayton. The motion passed unanimously by the following vote:**

**Aye:** 9 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:** 3 - Peralez, Rabbitt, and Wilson L

**6.e.**     [21-1232](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the Town of Danville

Renee Morgan, Mayor, and Tai Williams, Assistant Town Manager, presented the RHNA appeal for the Town of Danville.

ABAG/MTC staff gave the staff response.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Eklund and second by Romero, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the Town of Danville. The motion passed unanimously by the following vote:**

**Aye:**    9 -   Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:**   3 -   Peralez, Rabbitt, and Wilson L

**6.f.**     [21-1233](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Lafayette

Greg Wolff, Planning and Building Director, presented the RHNA appeal for the City of Lafayette.

ABAG/MTC staff gave the staff response.

The following gave public comment: Gina Dawson, Susan Candall, Scott O'Neil, Sam Monk, Jay Garfinkle, Zac Bowling, Jordan Grimes.

**Upon the motion by Arreguin and second by Ramos, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Lafayette. The motion passed unanimously by the following vote:**

**Aye:**    9 -   Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:**   3 -   Peralez, Rabbitt, and Wilson L

**6.g.**     [21-1234](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Pleasant Hill

Ethan Bindernagel, Community Development Director, presented the RHNA appeal for the City of Pleasant Hill.

ABAG/MTC staff gave the staff response.

The following gave public comment: Kristi Corley.

**Upon the motion by Fligor and second by Romero, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Pleasant Hill. The motion passed unanimously by the following vote:**

**Aye:** 9 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:** 3 - Peralez, Rabbitt, and Wilson L

## **7. Adjournment / Next Meeting**

Chair Arreguin adjourned the meeting at about 2:10 p.m. The ABAG Administrative Committee will continue the public hearing on RHNA Appeals on September 29, 2021.



375 Beale Street  
Suite 700  
San Francisco, California  
94105

## Meeting Minutes - Draft

### ABAG Administrative Committee

*Chair, Jesse Arreguin, Mayor, City of Berkeley*  
*Vice Chair, Belia Ramos, Supervisor, County of Napa*

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Wednesday, September 29, 2021

9:00 AM

Board Room - 1st Floor (REMOTE)

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#### Special Meeting

#### Association of Bay Area Governments Administrative Committee

The ABAG Administrative Committee may act on any item on the agenda.

The meeting is scheduled to begin at 9:00 a.m.

Agenda, roster, and webcast available at <https://abag.ca.gov>

For information, contact Clerk of the Board at (415) 820-7913.

#### Roster

Jesse Arreguin, Pat Eklund, Neysa Fligor, Dave Hudson, Otto Lee, Rafael Mandelman, Karen Mitchoff, Raul Peralez, David Rabbitt, Belia Ramos, Carlos Romero, Lori Wilson

#### 1. Call to Order / Roll Call / Confirm Quorum

Chair Arreguin called the meeting to order at about 9:01 a.m. Quorum was present.

**Present:** 11 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, Romero, and Wilson L

**Absent:** 1 - Peralez

#### 2. Public Comment

#### 3. Committee Member Announcements

The following made an announcement: Pat Ekliund.

The following gave public comment: Kristi Corley.

#### 4. Chair's Report

4.a. [21-1248](#) ABAG Administrative Committee Chair's Report for September 29, 2021

Chair Arreguin gave the report.

## 5. Executive Director's Report

- 5.a. [21-1249](#) Executive Director's Report for September 29, 2021

## 6. Regional Housing Needs Allocation Appeals Public Hearing

6. [21-1250](#) The Administrative Committee will hear appeals from jurisdictions and responses to issues raised by ABAG/MTC staff. Jurisdictions scheduled for this meeting are listed below; the hearing is scheduled to be continued at the special meeting of the ABAG Administrative Committee on October 8, 2021 at 2:00 PM with additional jurisdictions out of the 28 total appeals. Post public comment period comments were posted on MTC Legistar.

### Contra Costa County

- 6.a. [21-1251](#) Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of San Ramon

Dave Hudson recused himself.

Debbie Chamberlain, Community Development Director, presented the RHNA appeal for the City of San Ramon.

ABAG/MTC staff gave the staff response.

The following gave public comment: Aaron Eckhouse.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Romero and second by Eklund, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of San Ramon. The motion passed unanimously by the following vote:**

**Aye:** 10 - Arreguin, Eklund, Fligor, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, Romero, and Wilson L

**Absent:** 2 - Hudson, and Peralez

**6.b.**     [21-1252](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the County of Contra Costa

Karen Mitchoff recused herself.

John Kopchick, Planning Director, presented the RHNA appeal for the County of Contra Costa.

ABAG/MTC staff gave the staff response.

**Upon the motion by Eklund and second by Arreguin, the ABAG Administrative Committee approved a preliminary action to partially grant the RHNA appeal from the County of Contra Costa to reduce the County's allocation by 35 units, as reported. The motion passed unanimously by the following vote:**

**Aye:** 6 - Arreguin, Eklund, Fligor, Lee, Ramos, and Romero

**Nay:** 2 - Mandelman, and Rabbitt

**Absent:** 4 - Hudson, Mitchoff, Peralez, and Wilson L

## **Marin County**

**6.c.**     [21-1253](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Belvedere

Craig Middleton, City Manager, presented the RHNA appeal for the City of Belvedere.

ABAG/MTC staff gave the staff response.

The following submitted public comment: Rebekah Helzel.

**Upon the motion by Hudson and second by Mitchoff, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Belvedere. The motion passed by the following vote:**

**Aye:** 9 - Arreguin, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, and Romero

**Nay:** 1 - Eklund

**Absent:** 2 - Peralez, and Wilson L



**6.d.**     [21-1254](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Corte Madera

Adam Wolff, Planning and Building Director, presented the RHNA appeal for the Town of Corte Madera.

ABAG/MTC staff gave the staff response.

The following gave public comment: Susan Kirsch, Jordan Grimes.

The following submitted public comment: Rebekah Helzel.

**Upon the motion by Hudson and second by Fligor, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the Town of Corte Madera. The motion passed unanimously by the following vote:**

**Aye:** 11 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, Romero, and Wilson L

**Absent:** 1 - Peralez

## **7. Adjournment / Next Meeting**

Chair Arreguin adjourned the meeting at about 11:39 a.m. The ABAG Administrative Committee will continue the public hearing on RHNA Appeals on October 8, 2021.



375 Beale Street  
Suite 700  
San Francisco, California  
94105

## Meeting Minutes - Draft

### ABAG Administrative Committee

*Chair, Jesse Arreguin, Mayor, City of Berkeley*  
*Vice Chair, Belia Ramos, Supervisor, County of Napa*

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Friday, October 8, 2021

2:00 PM

REMOTE (In person option available)

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#### Special Meeting

#### Association of Bay Area Governments Administrative Committee

The ABAG Administrative Committee may act on any item on the agenda.

The meeting is scheduled to begin at 2:00 p.m.,  
or immediately following the preceding ABAG/MTC meetings.  
Agenda, roster, and webcast available at <https://abag.ca.gov>  
For information, contact Clerk of the Board at (415) 820-7913.

#### Roster

Jesse Arreguin, Pat Eklund, Neysa Fligor, Dave Hudson, Otto Lee, Rafael Mandelman, Karen Mitchoff, Raul Peralez, David Rabbitt, Belia Ramos, Carlos Romero, Lori Wilson

#### 1. Call to Order / Roll Call / Confirm Quorum

Chair Arreguin called the meeting to order at about 2:01 p.m. Quorum was present.

**Present:** 10 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, and Romero

**Absent:** 2 - Peralez, and Wilson L

#### 2. Public Comment

#### 3. Committee Member Announcements

#### 4. Chair's Report

[21-1256](#)

ABAG Administrative Committee Chair's Report for October 8, 2021

Chair Arreguin gave the report.

#### 5. Executive Director's Report

[21-1257](#) Executive Director's Report for October 8, 2021

## 6. Consent Calendar

Upon the motion by Eklund and second by Romero, the ABAG Administrative Committee approved the Consent Calendar. The motion passed unanimously by the following vote:

**Aye:** 10 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, and Romero

**Absent:** 2 - Perez, and Wilson L

- 6.a. [21-1346](#) Authorizations to accept \$569,366 from the U.S. EPA to implement the Wetlands Regional Monitoring Program Plan Phase III
- 6.b. [21-1347](#) Adoption of ABAG Resolution No. 10-2021 - Authorization to amend the Association of Bay Area Governments Clean Vessel Act Education and Outreach Northern California Grant Agreement to accept an additional \$123,294.18 in funding for a total contract amount of \$453,294.18 between May 1, 2021 and December 31, 2022

## 7. Regional Housing Needs Allocation Appeals Public Hearing

[21-1258](#) The Administrative Committee will hear appeals from jurisdictions and responses to issues raised by ABAG/MTC staff. Jurisdictions scheduled for this meeting are listed below; the hearing is scheduled to be continued at the special meeting of the ABAG Administrative Committee on October 15, 2021 at 1:00 PM with additional jurisdictions out of the 28 total appeals.

Post public comment period comments were posted on MTC Legistar.

### Marin County

- 7.a. [21-1259](#) Report on Regional Housing Needs Allocation (RHNA) Appeal for the Town of Fairfax
- Ben Berto, Planning and Building Services Director, presented the RHNA appeal for the Town of Fairfax.
- ABAG/MTC staff gave the staff response.
- The following gave public comment: Valerie Hood, Susan Kirsch, Rick Harner, Johnson49, Kevin Curtis, Pamela Meigs.
- Post public comment period comments were posted on MTC Legistar.
- Upon the motion by Hudson and second by Mitchoff, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the Town of Fairfax. The motion passed unanimously by the following vote:**
- Aye:** 10 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, and Romero
- Absent:** 2 - Peralez, and Wilson L
- 
- 7.b. [21-1260](#) Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Larkspur
- Neal Toft, Planning and Building Director, presented the RHNA appeal for the City of Larkspur.
- ABAG/MTC staff gave the staff response.
- The following gave public comment: Susan Kirsch, Johnson49.
- Post public comment period comments were posted on MTC Legistar.
- Upon the motion by Hudson and second by Ramos, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Larkspur. The motion passed unanimously by the following vote:**
- Aye:** 10 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, and Romero
- Absent:** 2 - Peralez, and Wilson L

7.c. [21-1261](#) Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Mill Valley

Danielle Staude, Senior Planner, presented the RHNA appeal for the City of Mill Valley.

ABAG/MTC staff gave the staff response.

The following gave public comment: Susan Kirsch, Aaron Eckhouse.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Hudson and second by Romero, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Mill Valley. The motion passed unanimously by the following vote:**

**Aye:** 10 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, and Romero

**Absent:** 2 - Peralez, and Wilson L

## 8. Adjournment / Next Meeting

Chair Arreguin adjourned the meeting at about 3:45 p.m. The ABAG Administrative Committee will continue the public hearing on RHNA Appeals on October 15, 2021.



375 Beale Street  
Suite 700  
San Francisco, California  
94105

## Meeting Minutes - Draft

### ABAG Administrative Committee

*Chair, Jesse Arreguin, Mayor, City of Berkeley*  
*Vice Chair, Belia Ramos, Supervisor, County of Napa*

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Friday, October 15, 2021

1:00 PM

REMOTE (In person option available)

---

#### Special Meeting

#### Association of Bay Area Governments Administrative Committee

The ABAG Administrative Committee may act on any item on the agenda.

The meeting is scheduled to begin at 1:00 p.m.

Agenda, roster, and webcast available at <https://abag.ca.gov>

For information, contact Clerk of the Board at (415) 820-7913.

#### Roster

Jesse Arreguin, Pat Eklund, Neysa Fligor, Dave Hudson, Otto Lee, Rafael Mandelman,  
Karen Mitchoff, Raul Peralez, David Rabbitt, Belia Ramos, Carlos Romero, Lori Wilson

#### 1. Call to Order / Roll Call / Confirm Quorum

Chair Arreguin called the meeting to order at about 1:00 p.m. Quorum was present.

**Present:** 11 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, Romero, and Wilson L

**Absent:** 1 - Peralez

#### 2. Public Comment

#### 3. Committee Member Announcements

#### 4. Chair's Report

[21-1262](#)

ABAG Administrative Committee Chair's Report for October 15, 2021

Chair Arreguin gave the report.

#### 5. Executive Director's Report

[21-1263](#)

Executive Director's Report for October 15, 2021

## 6. Regional Housing Needs Allocation Appeals Public Hearing

6. [21-1264](#) The Administrative Committee will hear appeals from jurisdictions and responses to issues raised by ABAG/MTC staff. Jurisdictions scheduled for this meeting are listed below; the hearing is scheduled to be continued at the special meeting of the ABAG Administrative Committee on October 22, 2021 at 9:00 AM with additional jurisdictions out of the 28 total appeals.

Post public comment period comments and general public comments were posted on MTC Legistar.

### Marin County

- 6.a. [21-1265](#) Report on Regional Housing Needs Allocation (RHNA) Appeal for the Town of Ross

Patrick Streeter, Planning and Building Director, presented the RHNA appeal for the Town of Ross.

ABAG/MTC staff gave the staff response.

The following gave public comment: Aaron Eckhouse, Jen Larson.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Hudson and second by Wilson, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the Town of Ross. The motion passed by the following vote:**

**Aye:** 10 - Arreguin, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, Romero, and Wilson L

**Nay:** 1 - Eklund

**Absent:** 1 - Peralez

**6.b.**     [21-1266](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the Town of San Anselmo

Brian Colbert, Mayor, and Elise Semonian, Planning Director, presented the RHNA appeal for the Town of San Anselmo.

ABAG/MTC staff gave the staff response.

The following gave public comment: Aaron Eckhouse, Nancy Okada, Jordan Grimes, David Edmondson, Jen Larson.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Mitchoff and second by Romero, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the Town of San Anselmo. The motion passed by the following vote:**

**Aye:** 10 - Arreguin, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, Romero, and Wilson L

**Nay:** 1 - Eklund

**Absent:** 1 - Peralez

**6.c.**     [21-1267](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Sausalito

Jill Hoffman, Mayor, and Beth Thompson, Principal, presented the RHNA appeal for the City of Sausalito.

ABAG/MTC staff gave the staff response.

The following gave public comment: Linda Pfeifer.

Post public comment period comments and late public comments submitted were posted on MTC Legistar.

**Upon the motion by Arreguin and second by Fligor, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Sausalito. The motion passed by the following vote:**

**Aye:** 10 - Arreguin, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, Romero, and Wilson L

**Nay:** 1 - Eklund

**Absent:** 1 - Peralez



**6.d.**     [21-1268](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the Town of Tiburon

Holli Thier, Mayor, and Christine O'Rourke, Principal, presented the RHNA appeal for the Town of Tiburon.

ABAG/MTC staff gave the staff response.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Romero and second by Lee, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the Town of Tiburon. The motion passed by the following vote:**

**Aye:** 10 - Arreguin, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, Romero, and Wilson L

**Nay:** 1 - Eklund

**Absent:** 1 - Peralez

## **7. Adjournment / Next Meeting**

Chair Arreguin adjourned the meeting at about 3:11 p.m. The ABAG Administrative Committee will continue the public hearing on RHNA Appeals on October 22, 2021.



375 Beale Street  
Suite 700  
San Francisco, California  
94105

## Meeting Minutes - Draft

### ABAG Administrative Committee

*Chair, Jesse Arreguin, Mayor, City of Berkeley*  
*Vice Chair, Belia Ramos, Supervisor, County of Napa*

---

Friday, October 22, 2021

9:00 AM

REMOTE (In person option available)

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#### Special Meeting

#### Association of Bay Area Governments Administrative Committee

The ABAG Administrative Committee may act on any item on the agenda.

The meeting is scheduled to begin at 9:00 a.m.

Agenda, roster, and webcast available at <https://abag.ca.gov>

For information, contact Clerk of the Board at (415) 820-7913.

#### Roster

Jesse Arreguin, Pat Eklund, Neysa Fligor, Dave Hudson, Otto Lee, Rafael Mandelman, Karen Mitchoff, Raul Peralez, David Rabbitt, Belia Ramos, Carlos Romero, Lori Wilson

#### 1. Call to Order / Roll Call / Confirm Quorum

Chair Arreguin called the meeting to order at about 9:01 a.m. Quorum was present.

**Present:** 9 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:** 3 - Peralez, Rabbitt, and Wilson L

#### 2. Public Comment

#### 3. Committee Member Announcements

#### 4. Chair's Report

4.a. [21-1277](#) ABAG Administrative Committee Chair's Report for October 22, 2021

Chair Arreguin gave the report.

#### 5. Executive Director's Report

5.a. [21-1278](#) Executive Director's Report for October 22, 2021

## 6. Regional Housing Needs Allocation Appeals Public Hearing

[21-1279](#)

The Administrative Committee will hear appeals from jurisdictions and responses to issues raised by ABAG/MTC staff. Jurisdictions scheduled for this meeting are listed below; the hearing is scheduled to be continued at the special meeting of the ABAG Administrative Committee on October 29, 2021 at 9:00 AM with additional jurisdictions out of the 28 total appeals.

### Marin County

6.a. [21-1280](#)

Report on Regional Housing Needs Allocation (RHNA) Appeal for the Unincorporated Marin County

Leelee Thomas, Community Development Deputy Director, presented the RHNA appeal for the County of Marin.

ABAG/MTC staff gave the staff response.

The following gave public comment: Jordan Grimes.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Romero and second by Hudson, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the County of Marin. The motion passed unanimously by the following vote:**

**Aye:** 8 - Arreguin, Eklund, Fligor, Hudson, Lee, Mitchoff, Ramos, and Romero

**Absent:** 4 - Mandelman, Peralez, Rabbitt, and Wilson L

### Santa Clara County

6.b. [21-1281](#)

Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Los Altos

Neysa Fligor recused herself.

Jon Biggs, Community Development Director, presented the RHNA appeal for the City of Los Altos.

ABAG/MTC staff gave the staff response.

The following gave public comment: Frank Meth, Roberta Philips, Jan Baer, Jordan Grimes, Salim, Kristi Corley.

**Upon the motion by Romero and second by Eklund, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Los Altos. The motion passed unanimously by the following vote:**

**Aye:** 8 - Arreguin, Eklund, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:** 4 - Fligor, Perez, Rabbitt, and Wilson L

- 6.c.**     [21-1282](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the Town of Los Altos Hills
- Steve Padovan, Interim Planning Director, presented the RHNA appeal for the Town of Los Altos Hills.

ABAG/MTC staff gave the staff response.

The following gave public comment: Jon Baer, Kristi Corley, Duffy Price, Aaron Eckhouse, Kelsey Banes, Jordan Grimes, Salim.

**Upon the motion by Arreguin and second by Ramos, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the Town of Los Altos Hills. The motion passed unanimously by the following vote:**

**Aye:** 9 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:** 3 - Perez, Rabbitt, and Wilson L

- 6.d.**     [21-1283](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Monte Sereno
- Richard James, Principal, EMC Group, and Shawn Leuthold, Mayor, presented the RHNA appeal for the City of Monte Sereno.

ABAG/MTC staff gave the staff response.

The following gave public comment: Daniel Rhoads, Rowena Turner, Liz Lawler, Aaron Eckhouse.

**Upon the motion by Arreguin and second by Eklund, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Monte Sereno. The motion passed unanimously by the following vote:**

**Aye:** 9 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:** 3 - Perez, Rabbitt, and Wilson L

**6.e.**     [21-1284](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Palo Alto

Jonathan Lait, Planning and Development Services Director, and Eric Filseth, Councilmember, presented the RHNA appeal for the City of Palo Alto.

ABAG/MTC staff gave the staff response.

The following gave public comment: Aaron Eckhouse, Rohnin Ghosh, Richard Mehlinger, Ryan Globus, Kelsey Banes, Arthur Keller, Jordan Grimes.

**Upon the motion by Eklund and second by Ramos, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Palo Alto. The motion passed unanimously by the following vote:**

**Aye:**    9 -    Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:**   3 -    Peralez, Rabbitt, and Wilson L

**6.f.**     [21-1285](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the City of Saratoga

Debbie Pedro, Community Development Director, presented the RHNA appeal for the City of Saratoga.

ABAG/MTC staff gave the staff response.

The following gave public comment: Anjeli Kauser, Mike Durham, Tina Waliaum, Aaron Eckhouse, Yan Zhao, Daniel Rhoads, Jordan Grimes.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Eklund and second by Romero, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeal from the City of Saratoga. The motion passed unanimously by the following vote:**

**Aye:**    9 -    Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Romero

**Absent:**   3 -    Peralez, Rabbitt, and Wilson L

**6.g.**     [21-1286](#)     Report on Regional Housing Needs Allocation (RHNA) Appeal for the  
Unincorporated Santa Clara County

Otto Lee recused himself.

Jacqueline Onciano, Planning and Development Director, presented the  
RHNA appeal for the County of Santa Clara.

ABAG/MTC staff gave the staff response.

The following gave public comment: Mark Landgraf, Brian Schmidt, Kristi  
Corley.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Eklund and second by Arreguin, the ABAG Administrative  
Committee approved a preliminary action to deny the RHNA appeal from the  
County of Santa Clara. The motion passed unanimously by the following vote:**

**Aye:**    8 -    Arreguin, Eklund, Fligor, Hudson, Mandelman, Mitchoff, Ramos, and Romero

**Absent:**   4 -    Lee, Peralez, Rabbitt, and Wilson L

## **7. Adjournment / Next Meeting**

Chair Arreguin adjourned the meeting at about 1:48 p.m. The ABAG  
Administrative Committee will continue the public hearing on RHNA  
Appeals on October 29, 2021.



375 Beale Street  
Suite 700  
San Francisco, California  
94105

## Meeting Minutes - Draft

### ABAG Administrative Committee

*Chair, Jesse Arreguin, Mayor, City of Berkeley*  
*Vice Chair, Belia Ramos, Supervisor, County of Napa*

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Friday, October 29, 2021

9:00 AM

REMOTE (In person option available)

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#### Special Meeting

#### Association of Bay Area Governments Administrative Committee

The ABAG Administrative Committee may act on any item on the agenda.

The meeting is scheduled to begin at 9:00 a.m.

Agenda, roster, and webcast available at <https://abag.ca.gov>

For information, contact Clerk of the Board at (415) 820-7913.

#### Roster

Jesse Arreguin, Pat Eklund, Neysa Fligor, Dave Hudson, Otto Lee, Rafael Mandelman, Karen Mitchoff, Raul Peralez, David Rabbitt, Belia Ramos, Carlos Romero, Lori Wilson

#### 1. Call to Order / Roll Call / Confirm Quorum

Chair Arreguin called the meeting to order at about 9:04 a.m. Quorum was present.

**Present:** 10 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, and Wilson L

**Absent:** 2 - Peralez, and Romero

#### 2. Public Comment

#### 3. Committee Member Announcements

#### 4. Chair's Report

4.a. [21-1269](#) ABAG Administrative Committee Chair's Report for October 29, 2021

Chair Arreguin gave the report.

#### 5. Executive Director's Report

5.a. [21-1270](#) Executive Director's Report for October 29, 2021



## 6. Regional Housing Needs Allocation Appeals Public Hearing

6. [21-1271](#) The Administrative Committee will hear appeals from jurisdictions and responses to issues raised by ABAG/MTC staff. Jurisdictions scheduled for this meeting are listed below; the hearing is scheduled to be continued at the special meeting of the ABAG Administrative Committee on November 12, 2021 at 10:30 AM with additional jurisdictions out of the 28 total appeals.

Post public comment period comments and public comments submitted were posted on MTC Legistar.

### Sonoma County

- 6.a. [21-1272](#) Report on Regional Housing Needs Allocation (RHNA) Appeal for the Unincorporated Sonoma County
- Tennis Wick, Permit Sonoma Director, presented the RHNA appeals for the County of Sonoma.

ABAG/MTC staff gave the staff response.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Eklund and second by Wilson, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeals from the County of Sonoma. The motion passed unanimously by the following vote:**

**Aye:** 9 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Ramos, and Wilson L

**Absent:** 3 - Peralez, Rabbitt, and Romero

- 6.b. [21-1274](#) Report on Regional Housing Needs Allocation (RHNA) Appeal for the Town of Windsor
- Sam Salmon, Mayor, presented the RHNA appeal for the Town of Windsor.

ABAG/MTC staff gave the staff response.

Post public comment period comments were posted on MTC Legistar.

**Upon the motion by Arreguin and second by Wilson, the ABAG Administrative Committee approved a preliminary action to deny the RHNA appeals from the Town of Windsor. The motion passed unanimously by the following vote:**

**Aye:** 10 - Arreguin, Eklund, Fligor, Hudson, Lee, Mandelman, Mitchoff, Rabbitt, Ramos, and Wilson L

**Absent:** 2 - Peralez, and Romero

**7. Adjournment / Next Meeting**

Chair Arreguin adjourned the meeting at about 10:25 a.m. The next meeting of the ABAG Administrative Committee on RHNA appeals is on November 12, 2021.



# Metropolitan Transportation Commission

375 Beale Street, Suite 800  
San Francisco, CA 94105

## Legislation Details (With Text)

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<b>File #:</b>	21-1466	<b>Version:</b>	1	<b>Name:</b>	
<b>Type:</b>	Report	<b>Status:</b>		Committee Approval	
<b>File created:</b>	10/25/2021	<b>In control:</b>		ABAG Administrative Committee	
<b>On agenda:</b>	11/12/2021	<b>Final action:</b>			
<b>Title:</b>	Regional Housing Needs Allocation (RHNA) Appeal Final Determinations				

Approval of the final determinations for the RHNA appeals, heard by the ABAG Administrative Committee at a public hearing in September and October, and authorization to issue the proposed final allocation plan prior to Executive Board consideration of adoption in December.

### Sponsors:

### Indexes:

### Code sections:

**Attachments:**

- [Item 7a 1 Summary Sheet - RHNA Appeals Final Determinations.pdf](#)
- [Item 7a 1a RHNA Appeals Final Determinations.pdf](#)
- [Item 7a Attachment A - RHNA Appeals Final Determination Alameda.pdf](#)
- [Item 7a Attachment A - RHNA Appeals Final Determination Alameda Attachment 1.pdf](#)
- [Item 7a Attachment B - RHNA Appeals Final Determination Dublin.pdf](#)
- [Item 7a Attachment B - RHNA Appeals Final Determination Dublin Attachment 1.pdf](#)
- [Item 7a Attachment C - RHNA Appeals Final Determination Pleasanton.pdf](#)
- [Item 7a Attachment C - RHNA Appeals Final Determination Pleasanton Attachment 1.pdf](#)
- [Item 7a Attachment D - RHNA Appeals Final Determination Clayton.pdf](#)
- [Item 7a Attachment D - RHNA Appeals Final Determination Clayton Attachment 1.pdf](#)
- [Item 7a Attachment E - RHNA Appeals Final Determination Danville.pdf](#)
- [Item 7a Attachment E - RHNA Appeals Final Determination Danville Attachment 1.pdf](#)
- [Item 7a Attachment F - RHNA Appeals Final Determination Lafayette.pdf](#)
- [Item 7a Attachment F - RHNA Appeals Final Determination Lafayette Attachment 1.pdf](#)
- [Item 7a Attachment G - RHNA Appeals Final Determination Pleasant Hill.pdf](#)
- [Item 7a Attachment G - RHNA Appeals Final Determination Pleasant Hill Attachment 1.pdf](#)
- [Item 7a Attachment H - RHNA Appeals Final Determination San Ramon.pdf](#)
- [Item 7a Attachment H - RHNA Appeals Final Determination San Ramon Attachment 1.pdf](#)
- [Item 7a Attachment I - RHNA Appeals Final Determination Contra Costa County v2.pdf](#)
- [Item 7a Attachment I - RHNA Appeals Final Determination Contra Costa County Attachment 1.pdf](#)
- [Item 7a Attachment J - RHNA Appeals Final Determination Belvedere.pdf](#)
- [Item 7a Attachment J - RHNA Appeals Final Determination Belvedere Attachment 1.pdf](#)
- [Item 7a Attachment K - RHNA Appeals Final Determination Corte Madera.pdf](#)
- [Item 7a Attachment K - RHNA Appeals Final Determination Corte Madera Attachment 1.pdf](#)
- [Item 7a Attachment L - RHNA Appeals Final Determination Fairfax.pdf](#)
- [Item 7a Attachment L - RHNA Appeals Final Determination Fairfax Attachment 1.pdf](#)
- [Item 7a Attachment M - RHNA Appeals Final Determination Larkspur.pdf](#)
- [Item 7a Attachment M - RHNA Appeals Final Determination Larkspur Attachment 1.pdf](#)
- [Item 7a Attachment N - RHNA Appeals Final Determination Mill Valley.pdf](#)

[Item 7a Attachment N - RHNA Appeals Final Determination Mill Valley Attachment 1.pdf](#)  
[Item 7a Attachment O - RHNA Appeals Final Determination Ross.pdf](#)  
[Item 7a Attachment O - RHNA Appeals Final Determination Ross Attachment 1.pdf](#)  
[Item 7a Attachment P - RHNA Appeals Final Determination San Anselmo.pdf](#)  
[Item 7a Attachment P - RHNA Appeals Final Determination San Anselmo Attachment 1.pdf](#)  
[Item 7a Attachment Q - RHNA Appeals Final Determination Sausalito.pdf](#)  
[Item 7a Attachment Q - RHNA Appeals Final Determination Sausalito Attachment 1.pdf](#)  
[Item 7a Attachment R - RHNA Appeals Final Determination Tiburon.pdf](#)  
[Item 7a Attachment R - RHNA Appeals Final Determination Tiburon Attachment 1.pdf](#)  
[Item 7a Attachment S - RHNA Appeals Final Determination Marin County.pdf](#)  
[Item 7a Attachment S - RHNA Appeals Final Determination Marin County Attachment 1.pdf](#)  
[Item 7a Attachment T - RHNA Appeals Final Determination Los Altos.pdf](#)  
[Item 7a Attachment T - RHNA Appeals Final Determination Los Altos Attachment 1.pdf](#)  
[Item 7a Attachment U - RHNA Appeals Final Determination Los Altos Hills.pdf](#)  
[Item 7a Attachment U - RHNA Appeals Final Determination Los Altos Hills Attachment 1.pdf](#)  
[Item 7a Attachment V - RHNA Appeals Final Determination Monte Sereno.pdf](#)  
[Item 7a Attachment V - RHNA Appeals Final Determination Monte Sereno Attachment 1.pdf](#)  
[Item 7a Attachment W - RHNA Appeals Final Determination Palo Alto.pdf](#)  
[Item 7a Attachment W - RHNA Appeals Final Determination Palo Alto Attachment 1.pdf](#)  
[Item 7a Attachment X - RHNA Appeals Final Determination Saratoga.pdf](#)  
[Item 7a Attachment X - RHNA Appeals Final Determination Saratoga Attachment 1.pdf](#)  
[Item 7a Attachment Y - RHNA Appeals Final Determination Santa Clara County.pdf](#)  
[Item 7a Attachment Y - RHNA Appeals Final Determination Santa Clara County Attachment 1.pdf](#)  
[Item 7a Attachment Z - RHNA Appeals Final Determination Sonoma County.pdf](#)  
[Item 7a Attachment Z - RHNA Appeals Final Determination Sonoma County Attachment 1.pdf](#)  
[Item 7a Attachment ZZ - RHNA Appeals Final Determination Windsor.pdf](#)  
[Item 7a Attachment ZZ - RHNA Appeals Final Determination Windsor Attachment 1.pdf](#)

Date	Ver.	Action By	Action	Result
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## Regional Housing Needs Allocation (RHNA) Appeal Final Determinations

Approval of the final determinations for the RHNA appeals, heard by the ABAG Administrative Committee at a public hearing in September and October, and authorization to issue the proposed final allocation plan prior to Executive Board consideration of adoption in December.

Gillian Adams

Approval

## Association of Bay Area Governments

### Administrative Committee

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November 12, 2021

Agenda Item 7.a.

#### Regional Housing Needs Allocation

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#### Subject:

Regional Housing Needs Allocation (RHNA) Appeal Final Determinations

#### Background:

RHNA is the state-mandated<sup>1</sup> process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031. On May 20, 2021, the ABAG Executive Board approved the [Final Regional Housing Needs Allocation \(RHNA\) Methodology and Draft Allocations](#). Release of the Draft RHNA Allocations initiated the appeals phase of the RHNA process.<sup>2</sup>

#### Issues:

In May 2021, the ABAG Executive Board delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals. ABAG received 28 appeals from Bay Area jurisdictions by the July 9, 2021 deadline (with Sonoma County submitting two separate appeals). Per Government Code Section 65584.05(d), the ABAG Administrative Committee conducted a public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

The Administrative Committee took a preliminary action on each appeal during the public hearing.

#### Recommended Action:

The Administrative Committee is requested to take final action on the 28 RHNA appeals.

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<sup>1</sup> See California [Government Code §65584](#).

<sup>2</sup> See [Government Code Section 65584.05](#) for an overview of the appeals process.

## **Attachments:**

1. Presentation
- A. RHNA Appeals Final Determination – Alameda
- B. RHNA Appeals Final Determination – Dublin
- C. RHNA Appeals Final Determination – Pleasanton
- D. RHNA Appeals Final Determination – Clayton
- E. RHNA Appeals Final Determination – Danville
- F. RHNA Appeals Final Determination – Lafayette
- G. RHNA Appeals Final Determination – Pleasant Hill
- H. RHNA Appeals Final Determination – San Ramon
- I. RHNA Appeals Final Determination – Contra Costa County
- J. RHNA Appeals Final Determination – Belvedere
- K. RHNA Appeals Final Determination – Corte Madera
- L. RHNA Appeals Final Determination – Fairfax
- M. RHNA Appeals Final Determination – Larkspur
- N. RHNA Appeals Final Determination – Mill Valley
- O. RHNA Appeals Final Determination – Ross
- P. RHNA Appeals Final Determination – San Anselmo
- Q. RHNA Appeals Final Determination – Sausalito
- R. RHNA Appeals Final Determination – Tiburon
- S. RHNA Appeals Final Determination – Marin County
- T. RHNA Appeals Final Determination – Los Altos
- U. RHNA Appeals Final Determination – Los Altos Hills
- V. RHNA Appeals Final Determination – Monte Sereno
- W. RHNA Appeals Final Determination – Palo Alto
- X. RHNA Appeals Final Determination – Saratoga

Y. RHNA Appeals Final Determination – Santa Clara County

Z. RHNA Appeals Final Determination – Sonoma County

AA. RHNA Appeals Final Determination – Windsor

**Reviewed:**

A handwritten signature in blue ink, appearing to read "Therese W. McMillan", with a stylized flourish at the end.

Therese W. McMillan





# RHNA Appeals Final Determinations

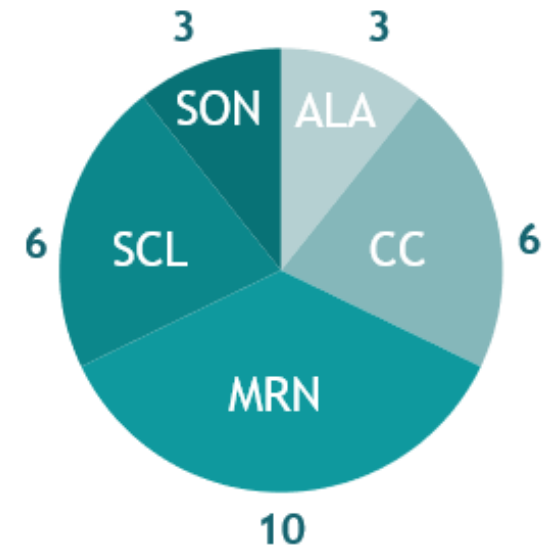
ABAG Administrative  
Committee

November 12, 2021

# RHNA Appeals Process Review

- 27 jurisdictions submitted a RHNA appeal (with one jurisdiction submitting two separate appeals)
- Appeals generated almost 450 comments from public and other stakeholders.
- Appeals and comments are on ABAG website: <https://abag.ca.gov/our-work/housing/rhna-regional-housing-needs-allocation/2023-2031-rhna-appeals-process>
- Per Government Code Section 65584.05(d), ABAG must conduct a public hearing to consider appeals and comments.

ABAG received 28 appeals by the July 9, 2021 deadline:



# RHNA Appeals Hearing

- In May 2021, ABAG Executive Board delegated authority to ABAG Administrative Committee to conduct public hearing and make final determinations on appeals.
- The ABAG Administrative Committee conducted a public hearing to consider the RHNA appeals at six meetings on the following dates:
  - September 24, 2021
  - September 29, 2021
  - October 8, 2021
  - October 15, 2021
  - October 22, 2021
  - October 29, 2021
- Materials for all public hearing dates on ABAG website: <https://abag.ca.gov/meetings>
- The Administrative Committee issued a preliminary determination on each appeal; **purpose of today's meeting is to ratify the final decisions.**

# Administrative Committee Preliminary Decisions

- The Administrative Committee took a preliminary action to **deny** 27 of the 28 appeals.
- The Administrative Committee took a preliminary action to **partially grant** the appeal for the County of Contra Costa because:
  - An area annexed to Pittsburg in 2018 (LAFCO 17-08) was **incorrectly included as part of unincorporated Contra Costa County in the Plan Bay Area 2050 Final Blueprint.**
  - Reducing the County’s total households in 2050 (the baseline allocation for RHNA methodology) by the 412 households projected in that area **results in a reduction in the County’s total RHNA of 35 units:**

Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate- Income Units	Total
10	5	6	14	35

- As allowed by Government Code Section 65584.05(e)(1), the Administrative Committee determined that **these 35 RHNA units should be transferred to the City of Pittsburg.**

# Requested Action

- The Administrative Committee is requested to take final action on the 28 RHNA appeals.



# Thank You

For more information:

Contact: [RHNA@bayareametro.gov](mailto:RHNA@bayareametro.gov)

Visit ABAG's RHNA website: <https://abag.ca.gov/our-work/housing/rhna-regional-housing-needs-allocation>

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Alameda RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.



On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Alameda requests the reduction of its Draft RHNA Allocation by 2,703 units. The City of Alameda's appeal was heard by the ABAG Administrative Committee on September 24, 2021, at a noticed public hearing. The City of Alameda, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Alameda's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals

comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5143147&GUID=D64DC2B3-D5A8-495C-91B2-5237F3403647&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=AO&ID=106682&GUID=5b9b074b-fa6e-4de9-8a3a-b7bf1a3c8c12&N=SXRIbSA2YSBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Alameda had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Alameda presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Alameda's appeal. The Administrative Committee considered the documents submitted by the City of Alameda, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Alameda and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at: [http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9330](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9330). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-24-21-rhna-trial-day-1-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Alameda, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Local Prohibition on Multi-Family Housing* – Government Code Section 65584.04(g) specifically states that any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits shall not be a justification for a determination or a reduction in a city's or county's share of regional housing need. The voter approved prohibition of multifamily housing is not a valid basis for reduction in RHNA.
- *Regarding Issue #2: Impact Fee Imposed by the U.S. Navy* – Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. While Alameda Point may be the city's largest opportunity site, Alameda has not demonstrated it cannot accommodate its RHNA allocation elsewhere.
- *Regarding Issue #3: Areas at Risk of Natural Hazards* – Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Areas at risk of natural hazards are not identified in Housing Element Law as a constraint to housing except when FEMA or Department of Water Resources has determined flood management infrastructure to protect land is inadequate. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region's housing needs and avoid planning for new homes in places at risk. The City has authority to plan for housing in places with lower risk in its Housing Element.
- *Regarding Issue #4: Transportation Impacts* – Government Code Section 65584.04(e) does not include transportation impacts as a factor to be considered in the RHNA methodology; therefore, this is not a valid basis for a RHNA appeal. Additionally, Plan Bay Area 2050 includes more than half a trillion dollars of future transportation investments in its Transportation Element that would encourage alternatives to driving, lessening the impacts of household growth on the City of Alameda's roads.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the

City of Alameda's appeal and finds that the City of Alameda's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Alameda Appeal of Draft RHNA Allocation and Staff Response

DATE: September 24, 2021

## OVERVIEW

**Jurisdiction:** City of Alameda

**Summary:** The City of Alameda requests the reduction of its Draft RHNA Allocation by 2,703 units (50 percent) from 5,353 units to 2,650 units based on the following issues:

- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Alameda	1,421	818	868	2,246	5,353

### Local Jurisdiction Survey

The City of Alameda did not 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 Alameda. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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The City submitted an appeal based on Government Code Section 65584.05(b)(3), that a “significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04.” Government Code Section 65584.04(b) refers to the Local Jurisdiction Survey that ABAG conducted in January and February of 2020. However, the City of Alameda does not meet the statutory criteria for submitting an appeal, as described in Government Code Section 65584.05(b)(3), because the City did not submit a survey response to ABAG. Though the jurisdiction lacks a valid basis for appealing its draft allocation according to Government Code Section 65584.05(b)(3), ABAG-MTC staff responded to the issues raised in the jurisdiction’s appeal. The City also appealed based on Government Code Section 65584.05(b)(2), claiming ABAG failed to determine the jurisdiction’s Draft RHNA Allocation in accordance with the Final RHNA Methodology and in a manner that furthers the RHNA Objectives. ABAG’s response below addresses these claims as well.

**Issue 1:** *The City argues that it has limited land for housing because of a voter-approved City Charter provision that prohibits construction of multifamily housing in Alameda. As a result, its RHNA allocation should be limited to 331 units per year for a total of 2,650 over the 8-year period.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(g) specifically states that any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits shall not be a justification for a determination or a reduction in a city’s or county’s share of regional housing need. Thus, this is not a valid basis for a RHNA appeal.

**Issue 2:** *The City cites a constraint to development because the Navy has imposed a financial impact fee on every market rate unit constructed at Alameda Point, the city’s largest opportunity site, after the 1,506th unit. The impact fee makes any additional residential development beyond the initial 1,506 units infeasible at Alameda Point. By the start of the RHNA period, just over 500 units will be constructed leaving less than 1,000 units (without the fee) to accommodate RHNA. Under State Housing Law, the City of Alameda cannot accommodate its RHNA allocation on sites that are not economically feasible to develop. Additionally, development constraints imposed by external regulatory sources, such as the federal government, is a basis for RHNA reduction.*

**ABAG-MTC Staff Response:** 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. 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>1</sup>*

While Alameda Point may be the city’s largest opportunity site, the City has not demonstrated that it cannot accommodate its RHNA allocation elsewhere. Government Code Section 65584.04(e)(2) allows consideration of development constraints imposed by an external agency under certain narrow circumstances, but these do not include the imposition of an impact fee.

**Issue 3:** *Alameda argues it cannot accommodate its RHNA allocation in areas that are not at risk of natural hazards. Less than 50% of Alameda's urbanized area is outside a natural hazard zone. All of Alameda's potential housing sites are within future sea level rise inundation zones. A September 2020 report shows that shallow ground water rises with sea level rise and increases liquefaction risk and environmental and health hazards, and degrades infrastructure/utilities. Sea walls do not address rising groundwater, and the rising groundwater hazards in Alameda will occur ahead of the rising sea level hazards and will be more expensive and problematic to mitigate. Alameda's RHNA allocation will require building homes in high hazard areas inconsistent with Plan Bay Area 2050 goals and the ABAG RHNA Methodology.*

**ABAG-MTC Staff Response:** The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands Alameda’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 identify areas at risk of natural hazards as a potential constraint to housing development.<sup>2</sup> As HCD notes in its comment letter on submitted appeals, “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>3</sup>

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<sup>1</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>2</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>3</sup> See [HCD's comment letter on appeals](#) for more details.

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 Housing Methodology (HMC) members during the methodology development process.<sup>4</sup> Ultimately, 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.

Plan Bay Area 2050 assumes one foot of sea level rise by 2035 and two feet of rise in 2050. The adaptation solutions that are imagined are targeted along portions of shoreline that have inundation with just two feet of rise, including locations in the City of Alameda. Importantly, scientific evidence produced by the State of California suggests it is very unlikely there will be sea level rise over the next few decades that is more extreme than the levels assumed in Plan Bay Area 2050.<sup>5</sup>

The City of Alameda's sea-level influence groundwater rise study provides valuable information for the city and region. As the region develops adaptation solutions to address inundation from the Bay companion solutions that address groundwater will also be necessary. New development, like all existing development in Alameda, will need to enact adaptation solutions to address rising groundwater associated with sea level rise. New development may be more able to mitigate groundwater risks as possible solutions may be designed directly into the development.

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, the 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. In developing its Housing Element, Alameda has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the City can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

Per Government Code Section 65584.04(e)(2)(B), the City of Alameda must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. The City does not provide evidence it is unable to consider

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<sup>4</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

<sup>5</sup> For more information, see pages 26 and 31 of [Rising Seas in California: An Update on Sea-Level Rise Science](#).



underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>6</sup>

**Issue 4:** *With access to the larger region limited to four vehicular bridges and one tunnel all connecting to the already congested I-880 in Oakland, accommodating Alameda's RHNA allocation will result in significant transportation problems locally and regionally.*

**ABAG-MTC Staff Response:** Transportation impacts are not identified in Government Code Section 65584.04(e) as a factor to be considered in the RHNA methodology. As a result, this is not a valid basis for a RHNA appeal.

Plan Bay Area 2050 includes more than half a trillion dollars of future transportation investments through 12 strategies in its Transportation Element that would encourage alternatives to driving, lessening the impacts of household growth on the City of Alameda's roads. In particular, transportation projects nested within these strategies include the Alameda Point Multimodal Enhancements project, which would improve local bus service in Alameda and support the newly-opened ferry service in between Seaplane Lagoon and Alameda Point, as well as more frequent ferry service at the Alameda Main Street and Harbor Bay ferry terminals. To smooth express bus and auto travel, the long-range plan would invest in the Oakland Alameda Access Project, which would improve connectivity between the Webster and Posey tubes and I-880. Additionally, the plan envisions billions of dollars for active transportation and transportation demand management, further reducing reliance on auto travel for all Bay Area residents.

## RECOMMENDED ACTION

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the City of Alameda to reduce its Draft RHNA Allocation by 2,703 units (from 5,353 units to 2,650 units).

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<sup>6</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Dublin RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

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The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Dublin requests the reduction of its Draft RHNA Allocation by 2,267 units. The City of Dublin's appeal was heard by the ABAG Administrative Committee on September 24, 2021, at a noticed public hearing. The City of Dublin, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Dublin's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals comment

period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5143148&GUID=434144A6-8CF3-4FEA-89C5-B129E47729A6&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDdb21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Dublin had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Dublin presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Dublin's appeal. The Administrative Committee considered the documents submitted by the City of Dublin, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Dublin and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at: [http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9330](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9330). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-24-21-rhna-trial-day-1-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Dublin, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Lack of Available Land* – Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction's

existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Dublin does not provide evidence it is unable to consider underutilization of existing sites, increased densities, and other planning tools to accommodate its assigned need.

- *Regarding Issue #2: Drought* – Government Code Section 65584.04(e)(2)(A) states ABAG must consider opportunities and constraints to development of housing due to “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.” Although Dublin cites information from the Dublin San Ramon Services District’s Urban Water Management Plan about possible water supply issues and potential challenges posed by further growth, the City has not demonstrated it is precluded from meeting its RHNA allocation because of a decision by its water service provider.
- *Regarding Issue #3: Concerns That Are Not A Valid Basis For An Appeal — Population Decline* – Government Code Section 65584.04(g)(3) states stable population numbers cannot be used as a justification for a determination or a reduction of a jurisdiction’s share of the regional housing need. Stable or declining population in a jurisdiction is not, by itself, evidence there is no need for additional homes in the community. The population decline cited by the City occurred over only one year — a year heavily impacted by COVID-19. Dublin has not provided evidence its population will continue to decline long-term or that there has been a reduction in the jurisdiction’s need for housing during the 2023-2031 RHNA period.
- *Regarding Issue #4: Issues with Access to High Opportunity Areas Factor* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG’s methodology does further the objectives. HCD’s letter approving ABAG’s draft RHNA methodology states: “HCD applauds the significant weighting of Access to High Opportunity Areas as an adjustment factor and including an equity adjustment in the draft methodology.”
- *Regarding Issue #5: Issues with Plan Bay Area 2050 Final Blueprint Growth Forecast* – Most people living on the parcels identified by the City where it does not have land use authority reside in “group quarters,” such as correctional institutions or military housing that are not included in Plan Bay Area 2050 Final Blueprint’s forecast of total households in 2050, and therefore have no impact on RHNA. On the parcels Dublin identified, there

are a combined total of 10 households in 2050 which, according to information from the City, are single-family homes built in 2017 in Camp Parks. In a city of Dublin's size, the impact of these 10 households on the City's draft allocation is deemed negligible.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Dublin's appeal and finds that the City of Dublin's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Dublin Appeal of Draft RHNA Allocation and Staff Response

DATE: September 24, 2021

## OVERVIEW

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**Jurisdiction:** City of Dublin

**Summary:** The City of Dublin requests the reduction of its Draft RHNA Allocation by 2,267 units (61 percent) from 3,719 units to 1,452 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Dublin	1,085	625	560	1,449	3,719

### Local Jurisdiction Survey

The City of Dublin submitted 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 Dublin. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *Dublin requests that its above moderate-income allocation (1,449 units) be re-allocated to other jurisdictions because the City lacks sufficient land to accommodate its RHNA allocation because of recently constructed housing units, as well as additional housing units in its project pipeline. During the current RHNA cycle (2015-2023), Dublin has issued building permits for 4,396 units compared to its allocation of 2,285 units, including 4,252 above moderate-income units (688% of its allocation for that income category).*

**ABAG-MTC Staff Response:** We commend the City of Dublin's track record in building new homes. However, 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. 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>1</sup>

Per Government Code Section 65584.04(e)(2)(B), Dublin must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. The City does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>2</sup>

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<sup>1</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>2</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.



Regarding the City's concern about its allocation of above moderate-income units, it is important to note that moderate- and above moderate-income units represent nearly 60 percent of the housing needs assigned to the Bay Area by HCD. If these units were not allocated to areas like Dublin with high access to opportunity (which also tend to have a higher share of higher-income households), then they would be directed to communities with a higher share of lower-income households, which could increase displacement pressures in these communities. Allocating units at all income levels to high-resource communities helps ensure all communities do their "fair share" to provide more housing, which advances several key RHNA objectives.

**Issue 2:** *Dublin argues that the drought could create a challenge to provide water service for existing and planned growth. The Dublin San Ramon Services District (DSRSD) is the local water retailer for the City of Dublin. DSRSD recently prepared the Draft 2020 Urban Water Management Plan (UWMP), dated May 2021. The UWMP acknowledges that Dublin could experience problems due to an expiring water supply contract, dependence on imported water sources, and increased demand. Drought conditions could be more impactful on communities, like Dublin, which source water from the delta. Water supplied from the delta is more susceptible to problems due to endangered species and increased use by the agricultural industry.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period."

However, the arguments put forward by the City of Dublin do not meet the requirements for a valid RHNA appeal. Although the City cites information from the Urban Water Management Plan (UWMP) prepared by the Dublin San Ramon Services District (DSRSD) about possible water supply issues and potential challenges posed by further growth, the City has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by this water service provider.

The Bay Area's history demonstrates that future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.<sup>3</sup> A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020

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<sup>3</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.

non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

Also, the Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to further reduce water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>4</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

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<sup>4</sup> See the [Drought Contingency Plan](#) for more information.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

**Issue 3:** *The City cites the population decline from 2020-2021 in California (0.46%) and Dublin (0.7%). If the declining population trend continues, it could translate to decreased households in 2050, which, as the baseline allocation in the RHNA methodology, is a factor used for calculating the City's allocation.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(g)(3) states that stable population numbers cannot be used as a justification for a determination or a reduction of a jurisdiction's share of the regional housing need. Consistent with this statutory language, stable or declining population in a jurisdiction is not, by itself, evidence that there is not a need for additional homes in the community. It may instead be a sign of an unhealthy housing market where individuals and families lack affordable housing choices and must leave the jurisdiction to find housing elsewhere. In fact, a primary reason the RHND of 441,176 units was higher than the need assigned to the Bay Area in past RHNA cycles was because it included factors related to overcrowding, high housing cost burdens and a target vacancy rate as a way to address the region's challenges in meeting the housing needs of the existing population. In addition, the City of Dublin cites a population decline that has occurred over one year and, in particular, the year impacted by COVID-19. Dublin has not provided evidence to suggest that its population will continue to decline long-term or that there has been a reduction in the jurisdiction's housing need for the 2023-2031 RHNA planning period.

**Issue 4:** *The RHNA methodology uses the Opportunity Map, prepared by HCD and the California Tax Credit Allocation Committee (TCAC), as the basis for the Access to High Opportunity Areas (AHOA) factor. The Opportunity Map stems from HCD's policy goals to avoid further segregation and concentration of poverty and to encourage access to opportunity through affordable housing programs. Most of Dublin is labelled High Resource or Highest Resource on the 2020 Opportunity Map, but 61.1% of its population racially identify as minorities or multiracial.*

*The City argues that, by relying on the 2020 Opportunity Map and not factoring in demographic data, more housing is allocated to Dublin compared to other jurisdictions throughout the area and*

*that this methodology detracts from HCD's policy goal to promote diversity since more housing must be planned in Dublin, rather than in more segregated portions of the Bay Area, thus prioritizing economics over racial diversity. In addition, assigning more market rate housing to Dublin does not achieve the stated purpose of providing affordable housing and access to opportunity for lower-income households and fails to acknowledge the City's past performance in the above-moderate income category.*

**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>5</sup>

As noted by Dublin, the RHNA methodology uses the Opportunity Map, prepared by HCD and the California Tax Credit Allocation Committee (TCAC), as the basis for the Access to High Opportunity Areas (AHOA) factor. The State's intended policy goals for the Opportunity Map were to avoid further segregation and concentration of poverty and to encourage access to opportunity, which are the two primary outcomes related to affirmatively furthering fair housing.<sup>6</sup> "Promoting diversity," as cited by the City, was not one of the goals identified for the Opportunity Map.

HCD/TCAC determined that the best way to affirmatively further fair housing was to evaluate Census tracts based on a set of indicators that have been shown by research to support positive economic, educational, and health outcomes for low-income families. The Opportunity Map includes a filter for identifying high-poverty, racially segregated census tracts, but the methodology for evaluating other census tracts not captured by this filter does not include an indicator related to racial demographics. The RHNA methodology's use of the Highest Resource and High Resource Areas is aligned with the framework established by HCD/TCAC.

In its letter approving ABAG's draft RHNA methodology, HCD specifically identified the Access to High Opportunity Areas as an important element in furthering the RHNA objective to affirmatively further fair housing, stating:

*HCD applauds the significant weighting of Access to High Opportunity Areas as an adjustment factor and including an equity adjustment in the draft methodology.*

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<sup>5</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>6</sup> California Fair Housing Task Force, [Methodology for the 2020 TCAC/HCD Opportunity Map](#), June 2020.

*ABAG's methodology allocates more RHNA to jurisdictions with higher access to resources on a per capita basis. Additionally, those higher-resourced jurisdictions receive even larger lower income RHNA on a per capita basis. For example, the high-resourced communities of Cupertino and Mountain View receive higher total allocations on a per capita basis. For lower resourced jurisdictions with high rates of segregation, such as East Palo Alto, their allocations – particularly lower income RHNA allocations – are much lower on a per capita basis.*

**Issue 5:** *Dublin argues that the determination of total households in 2050, which is the baseline allocation in the RHNA methodology, appears to include properties where the City does not have land use authority, including properties owned by the United States of America (i.e., Parks Reserve Forces Training Area (Camp Parks) and the United States Department of Justice), Alameda County, and the Dublin Unified School District. The appeal identifies 10 such parcels. Since these parcels comprise more than one third (36%) of the total acres in Dublin, the City requests that 36% of its draft allocation (1,339 units) be re-allocated to other jurisdictions.*

**ABAG-MTC Staff Response:** Most people living on the parcels identified by Dublin reside in group quarters, such as correctional institutions or military housing. Group quarters are excluded from consideration in both the Plan Bay Area 2050 Final Blueprint and RHNA, and thus are excluded from the count of total households in 2050. The Final Blueprint includes a total of 10 households in 2050 for all 10 parcels identified by the Dublin as being owned by other entities. This is based on information provided by the City through the ABAG-MTC BASIS local data collection process that indicated there were 10 single-family homes built in 2017 on APN 986-0001-001-39. The Final Blueprint did not forecast any additional growth on these parcels. As the City of Dublin has tens of thousands of households now and in the future, the impact of 10 households on Dublin's share of the region's total households in 2050 and, as a result, its draft RHNA allocation, is deemed negligible.

There is no justification for reducing Dublin's allocation based on the land area of these parcels, as the City has not demonstrated that it is unable to consider underutilization of existing sites, increased densities, and other planning tools to accommodate its assigned need. In developing the RHNA methodology, the Housing Methodology Committee considered using land area as the baseline allocation, but ultimately rejected it in favor of using total households in 2050.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the City of Dublin to reduce its Draft RHNA Allocation by 2,267 units (from 3,719 units to 1,452 units).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Pleasanton RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

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The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Pleasanton requests the reduction of its Draft RHNA Allocation by 1,193 units. The City of Pleasanton's appeal was heard by the ABAG Administrative Committee on September 24, 2021, at a noticed public hearing. The City of Pleasanton, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Pleasanton's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA

appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5143149&GUID=A5C1081B-25DA-468D-BCC0-32A89712D621&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N= SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBD b21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Pleasanton had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Pleasanton presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Pleasanton's appeal. The Administrative Committee considered the documents submitted by the City of Pleasanton, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Pleasanton and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9330](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9330). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-24-21-rhna-trial-day-1-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Pleasanton, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Water Supply Uncertainty* – Government Code Section 65584.04(e)(2)(A) states ABAG must consider opportunities and constraints to



development of housing due to “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.” Pleasanton’s appeal does not conclusively demonstrate that its water supply, even with one well offline, cannot provide the necessary water required for additional development to meet its RHNA allocation.

- *Regarding Issue #2: Lack of Available Land* – Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction’s existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Pleasanton does not provide evidence it is unable to consider underutilization of existing sites, increased densities, and other planning tools to accommodate its assigned need. Regarding consideration of development feasibility, the land use model used for Plan Bay Area 2050 forecasting assesses feasibility and costs of developing a parcel.
- *Regarding Issue #3: RHNA Methodology Does Not Encourage Efficient Development Patterns (RHNA Objective 2)* – The City’s argument challenges the Final RHNA Methodology adopted by ABAG and approved by HCD, which falls outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG’s methodology does further the objectives. As HCD notes, ABAG’s methodology allocates “nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. . . . Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT.”
- *Regarding Issues #4, #5, #6: Concerns That Are Not A Valid Basis For An Appeal* – Pleasanton cited population decline, COVID-19, and HCD’s calculation of the Regional Housing Needs Determination (RHND) in its appeal. These arguments do not meet the statutory criteria for an appeal established by Government Code Section 65584.05.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Pleasanton’s appeal and finds that the City of Pleasanton’s RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05 (e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Pleasanton Appeal of Draft RHNA Allocation and Staff Response

DATE: September 24, 2021

## OVERVIEW

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**Jurisdiction:** City of Pleasanton

**Summary:** City of Pleasanton requests the decrease of its Draft RHNA Allocation by 1,193 units (20 percent) from 5,965 units to 4,772 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Pleasanton	1,750	1,008	894	2,313	5,965

### Local Jurisdiction Survey

The City of Pleasanton submitted 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 Pleasanton. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The City argues ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to water infrastructure constraints. Specifically, the City notes it has found some level of contamination in all three of its groundwater wells, which represent 20 percent of the City's groundwater supplies. These findings resulted in one of the wells being taken offline. The City states it conducted a study in May 2021 that concluded necessary repairs would not be completed until at least 2025. The appeal also asserts that the Zone 7 Water Agency that provides 80 percent of the City's drinking water faces increasing uncertainty around its water supply and reliability. The City also claims that the pending uncertainties related to its water supply represent a significant and unforeseen change in circumstances that merits a revision of the information submitted in the Local Jurisdiction Survey, per Government Code Section 65584.05(b)(3).*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." Importantly, the City did not provide any information in its Local Jurisdiction Survey related to the claims in its appeal. While the City marked water capacity as a possible constraint to the development of additional housing, the survey response gives no information about the well contamination and reduction in water supply mentioned in this appeal.

Furthermore, the arguments put forward by the City do not meet the requirements for a valid RHNA appeal related to changed circumstances. While Pleasanton does currently have a reduced water supply due to local actions in response to state regulations, the City has not demonstrated that it is precluded from accommodating its RHNA allocation for the entirety of the 2023-2031 Cycle 6 RHNA. As the City notes in its appeal, there are potential solutions to its current reduction in water supply, such as purchasing additional water from the Zone 7 Water Agency, which already supplies the vast majority of the City's water. Additionally, the City states that it may be able to bring all of its wells back online as early as 2025, which is only two years into the eight-year RHNA cycle. While the City's appeal discusses potential future uncertainty in its ability to supply adequate amounts of water, the appeal also notes that the City's largest water supplier is pursuing several projects to address potential future supply deficits. Ultimately,

these potential uncertainties do not definitively demonstrate that the City lacks the necessary water supply for future development during the 2023-2031 planning period.

Furthermore, the City's appeal does not conclusively prove that its water supply, even with one well offline, cannot provide the necessary water required for additional development. Indeed, future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.<sup>1</sup> A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in

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<sup>1</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.

existing communities that have more resources to promote climate resilience and conservation efforts.”<sup>2</sup>

Action can be taken to efficiently meet the region’s future water demand, even in the face of additional periods of drought. Eight of the region’s largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>3</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area’s lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

***Issue 2:*** *The City argues ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to the availability of land suitable for urban development or for conversion to residential use, as described in Government Code Section 65584.04 (e)(2)(B). Specifically, the City notes it identified the lack of vacant land as a constraint to housing and identified constraints in re-purposing existing commercial properties near transit. Additionally, the City’s appeal asserts the RHNA Methodology fails to account for real world constraints and feasibility of new development. The City also believes the assumptions for the public land and mall/office park conversion strategies in the Plan Bay Area 2050 Final Blueprint are flawed, and claims Pleasanton staff had no opportunity to examine the realistic capacity assumed within Plan Bay Area 2050’s modeling. Additionally, the appeal argues that since the City produces most lower-income housing through inclusionary zoning, an unrealistically high number of market-rate units would need to be built to fulfill the City’s lower-income RHNA allocation.*

**ABAG-MTC Staff Response:** The RHNA methodology adequately considers the availability of land suitable for urban development or for conversion to residential use. The Final RHNA Methodology integrates data from the Plan Bay Area 2050 Final Blueprint as the baseline

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<sup>2</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>3</sup> See the [Drought Contingency Plan](#) for more information.

allocation, which addresses the issues described in the Town's appeal. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. The City argues that the RHNA Methodology fails to account for the feasibility of new development, but a strength of the land use model used for Plan Bay Area 2050 forecasting is that it does assess feasibility and the cost of redeveloping a parcel. These feasibility and cost assessments are used to forecast Pleasanton's share of the region's households in 2050, which is an input into its RHNA allocation. Furthermore, financial feasibility of development is not one of the statutory factors required for RHNA, and thus this argument is not a valid basis for appeal.

Also, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Final Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

Importantly, 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. 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>4</sup>

Per Government Code Section 65584.04(e)(2)(B), Pleasanton must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. The City does not provide evidence it is unable to consider

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<sup>4</sup> See [HCD's comment letter on appeals](#) for more details.

underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>5</sup>

Pleasanton also claims it cannot realistically accommodate its RHNA based on an assumption that all of its development would need to take place within its Growth Geographies. However, Housing Element Law does not require this, so the City likely has more land available for development and redevelopment than is cited in the appeal. Additionally, the City's argument regarding the number of acres and in turn the number of properties that would need to be redeveloped in these areas uses an assumption of 40 dwelling units per acre. However, the City could consider higher densities than 40 units per acre, similar to what was assumed in Plan Bay Area 2050's Strategy H3 for locations with high-frequency public transit, such as BART station areas. Using these higher density assumptions from Plan Bay Area 2050 would mean less land is required for redevelopment in Pleasanton's Transit Priority Areas than is asserted by the City.

The City also states it cannot realistically build its lower-income RHNA because it produces most affordable units through inclusionary zoning, and it would need to build more than 18,000 market-rate units to produce enough inclusionary affordable units. However, it is entirely possible that lower-income units could be produced in Pleasanton through affordable housing developments constructed with various subsidy programs, as this type of affordable development occurs in many cities throughout the Bay Area. While there is a need for more affordable housing funding to meet the region's affordable housing needs, this issue is true across numerous jurisdictions and is not specific to Pleasanton.

The City's appeal states its staff were not able to review the underlying data for the Plan Bay Area 2050 Final Blueprint. However, both the land use modeling results and the inputs used to produce them have been made available to local staff. In fall 2019, ABAG-MTC staff collected local development policy data (i.e., information about zoning and general plans) from local jurisdictions for use in Plan Bay Area 2050 forecasting and modeling.<sup>6</sup> Local jurisdiction staff had several months to review and correct their land use and development pipeline data.<sup>7</sup>

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<sup>5</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

<sup>6</sup> To learn more about these datasets, visit this website: <https://basis.bayareametro.gov/>.

<sup>7</sup> Communications to local staff about BASIS and review of Plan Bay Area 2050 baseline data included the following:

- Invitation to a webinar on August 6, 2019 about BASIS and how baseline information would be gathered for use in Plan Bay Area 2050.
- Email on August 26, 2019 asking staff to identify someone to review jurisdiction's baseline data in fall 2019.
- [Videos](#) to assist local staff with the data review process were made available on YouTube.
- Email on October 4, 2019 to jurisdictions who had not identified a staff contact to review BASIS land use data.
- Email reminder on October 29, 2019 to local staff about the BASIS data review process.
- Email to Bay Area planning directors on July 10, 2020 about office hours where local staff could have a one-on-one consultation with ABAG-MTC staff to provide feedback on the Plan Bay Area 2050 Draft Blueprint or BASIS.
- Additional office hours were held in December 2020 to discuss Plan Bay Area 2050 Final Blueprint outcomes and the draft RHNA methodology.

Jurisdictions then had an opportunity to review the growth pattern for the Draft Blueprint in summer 2020 and following adoption of the Final Blueprint in January 2021. This included UrbanSim land use modeling results for the adopted superdistricts (county and sub-county geographies). Final Blueprint land use modeling results that are used in the regional travel model are also publicly available summarized at the Travel Analysis Zone (TAZ) level. Additionally, the modeling assumptions for Plan Bay Area 2050 are documented in the *Draft Forecasting and Modeling Report* published in May 2021.<sup>8</sup>

**Issue 3:** *The City argues the RHNA methodology fails to further the statutory objective related to promoting “the protection of environmental and agricultural resources, the encouragement of efficient development patterns, and the achievement of the region’s greenhouse gas reductions targets,” as described in Government Code Section 65584(d)(2). The City’s appeal states the RHNA Methodology does not achieve this objective because the methodology allocates too little housing to jobs-rich communities in the South Bay and too much housing to rural areas and suburban communities, which will result in increased vehicle miles traveled and greenhouse gas emissions.*

**ABAG-MTC Staff Response:** This argument by the Town 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 noted in the City’s appeal, HCD made the following findings:

*“The draft ABAG methodology<sup>10</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG’s largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per*

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<sup>8</sup> For more details, see the [Draft Forecasting and Modeling Report](#).

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

<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.



*capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit."*

The Final RHNA Methodology directly incorporates the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The Final Blueprint emphasizes growth near job centers and in locations near transit, as well as in high-resource areas, with the intent of reducing greenhouse gas emissions. This land use pattern is developed with complementary transportation investments in an effort to ensure past and future transportation investments are maximized. The strategies incorporated into the Blueprint help improve the region's jobs-housing balance, leading to shorter commutes—especially for low-income workers.

The inclusion of job proximity by both automobile and transit as factors in the Final RHNA Methodology directs more housing to the jurisdictions with the most jobs that can be accessed with a 30-minute commute by automobile 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. The job proximity factors allocate nearly half of the total number of housing units assigned to the Bay Area by the State. Encouraging shorter commutes for all modes of travel is an important strategy for reducing greenhouse gas emissions.

**Issue 4:** *The City argues that a population decline in Pleasanton over the past year represents a significant and unforeseen change in circumstances that merits a revision of the City's RHNA.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(g)(3) states that stable population numbers cannot be used as a justification for a reduction of a jurisdiction's share of the regional housing need. Consistent with this statutory language, stable or declining population in a jurisdiction is not, by itself, evidence that there is not a need for additional homes in the community. It may instead be a sign of an unhealthy housing market where individuals and families lack affordable housing choices and must leave the jurisdiction to find housing elsewhere. In fact, a primary reason the Regional Housing Needs Determination (RHND) of 441,176 units was higher than the need assigned to the Bay Area in past RHNA cycles was because it included factors related to overcrowding, high housing cost burdens and a target vacancy rate as a way to address the region's challenges in meeting the housing needs of the existing population.

In addition, the City cites a population decline that has occurred over only one year, a year heavily impacted by COVID-19. The City of Pleasanton has not provided evidence to suggest that its population will continue to decline long-term or that there has been a reduction in the jurisdiction's housing need for the 2023-2031 RHNA planning period.

**Issue 5:** *The City argues that the COVID pandemic and resulting changes in job and transportation patterns represent significant and unforeseen changes in circumstances that merit a revision of the City's RHNA.*

**ABAG-MTC Staff Response:** ABAG-MTC Staff appreciates the City's concerns about the significant economic and societal changes resulting from COVID-19. 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>11</sup>

Potential impacts of COVID-19, including 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 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. The City has not provided evidence to suggest that COVID-19 reduces Pleasanton'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

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<sup>11</sup> See [HCD's comment letter on appeals](#) for more details.

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 6:** *The City raises concerns with the assumptions and methodology underlying HCD's calculation of the Regional Housing Needs Determination (RHND), though the City acknowledges that this argument is not a valid basis for an appeal.*

**ABAG-MTC Staff Response:** As the City notes, arguments based on the RHND from HCD do not meet the statutory criteria for an appeal established by Government Code Section 65584.05. In its comment letter on submitted appeals, HCD stated: "The council of government may file an objection within 30 days of HCD issuing the RHND, per Government Code section 65584.01(c)(1). ABAG did not object to the RHND. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation. There are no further appeal procedures available to alter the ABAG region's RHND for this cycle."<sup>12</sup>

## RECOMMENDED ACTION

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by City of Pleasanton to reduce its Draft RHNA Allocation by 1,193 units (from 5,965 units to 4,772 units).

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<sup>12</sup> See [HCD's comment letter on appeals](#) for more details.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Clayton RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, 2021 ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Clayton requests the reduction of its Draft RHNA Allocation by 285 units. The City of Clayton's appeal was heard by the ABAG Administrative Committee on September 24, 2021, at a noticed public hearing. The City of Clayton, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Clayton's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals comment

period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5143150&GUID=A5705F13-F101-461C-A669-81148E68E3B8&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDdb21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Clayton had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Clayton presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Clayton's appeal. The Administrative Committee considered the documents submitted by the City of Clayton, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Clayton and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at: [http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9330](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9330). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-24-21-rhna-trial-day-1-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Clayton, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Jobs-Housing Relationship* – The City's argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the

scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG's methodology does further the objectives. The RHNA methodology uses data about each jurisdiction's jobs-housing relationship in the Plan Bay Area 2050 Final Blueprint and in factors related to Job Proximity, which measure job access based on commute shed to better capture lived experience of accessing jobs irrespective of jurisdiction boundaries. Housing Element Law requires the RHNA methodology to improve the *intraregional* relationship between jobs and housing—not jobs-housing balance in any particular jurisdiction. The methodology must also consider jobs-housing fit. Census Bureau data shows Clayton has almost 19 low-wage jobs per unit of rental housing affordable to low-wage workers. The City's lower-income RHNA could enable many of these workers to live closer to their jobs, for better jobs-housing balance, shorter commutes, and lower GHG.

- *Regarding Issue #2: Methodology Does Not Encourage Efficient Development Patterns (RHNA Objective 2)* – This argument challenges the Final RHNA Methodology adopted by ABAG and approved by HCD, which falls outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found ABAG's methodology does further the objectives. The Final Blueprint designates a High Resource Area (HRA) Growth Geography in Clayton based on information from the State's Opportunity Map about areas with well-resourced schools and access to jobs and open space and a transit service threshold of bus service with peak headways of 30 minutes or better. For Clayton, designation is based on the service frequencies on County Connection Route 10.
- *Regarding Issue #3: Lack of Available Land* – Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Clayton does not provide evidence it is unable to consider underutilization of existing sites, increased densities, and other planning tools to accommodate its assigned need.
- *Regarding Issue #4: Drought* – Government Code Section 65584.04(e)(2)(A) states ABAG must consider opportunities and constraints to development of housing due to "lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." Although Clayton indicates its RHNA exceeds the population growth assumptions in Contra Costa Water District's Urban Water Management Plan, the City has not demonstrated it is precluded from meeting its RHNA allocation because of a decision by its water service provider.

**Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Clayton's appeal and finds that the City of Clayton's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).



TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Clayton Appeal of Draft RHNA Allocation and Staff Response

DATE: September 24, 2021

## OVERVIEW

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**Jurisdiction:** City of Clayton

**Summary:** The City of Clayton requests the reduction of its Draft RHNA Allocation by 285 units (50 percent) from 570 units to 285 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
  - Distribution of household growth assumed for Plan Bay Area 2050.
  - The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050.
- 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.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Clayton	170	97	84	219	570

### Local Jurisdiction Survey

The City of Clayton did not 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 Clayton. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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The City of Clayton has submitted an appeal based on Government Code Section 65584.05(b)(1), that ABAG “failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04.” Government Code Section 65584.04(b) refers to the Local Jurisdiction Survey that ABAG conducted in January and February of 2020. However, Clayton does not meet the statutory criteria for submitting an appeal, as described in Government Code Section 65584.05(b)(1), because the City did not submit a survey response to ABAG. Though the jurisdiction lacks a valid basis for appealing its draft allocation, ABAG-MTC staff responded to the issues raised in the jurisdiction’s appeal.

**Issue 1:** *Clayton argues the RHNA methodology does not further the RHNA objectives to “promote an improved intraregional relationship between jobs and housing” and to promote the “achievement of the region’s greenhouse gas reductions targets.” Clayton has a jobs-housing imbalance with 96.8% of employed residents commuting out of the city to work. 79% of employed residents drive to jobs because of lack of convenient transit. Adding substantial new units to Clayton will increase commute trips out of the city and contribute to increased air pollution and 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 coordinated land use/transportation planning.*

**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>1</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:

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<sup>1</sup> For more details, see [HCD’s letter](#) confirming the methodology furthers the RHNA objectives.

*The draft ABAG methodology<sup>2</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 address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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

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<sup>2</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 Clayton has an imbalanced ratio between low-wage jobs and affordable housing units, with almost 19 low-wage jobs per unit of rental housing affordable to low-wage workers and their families.<sup>3</sup> Accordingly, the allocation of 267 units of lower-income RHNA assigned to Clayton could enable many of the low-wage workers in Clayton to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower GHG.

***Issue 2:*** Clayton argues that encouraging housing development in the city, which has basic transit service and has no designated Growth Geographies in the Plan Bay Area Final Blueprint, does not further the RHNA objective related to promoting the “encouragement of efficient development patterns.” The City asserts the methodology for identifying High Resource Areas is flawed because it does not account for the lack of transit service that would connect residents to opportunity.

**ABAG-MTC Staff Response:** There is a High Resource Area (HRA) Growth Geography in Clayton designated in the Plan Bay Area 2050 Final Blueprint. The State’s Opportunity Map<sup>4</sup> identifies places with well-resourced schools and access to jobs and open space and those areas are designated a HRA in the Final Blueprint if they also meet a baseline transit service threshold of bus service with peak headways of 30 minutes or better. For Clayton, this designation is based on the service frequencies on County Connection Route 10.<sup>5</sup>

The City’s argument again challenges the Final RHNA Methodology that was adopted by ABAG and approved by HCD, which falls outside the scope of the appeals process. In its review of ABAG’s RHNA methodology, HCD made the following findings regarding the RHNA objective related to “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 reductions targets provided by the State Air Resources Board pursuant to Section 65080.”

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<sup>3</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Clayton>.

<sup>4</sup> California Fair Housing Task Force, [Methodology for the 2020 TCAC/HCD Opportunity Map](#), June 2020.

<sup>5</sup> The transit service frequencies used to determine the Plan Bay Area 2050 Blueprint Growth Geographies were drawn from reported in January 2020, as well as any service improvements included in the project list of County Transportation Agencies (CTAs).

*"The draft ABAG methodology<sup>6</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit."*

**Issue 3:** Clayton argues it is a built out, hillside community, with little unconstrained vacant land remaining. There are significant areas that consist of natural hazards and natural resources that preclude development. The City also references information from the ABAG-MTC Housing Element Site Selection (HESS) Tool that shows no "adequate" sites identified.

**ABAG-MTC Staff Response:** The final RHNA methodology adequately considers the potential development constraints described the Clayton's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast Clayton's share of the region's households in 2050, which is an input into its RHNA allocation.

However, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Final Blueprint. Thus, the RHNA

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<sup>6</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.

methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

Importantly, 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. 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>

The City of Clayton cites information from the HESS Tool to argue it does not have sufficient developable land available to accommodate its RHNA, based on a lack of vacant sites or sites without constraints. The HESS Tool is a web-based mapping tool that is currently being developed by ABAG-MTC staff to assist Bay Area jurisdictions with preparing the sites inventory required for their Housing Element updates. The tool is still under development and further data collection, data quality control, and refinements to the HESS Tool's screening methodology are underway. When Clayton activated its HESS account, the City received an email noting that the tool was under active development and the data presented was preliminary. ABAG expects to have a final release of the data and an updated version of the HESS Tool available in fall 2021. Local jurisdictions will be able to review this data and submit corrections directly to ABAG.

It is important to note that the HESS Tool evaluates potential sites based on **existing** local development policies. As noted above, Housing Element Law specifically prohibits ABAG from limiting RHNA based on the existing zoning or land use restrictions that are shown in the HESS Tool. In addition, sites identified in the HESS Tool as "environmentally constrained" may still be developable. The HESS Tool designates sites as environmentally constrained if they possess hazard risks or other restrictive environmental conditions such as critical habitats and California protected areas. Local jurisdictions are generally advised to avoid locating new housing on these sites where possible. However, local jurisdictions may find that siting housing on sites with hazards is unavoidable in order to accommodate their housing need, in which case appropriate

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

mitigation measures should be considered. For additional guidance on how to integrate resilience into the Sites Inventory and the Housing Element more broadly, refer to ABAG's Resilient Housing Instruction Guide and associated resources.<sup>8</sup>

Per Government Code Section 65584.04(e)(2)(B), Clayton must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. While the City of Clayton asserts that it is built out and has little urban land available for development, it does not provide evidence that it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>9</sup>

**Issue 4:** *Clayton asserts the RHNA process has not adequately considered water services planning and drought impacts. The Urban Water Management Plan (UWMP) prepared by Contra Costa Water District (CCWD) assumes less population growth for Clayton from 2020 to 2030 than its draft RHNA allocation.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period."

However, the arguments put forward by the City of Clayton do not meet the requirements for a valid RHNA appeal. Although Clayton cites information from the Urban Water Management Plan (UWMP) prepared by the Contra Costa Water District (CCWD), the City has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by this water service provider. Clayton indicates the RHNA allocation exceeds the population growth assumption used by the CCWD in the UWMP. However, this difference in assumptions about expected growth does not represent a determination that Clayton will not have sufficient water capacity in the future.

Indeed, future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and

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<sup>8</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>.

<sup>9</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

2007, total water use increased by less than one percent.<sup>10</sup> A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>11</sup>

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused

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<sup>10</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.

<sup>11</sup> See [HCD's comment letter on appeals](#) for more details.



basis.<sup>12</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the City of Clayton to reduce its Draft RHNA Allocation by 285 units (from 570 units to 285 units).

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<sup>12</sup> See the [Drought Contingency Plan](#) for more information.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Danville RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The Town of Danville requests the reduction of its Draft RHNA Allocation by 1,441-1,641 units. The Town of Danville's appeal was heard by the ABAG Administrative Committee on September 24, 2021, at a noticed public hearing. The Town of Danville, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the Town of Danville's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA

appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5143151&GUID=2FB76C35-9307-42E5-A727-C0ADAA525240&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the Town of Danville had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The Town of Danville presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the Town of Danville's appeal. The Administrative Committee considered the documents submitted by the Town of Danville, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by Town of Danville and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9330](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9330). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-24-21-rhna-trial-day-1-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the Town of Danville, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Inclusion of the Danville Priority Development Area (PDA) in the Plan Bay Area 2050 Final Blueprint* – Danville Resolution No. 1-2012 authorized the Town

Manager to apply for a PDA in Danville's downtown. The PDA was formally included in Plan Bay Area (2013), Plan Bay Area 2040, and Plan Bay Area 2050. The Downtown Danville PDA also appears in documents from Contra Costa Transportation Authority, which has cited this PDA as basis for supporting Danville's application for transportation funding through the One Bay Area Grant (OBAG) program. There is no documentation of a request to remove the PDA being communicated to ABAG or to any entity outside the Town. Thus, there is no error in the Final Blueprint, which correctly includes the Downtown Danville PDA as a growth geography.

- *Regarding Issue #2: ABAG Failed to Adequately Consider Statutory Factor Related to Jobs-Housing Relationship* – The RHNA methodology uses data about each jurisdiction's jobs-housing relationship in the Plan Bay Area 2050 Final Blueprint and in factors related to Job Proximity, which measure job access based on commute shed to better capture lived experience of accessing jobs irrespective of jurisdiction boundaries.
- *Regarding Issue #3: ABAG Failed to Adequately Consider Statutory Factor Related to Availability of Land* – Statute states that ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. Danville does not provide evidence it is unable to consider underutilization of existing sites, increased densities, and other planning tools to accommodate its assigned need.
- *Regarding Issue #4: ABAG Failed to Adequately Consider Statutory Factor Related to the Plan Bay Area 2050 growth distribution and opportunities to maximize transit use* – The RHNA Methodology considers both the distribution of household growth assumed for regional transportation plans as well as opportunities to maximize use of public transportation by incorporating the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation.
- *Regarding Issues #5 and #6: Methodology Does Not Further RHNA Objectives* – These arguments by Danville challenge the final RHNA methodology adopted by ABAG and approved by HCD, and thus fall outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG's methodology does further these objectives.
- *Regarding Issue #7: Drought* – Government Code Section 65584.04(e)(2)(A) states ABAG must consider opportunities and constraints to development of housing due to "lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." Although Danville cites information from the Urban Water Management Plan (UWMP) prepared by EBMUD

about potential impacts from drought, the Town has not demonstrated it is precluded from meeting its RHNA allocation because of a decision by its water service provider.

- *Regarding Issue #8, Issue #9, Issue #10, and Issue #11:* The Town of Danville included these arguments in its appeal but noted that these arguments are not a valid basis for an appeal.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the Town of Danville's appeal and finds that the Town of Danville's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Danville Appeal of Draft RHNA Allocation and Staff Response

DATE: September 24, 2021

## OVERVIEW

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**Jurisdiction:** Town of Danville

**Summary:** The Town of Danville requests the decrease of its Draft RHNA Allocation by 1,441-1,641 units (64-73 percent) from 2,241 units to 600-800 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - Existing and projected jobs and housing relationship.
  - 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Town of Danville	652	376	338	875	2,241

### Local Jurisdiction Survey

The Town of Danville submitted 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 Town of Danville. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The Town of Danville claims the Plan Bay Area 2050 Final Blueprint (Blueprint) contains the incorrect assumption that Danville has a locally identified Priority Development Area (PDA). The growth forecast from the Blueprint determines the RHNA methodology's baseline allocation. The Town of Danville argues that any forecasted growth and corresponding RHNA directed to Danville based on an assumption that a PDA exists in Danville is incorrect, and thus ABAG has failed to adequately consider the availability of land suitable for urban development or for conversion to residential use, per Government Code Section 65584.05(b)(1) and Government Code Section 65584.04(e)(2)(B).*

**ABAG-MTC Staff Response:** The Town did not submit evidence in its appeal that it communicated to ABAG its desire to withdraw its nomination for the Downtown Danville PDA or to remove the PDA once it had been designated. Thus, there is no error in the Plan Bay Area 2050 Final Blueprint, which correctly includes the Downtown Danville PDA as a growth geography.

The Town's appeal claims that "Town Council did not pursue the PDA designation." However, the Town Council passed a resolution in 2012 nominating the PDA and supporting the 2011 initial PDA application described in the Town's appeal. Specifically, the Danville Town Council adopted Resolution No. 1-2012 (see Attachment 1) authorizing the Town Manager to submit an application for a Priority Development Area in Danville's downtown.

As noted in the Town's appeal of its Draft RHNA, ABAG staff requested additional information regarding transit service in response to the Town's initial application for the Downtown Danville PDA. ABAG staff recommended the PDA for approval to the ABAG Executive Board at its March 2012 meeting (see Attachment 2) pending information regarding transit service improvements. Town of Danville Staff and the County Connection transit agency subsequently provided the required information, resulting in the formal inclusion of the PDA in Plan Bay Area (2013).

Since its adoption by the ABAG Executive Board, the Danville Downtown PDA has appeared in regional documents and maps, including Draft Plan Bay Area 2050 and the two previously adopted iterations of Plan Bay Area. Moreover, this PDA has been formally approved as part of the Growth Geographies for Plan Bay Area 2050 at ABAG committee meetings in February 2020, September 2020, and January 2021. The Downtown Danville PDA has also appeared in documents from the Contra Costa Transportation Authority, which has cited the existence of this



PDA as the basis for supporting a Town of Danville application for transportation project funding through the One Bay Area Grant (OBAG) program.

Since the inception of the PDA program, several PDAs have been removed at the request of local jurisdictions. The Town's appeal of its Draft RHNA includes a 2013 request from the Danville Town Council to Danville staff to remove reference to the PDA and to Plan Bay Area in the Town's 2030 General Plan. However, the Town presents no evidence that this request was communicated to ABAG or to any entity outside of the Town.

***Issue 2:*** *The Town argues that ABAG failed to adequately consider Danville's existing and projected jobs and housing relationship, per Government Code Section 65584.04(e)(1). The Town claims that its RHNA would exacerbate the region's existing jobs-housing imbalance by adding more housing to an already housing-rich community.*

**ABAG-MTC Staff Response:** 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 high-resource areas, with the intent of reducing greenhouse gas emissions. It includes strategies related to increased housing densities and office development subsidies to address 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 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

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 and greenhouse gas emissions.

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 Danville has the most imbalanced ratio between low-wage jobs and affordable housing in the region, with 186 low-wage jobs per unit of rental housing affordable to low-wage workers and their families.<sup>1</sup> Accordingly, the allocation of 1,028 units of lower-income RHNA assigned to Danville could enable many of the low-wage workers in Danville to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower GHG.

Staff concludes that the Final RHNA Methodology effectively considers the jobs-housing relationship in Danville, as represented by focus on job access in the HMC process and in the methodology's baseline allocation and factors. Additionally, Danville's RHNA allocation would greatly improve the Town's balance between its low-wage jobs and its housing stock that is affordable to low-wage workers.

***Issue 3:*** *The Town argues ABAG failed to adequately consider the availability of land suitable for urban development. The Town claims its developable land is constrained as a result of protecting farmlands, grazing lands, conservation lands and critical habitats, and the appeal also states Danville lacks significant vacant or underutilized properties that can be used for housing.*

**ABAG-MTC Staff Response:** The final RHNA methodology adequately considers the potential development constraints described in Danville's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast Danville's share of the region's households in 2050, which is an input into its RHNA allocation.

Additionally, using the Plan Bay Area 2050 Final Blueprint as the RHNA baseline integrates several key strategies related to agricultural preservation. First, the growth pattern in the Final

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<sup>1</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Danville>.

Blueprint is significantly driven by Strategy EN4 that maintains all existing urban growth boundaries, without any expansion, over the lifespan of the long-range plan. Existing urban growth boundaries, which take a variety of forms across the region but are relatively common in the Bay Area, help not only to protect prime agricultural lands from development, but also parks and open space. Second, this strategy is supported by Strategy EN5, which envisions \$15 billion in future funding for agricultural land preservation to acquire land for permanent agricultural use.

Though the growth forecasted in Plan Bay Area 2050 is constrained to reflect urban growth boundaries and environmental protections and focuses growth in areas of existing development, 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. 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>2</sup>

Accordingly, the Plan Bay Area 2050 Blueprint forecasts additional feasible growth within urban growth boundaries by increasing allowable residential densities and expanding housing into select areas currently zoned for commercial and industrial uses.

Importantly, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Final Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

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<sup>2</sup> See [HCD's comment letter on appeals](#) for more details.

Per Government Code Section 65584.04(e)(2)(B), Danville must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. While the Town asserts that it is built out and has little urban land available for development, it does not provide evidence that it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need. In developing its Housing Element, the Town has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, it can choose locations and plan for densities that avoid developing on farmlands, grazing lands, conservation lands and critical habitats.

**Issue 4:** *The Town asserts that the RHNA Methodology fails to adequately consider 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," per Government Code Section 65584.04(e)(3), because the Town claims to have limited to no access to regional public transit.*

**ABAG-MTC Staff Response:** The statutory factor cited in the Town's argument centers on whether the RHNA Methodology considers the distribution of household growth from regional transportation plans like Plan Bay Area 2050 as well opportunities to maximize transit use. The Final RHNA Methodology addresses this statutory requirement because the methodology directly incorporates the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation.

The Final Blueprint emphasizes growth near job centers and in locations near transit, including high-resource areas, with the intent of reducing greenhouse gas emissions. This land use pattern is developed with complementary transportation investments in an effort to ensure past and future transportation investments are maximized. The strategies incorporated into the Blueprint help improve the region's jobs-housing balance, leading to shorter commutes—especially for low-income workers. Additionally, the inclusion of job proximity by transit as a factor in the Final RHNA Methodology directs more housing to the jurisdictions with the most jobs that can be accessed with a 45-minute commute by transit. The Job Proximity – Transit factor encourages growth that capitalizes on the Bay Area's existing transit infrastructure.

Though the Town asserts that Danville lacks transit service, the Downtown Danville Priority Development Area (PDA) has sufficient transit for this PDA to have been officially adopted for inclusion in the original Plan Bay Area as well as Plan Bay Area 2040 and Plan Bay Area 2050, as discussed previously. Moreover, even if Danville had not self-nominated this PDA, this area would have been included as a High Resource Area (HRA) Growth Geography in Plan Bay Area 2050. HRAs are a subset of the high-opportunity areas identified statewide by State of California that meet a baseline transit service threshold of bus service with peak headways of 30 minutes or better. Accordingly, Plan Bay Area 2050 forecasts growth in Danville due to both its access to

opportunity and proximity to transit. By directly incorporating the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint, the RHNA Methodology considers both the distribution of household growth assumed for regional transportation plans as well as opportunities to maximize the use of public transportation.

**Issue 5:** *Danville argues that the RHNA Methodology undermines the statutory objective described in Government Code Section 65584(d)(2): 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 (GHG) reductions targets. Danville's appeal states that the RHNA Methodology's use of 2050 Households as its baseline allocation instead of the forecasted growth from the Blueprint results in housing being placed far from job centers and thus an increase in vehicle miles traveled (VMT) and GHG.*

**ABAG-MTC Staff Response:** This argument by the Town 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>3</sup> Regarding the RHNA objective mentioned in the Town's appeal, HCD made the following findings:

*"The draft ABAG methodology<sup>4</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers*

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<sup>3</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>4</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.

*(which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit.”*

**Issue 6:** *The Town also claims that the RHNA Methodology fails to affirmatively further fair housing, as required by Government Code Section 65584(d)(5).*

**ABAG-MTC Staff Response:** This appeal argument by Danville again challenges the Final RHNA Methodology that was adopted by ABAG and approved by HCD, which falls outside the scope of the appeals process. In its review of ABAG’s RHNA methodology, HCD made the following findings regarding the RHNA objective related to affirmatively furthering fair housing:

*“HCD applauds the significant weighting of Access to High Opportunity Areas as an adjustment factor and including an equity adjustment in the draft methodology. ABAG’s methodology allocates more RHNA to jurisdictions with higher access to resources on a per capita basis. Additionally, those higher-resourced jurisdictions receive even larger lower income RHNA on a per capita basis. For example, the high-resourced communities of Cupertino and Mountain View receive higher total allocations on a per capita basis. For lower resourced jurisdictions with high rates of segregation, such as East Palo Alto, their allocations – particularly lower income RHNA allocations – are much lower on a per capita basis.”*

As HCD noted in its finding that the Final RHNA Methodology successfully achieves the statutory objectives, the methodology affirmatively furthers fair housing by emphasizing access to opportunity based on the data from the TCAC 2020 Opportunity Map. The Access to High Opportunity Areas factor assigns 70 percent of the region’s very low- and low-income units and 40 percent of the region’s moderate- and above moderate-income units.

The equity adjustment included in the Final RHNA Methodology also helps affirmatively further fair housing. This adjustment ensures that the 49 jurisdictions identified as exhibiting racial and socioeconomic demographics that differ from the regional average receive a share of the region’s lower-income RHNA units that is at least proportional to the jurisdiction’s share of existing households. Most of these 49 jurisdictions receive allocations that meet this proportionality threshold based on the final RHNA methodology’s emphasis on access to high opportunity areas. However, the equity adjustment ensures that the other 18 jurisdictions that might exhibit racial and economic exclusion but do not have significant shares of households living in high opportunity areas also receive proportional allocations.

**Issue 7:** *The Town claims that a significant and unforeseen change in circumstances has occurred that merits a revision of the information submitted in their Local Jurisdiction Survey. The Town had previously stated that water supply was an opportunity for development on the Local Jurisdiction Survey, but Danville now believes that water supply is a development constraint due to drought.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to “Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.”

However, the arguments put forward by the Town do not meet the requirements for a valid RHNA appeal. Although Danville cites information from the Urban Water Management Plan (UWMP) prepared by EBMUD, the Town has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by this water service provider. The Town indicates that the RHNA allocation exceeds the population growth assumption used by the EBMUD in the UWMP. However, this difference in assumptions about expected growth does not represent a determination that the Town will not have sufficient water capacity in the future.

Indeed, future population growth does not necessarily mean a similar increase in water consumption: while the region’s population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.<sup>5</sup> A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area’s population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050’s strategies to reduce risks from hazards is to provide financial support for adopting building ordinances and investing in retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working

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<sup>5</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.

with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, “these issues do not affect one city, county, or region in isolation. ABAG’s allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts.”<sup>6</sup>

Action can be taken to efficiently meet the region’s future water demand, even in the face of additional periods of drought. Eight of the region’s largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>7</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area’s lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

***Issue 8:*** *The Town claims that the RHNA process and Final Methodology are flawed because there is insufficient evidence to demonstrate Danville’s RHNA is consistent with the development pattern in the Plan Bay Area 2050 Final Blueprint, though the Town acknowledges that this argument is not a valid basis for an appeal.*

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<sup>6</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>7</sup> See the [Drought Contingency Plan](#) for more information.



**ABAG-MTC Staff Response:** While Government Code Statute 65584.04(m) requires that the RHNA plan allocate units consistent with the development pattern included in the Sustainable Community Strategy, the statute does not specify how to determine consistency. In the absence of statutory direction, ABAG has discretion to identify the framework to be used for establishing that RHNA is consistent with Plan Bay Area 2050.

Plan Bay Area 2050 includes adopted growth forecasts at the county and subcounty levels, not the jurisdiction level where RHNA is statutorily focused.<sup>8</sup> Therefore, staff developed an approach for determining consistency between RHNA and Plan Bay Area 2050 that received support from the Housing Methodology Committee, the Regional Planning Committee, and the Executive Board. This approach compares the 8-year RHNA allocations to the 35-year housing growth from the Plan Bay Area 2050 Final Blueprint at the county and subcounty geographies used in the plan. If the 8-year growth level from RHNA does not exceed the 35-year housing growth level at either of these geographic levels, then RHNA and Plan Bay Area 2050 are determined to be consistent. Staff evaluated the draft RHNA allocations using this approach and found the RHNA allocations are fully consistent with Plan Bay Area 2050, including the allocations to the South Contra Costa County superdistrict where Danville is located (see Table 1 below for more details).

**Table 1. Superdistrict Forecasted Growth in Final Blueprint Compared to Draft RHNA\***

Superdistrict	County	Superdistrict Name	Blueprint Final 2015-2050 Growth	Draft RHNA
23	Contra Costa	South Contra Costa County	15,000	8,982

\* The South Contra Costa County superdistrict contains the following jurisdictions: Danville, San Ramon, portions of Walnut Creek, and portions of unincorporated Contra Costa County.

**Issue 9:** The Town states HCD's calculation of the Regional Housing Needs Determination (RHND) represents a "historic methodological anomaly" and does not reflect a trend of slowing population growth, though the Town acknowledges that this argument is not a valid basis for an appeal.

**ABAG-MTC Staff Response:** As HCD noted in its comment letter on submitted appeals, "The council of government may file an objection within 30 days of HCD issuing the RHND, per Government Code section 65584.01(c)(1). ABAG did not object to the RHND. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation. There are no further appeal procedures available to alter the ABAG region's RHND for this cycle."<sup>9</sup>

<sup>8</sup> View the table of 35-year household growth at [https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease\\_December2020\\_GrowthPattern\\_Jan2021Update.pdf](https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf).

<sup>9</sup> See [HCD's comment letter on appeals](#) for more details.

Additionally, stable or declining population numbers in the state, region, or individual jurisdictions is not necessarily evidence that there is not a need for additional homes in the community. These trends may instead be a sign of an unhealthy housing market where individuals and families lack affordable housing choices and must leave to find housing elsewhere. In fact, a primary reason the RHND of 441,176 units was higher than the need assigned to the Bay Area in past RHNA cycles was because it included factors related to overcrowding, high housing cost burdens and a target vacancy rate as a way to address the region's challenges in meeting the housing needs of the existing population. In addition, the Town cites a statewide population decline that has occurred over only one year, a year heavily impacted by COVID-19. The Town has not provided evidence to suggest that California's population will continue to decline long-term or that there has been a reduction in the housing need for either Danville or the region for the 2023-2031 RHNA planning period.

**Issue 10:** *The Town asserts that the RHNA process is flawed because "external forces – including the economy, construction labor costs, and land prices – have far greater impact on housing production than RHNA, city practices or public policies," though the Town acknowledges that this argument is not a valid basis for an appeal.*

**ABAG-MTC Staff Response:** As the Town's appeal notes, the Town's critiques of the RHNA process are not a valid basis for an appeal. Ultimately, concerns about whether RHNA can effectively impact housing production are better addressed through state legislative changes than through the Bay Area's RHNA appeals process.

**Issue 11:** *The Town claims that the RHNA Methodology is flawed because the effects of the pandemic are not reflected in Plan Bay Area 2050 Final Blueprint growth forecast, though the Town acknowledges that this argument is not a valid basis for an appeal.*

**ABAG-MTC Staff Response:** ABAG-MTC Staff appreciates the jurisdiction's concerns about the significant economic and societal changes resulting from COVID-19. 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>10</sup>

The potential impacts of COVID-19 and the associated economic boom/bust cycle are incorporated into the RHNA Methodology through the 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 information available on future impacts related to

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<sup>10</sup> See [HCD's comment letter on appeals](#) for more details.

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. The Town has not provided evidence to suggest that COVID-19 reduces Danville'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 Town'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.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the Town of Danville to reduce its Draft RHNA Allocation by 1,441-1,461 units (from 2,241 units to 600-800 units).

## **ATTACHMENT(S):**

Attachment 1: Town of Danville Resolution No. 1-2012

Attachment 2: Memo on PDA applications received and staff recommendations from ABAG Executive Board March 5, 2012 meeting

## **RESOLUTION NO. 1-2012**

### **AUTHORIZING THE TOWN MANAGER TO SUBMIT AN APPLICATION THROUGH THE FOCUS PROGRAM TO DESIGNATE A PRIORITY DEVELOPMENT AREA FOR THE TOWN**

**WHEREAS**, the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC), with support from the Bay Area Air Quality Management District (BAAQMD) and the Bay Conservation and Development Commission (BCDC), have introduced a regional planning initiative called Focusing our Vision, or FOCUS; and

**WHEREAS**, FOCUS program goals support a future regional development pattern for the Bay Area Region that is compact and connected; and

**WHEREAS**, these regional agencies are seeking local government partners to create a specific and shared concept of where growth can be accommodated (Priority Development Areas - or PDAs) and what areas need protection (Priority Conservation Areas - or PCAs) in the region; and

**WHEREAS**, a PDA must meet all of the following criteria: (a) be within an existing community, (b) be near existing or planned fixed transit or be served by comparable bus service, and (c) is planned, or is planning, for more housing; and

**WHEREAS**, local governments in the nine county Bay Area are eligible to apply for designation of an area within their community as a PDA; and

**WHEREAS**, the sponsoring regional agencies are committed to securing incentives and providing technical assistance to designated PDAs so that positive change can be achieved in communities working to advance the goals of focused growth; and

**WHEREAS**, the Town of Danville is an eligible and willing participant in the FOCUS program; and

**WHEREAS**, as staff report was submitted recommending the Town Council authorize the Town Manager to submit an application through the FOCUS program to designate a PDA for the Town encompassing the downtown area and surrounding environs; and

**WHEREAS**, ABAG and MTC require, as part of the application, a resolution from the requesting local jurisdiction stating the commitment of the jurisdiction to show support for involvement in FOCUS; now, therefore, be it

**RESOLVED**, that the Danville Town Council authorizes the Town Manager to submit an application through the FOCUS program designating the downtown area and surrounding environs as a Priority Development Area; and be it further

**RESOLVED**, that the Danville Town Council, by adopting this resolution, do hereby state the Town will provide local support for involvement in the FOCUS Program.

**APPROVED** by the Danville Town Council at a regular meeting on January 10, 2012 by the following vote:

**AYES:** Andersen, Doyle, Stepper

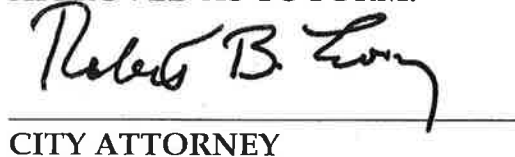
**NOES:** None

**ABSTAIN:** Arnerich, Storer

**ABSENT:** None

  
MAYOR

**APPROVED AS TO FORM:**

  
CITY ATTORNEY

**ATTEST:**

  
CITY CLERK

Submitted by: Kenneth Kirkey, ABAG Planning Director

To: ABAG Executive Board

Subject: PDA Applications Received and Staff Recommendations

Date: March 5, 2012

**Executive Summary**

Staff has reviewed applications for Priority Development Area (PDA) Designation. The attached staff report outlines the applications received and staff recommendations for adoption.

**Recommended Action**

Approve adoption of recommended PDAs.

**Next Steps**

Staff will present this report to the ABAG Regional Planning Committee (RPC) on March 12, 2012. RPC comments will be presented to the ABAG Executive Board at their March 15<sup>th</sup> meeting along with this report for final approval of PDA recommendations.

**Attachments**

- Staff report
- PDA Recommendations
- Comment letters received

# ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



## MEMO

Date: March 5, 2012  
To: ABAG Regional Planning Committee  
From: Ken Kirkey, ABAG Planning Director  
Subject: **PDA Applications Received and Staff Recommendations**

### **Summary**

Staff is seeking approval of the recommendations for PDA designation.

### **Background**

ABAG and MTC have established a process related to the development of the Sustainable Communities Strategy (SCS) and the umbrella plan, Plan Bay Area, for local governments to identify and nominate Priority Development Areas (PDAs). PDAs are neighborhoods in existing communities that are being planned in a manner that will foster complete communities based upon local community development aspirations and regional goals related to transit connectivity, housing needs and economic vitality.

ABAG has worked with MTC to support PDAs by tailoring funding programs to support PDAs. To date, the Station Area Planning Grant program has funded more than 25 neighborhood or specific plans in PDAs providing for extensive neighborhood level land-use and transportation planning. Infrastructure grants have been made available to PDAs through the Transportation for Livable Communities (TLC) program to implement projects that advance plans. Expanded infrastructure funding and a new PDA Planning Grant program will be encompassed in the proposed One Bay Area Grant program. The PDA Technical Assistance program supports PDA jurisdictions with discrete planning projects that will advance implementation of their area plans. This program will continue along with the Bay Area Transit Oriented Affordable Housing (TOAH) Fund, a \$50 million revolving loan fund established through a \$10 million investment by MTC and augmented by foundations and financial institutions in 2011. The TOAH Fund was established to advance affordable housing production in Priority Development Areas.

The first set of PDAs was adopted in November 2007 with the launch of the FOCUS program and others were subsequently approved through formal calls for applications. The initial PDA criteria required that nominated areas be in an existing community (not greenfield development), that the areas were being planned for more housing or that the local community had a vision to plan for more housing, and that the area had existing or

planned transit service. All of the areas were required to be locally nominated and were generally structured as mixed-use neighborhoods. In most PDAs, housing was being added to an existing primarily commercial neighborhood or thoroughfare. The scale of PDAs varied widely from the inception of the FOCUS program, varying from small centers such as Cloverdale in Sonoma County along the proposed SMART rail corridor to Downtown San Francisco.

Beginning in 2010, PDA applications began to be accepted on a rolling basis. Staff has continued to refine the program to ensure that new areas advance the goals of creating complete communities. In 2009, the transit criteria for PDA designation was refined to specify that areas need to have an existing rail station or ferry terminal, a planned transit station identified in MTC's Resolution 3434, or bus service with headways of at least 20 minutes during peak weekday commute periods.

In September 2011, two place types were added for PDA designation: Rural Town Center/Rural Corridor and Employment Center. The rural designation was established to recognize jurisdictions that are seeking to advance existing rural centers as appropriately scaled complete communities. For this new Place Type, the emphasis is on improved connectivity through walking, biking and amenities that reduce the need to drive, rather than transit service which is not required. The Employment Center place type was established to address the large number of office parks in the region that are currently disconnected from transit, and other community amenities. The criteria established for the employment centers is intended to strengthen major employment centers connectivity to transit, and intensify a mix of uses and services for employees on site. For this place type, jurisdictions that are not planning housing on site are required to demonstrate that a significant level of new housing is being planned within the community in close proximity to the proposed PDA.

As part of the Sustainable Communities Strategy (SCS) development process, ABAG requested that local jurisdictions identify areas they would like to see considered in the SCS development process. These areas were referred to as Growth Opportunity Areas. . In fall 2011, jurisdictions were encouraged to submit applications for those areas or other areas deemed appropriate for nomination as Priority Development Areas. The PDA application deadline was December 15, 2011 for those areas to be considered PDAs in the SCS and be eligible for One Bay Area Grant funds specified for PDA jurisdictions. Applicants have also submitted resolutions of support for their applications adopted by their City Councils or Board of Supervisors.

A total of 58 applications were received for consideration as PDAs. Fifty-one are being recommended for adoption. Two and a portion of a proposed PDA are being recommended as PDAs once the transit service improvements are made. These areas will not be considered PDAs until a letter from the transit provider is submitted to ABAG confirming that sufficient transit service is in place to meet the PDA transit criteria. One proposed PDA is not being recommended. Four were removed from consideration either



at the request of the applicant or were incorporated into the city's existing or proposed PDA. The staff recommendations are included in the attached list.

Several comment letters have been submitted in regards to PDA applications received. These letters are attached. Some of the comments received regard PDA designation of rural places. Rural place types do not need to meet the transit criteria and are not intended to be defined in the same manner as the other more urban or suburban PDA place types. Rural PDAs are intended to support local efforts to improve the services, infrastructure, and connectivity of these areas to encourage a reduction in driving locally. Local jurisdictions have submitted resolutions of support for their PDA applications, and ABAG staff accepts this as overall support for the area to be designated.

Staff has also been working with the Santa Clara Valley Transportation Authority (VTA) staff regarding local jurisdictions in VTA's Cores, Corridors, and Station Areas Program. VTA submitted this large PDA in 2007. Communities in Santa Clara County had provided resolutions related to inclusion of specific areas of their communities within the Cores, Corridors, and Station Area framework. Most of the jurisdictions have subsequently submitted resolutions related to PDA designation of the same areas. Staff is working to ensure local support for every PDA in every community and is waiting on council action to demonstrate local support for PDA designation in addition to the support that local jurisdictions have provided to VTA for well-regarded county-level program.

### **Recommendation**

Approve the list of Planned and Potential Priority Development Areas.

### **Attachment(s):**

- PDA Recommendations
- Comment Letters Received

County	Jurisdiction	PDA Name	Place Type	Status Recommendation (Planned/Potential)	Notes On PDA Designation
<b>Areas recommended for PDA Designation</b>					
Alameda	Alameda County	Castro Valley BART	Transit Neighborhood	Potential	
Alameda	Alameda County	E14th and Mission Street	Transit Neighborhood / Mixed Use Corridor	Planned	
Alameda	Alameda County	Hesperian Boulevard	Transit Neighborhood	Planned	
Alameda	Alameda County	Meekland Avenue Corridor	Transit Neighborhood	Planned	
Alameda	Albany	San Pablo/Solano Mixed Use Neighborhood	Mixed Use Corridor / Neighborhood	Potential	
Alameda	Livermore	Isabel Avenue/BART Station Planning Area	Suburban Center	Potential	
Alameda	Hayward	Mission Boulevard Corridor	Mixed Use Corridor	Potential	
Alameda	Alameda	Northern Waterfront	Transit Neighborhood	Potential	
Contra Costa	San Pablo	San Pablo Avenue	Mixed Use Corridor	Planned	Combine with proposed 23rd Street PDA
Contra Costa	San Pablo	Rumrill Road	Employment Center: - current job/hh ratio = .67 < 1.25 - don't have current job/acre info	Potential	

County	Jurisdiction	PDA Name	Place Type	Status Recommendation (Planned/Potential)	Notes On PDA Designation
Contra Costa	Concord	Downtown Concord	City Center	Potential	
Napa	Napa	Downtown Napa	Rural Town Center	Potential	
Napa	Napa	Soscol Gateway Corridor	Rural Corridor	Potential	
San Mateo	Redwood City	Broadway/Veterans Boulevard Corridor	Mixed Use Corridor	Planned: DESIGNATION PENDING RECEIPT OF RESOLUTION	Taking resolution to Council March 5th
San Mateo	Belmont	Villages of Belmont	Mixed Use Corridor	Potential	
San Mateo	San Mateo County	Midcoast	Rural Corridor	Potential	
Santa Clara	Mountain View	Downtown	Transit Town Center	Planned	
Santa Clara	Mountain View	San Antonio	Transit Town Center	Potential	
Santa Clara	Mountain View	El Camino Real	Mixed Use Corridor	Potential	
Santa Clara	Mountain View	East Whisman	Employment Center	Potential	
Santa Clara	Mountain View	North Bayshore	Suburban Center	Potential	
Santa Clara	San Jose	Stevens Creek TOD Corridor	Mixed Use Corridor	Potential	
Santa Clara	San Jose	Oakridge/Almaden Plaza Urban Village	Suburban Center	Potential	
Santa Clara	San Jose	Capitol/Tully/King Urban Villages	Suburban Center	Potential	
Santa Clara	San Jose	Saratoga TOD Corridor	Mixed Use Corridor	Potential	
Santa Clara	San Jose	Winchester Boulevard TOD Corridor	Mixed Use Corridor	Potential	

County	Jurisdiction	PDA Name	Place Type	Status Recommendation (Planned/Potential)	Notes On PDA Designation
Santa Clara	San Jose	Bascom TOD Corridor	Mixed Use Corridor	Potential	

Santa Clara	San Jose	Bascom Urban Village	Mixed Use Corridor	Potential	
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Santa Clara	San Jose	Camden Urban Village	Mixed Use Corridor	Potential	
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Santa Clara	San Jose	Blossom Hill/Snell Urban Village	Mixed Use Corridor	Potential	
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Santa Clara	San Jose	Capitol Corridor Urban Villages	Mixed Use Corridor	Potential	
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Santa Clara	San Jose	Westgate/El Paseo Urban Village	Suburban Center	Potential	
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Santa Clara	San Jose	Old Edenvale Employment Area	Employment Center	Potential	
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Santa Clara	San Jose	International Business Park Area	Employment Center	Potential	
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Santa Clara	Sunnyvale	Moffett Park	Employment Center	Planned	
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County	Jurisdiction	PDA Name	Place Type	Status Recommendation (Planned/Potential)	Notes On PDA Designation
Santa Clara	Sunnyvale	Peery Park	Employment Center	Potential	

Santa Clara	Sunnyvale	East Sunnyvale	Urban Neighborhood	Potential	
Santa Clara	Sunnyvale	Reamwood	Employment Center	Potential	

Santa Clara	Sunnyvale	Tasman Crossing	Transit Neighborhood	Potential	
Solano	Dixon	Downtown Dixon	Rural Town Center/Rural Corridor	Potential	

Solano	Rio Vista	Downtown Rio Vista	Rural Town Center/Rural Corridor	Planned/Potential	A portion of the PDA is covered by the Waterfront Specific Plan.
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Solano	Benicia	Northern Gateway - Benicia's Industrial Park	Employment Center	Potential	
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Sonoma	Santa Rosa	North Santa Rosa Station Area	Suburban Center	Potential	
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County	Jurisdiction	PDA Name	Place Type	Status Recommendation (Planned/Potential)	Notes On PDA Designation
Sonoma	Santa Rosa	Roseland Area	Transit Neighborhood	Potential	

Sonoma	Rohnert Park	Central Rohnert Park	Transit Town Center	Potential	
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Sonoma	Sonoma County	Airport/Larkfield	Airport: Employment Center; Larkfield: Rural Town Center	Potential: ONLY FOR LARKFIELD AREA; AIRPORT POTENTIAL DESIGNATION PENDING TRANSIT SERVICE IMPROVEMENTS	Airport area does not meet transit criteria
Sonoma	Sonoma County	Forestville	Rural Town Center	Potential	
Sonoma	Sonoma County	Graton	Rural Town Center	Potential	
Sonoma	Sonoma County	Guerneville	Rural Corridor	Potential	

County	Jurisdiction	PDA Name	Place Type	Status Recommendation (Planned/Potential)	Notes On PDA Designation
Sonoma	Sonoma County	Penngrove	Rural Corridor	Potential	

Sonoma	Sonoma County	The Springs	Rural Corridor	Potential	
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#### **Areas recommended for PDA designation once transit service is in place**

Contra Costa	Moraga	Rheem Valley	Mixed Use Corridor	Potential: DESIGNATION PENDING TRANSIT SERVICE IMPROVEMENTS (and Place Type change)	
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Contra Costa	Danville	Downtown Danville	Transit Town Center	Potential: DESIGNATION PENDING TRANSIT SERVICE IMPROVEMENTS	
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Sonoma	Sonoma County	Airport/Larkfield	Airport: Employment Center; Larkfield: Rural Town Center	Potential: ONLY FOR LARKFIELD AREA; AIRPORT POTENTIAL DESIGNATION PENDING TRANSIT SERVICE IMPROVEMENTS	Airport area does not meet transit criteria
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#### **Areas NOT recommended for PDA designation**

Sonoma	Sonoma County	Eighth Street East Industrial Park	Employment Center	Do not designate	Does not meet transit criteria and no plans exist to provide a mix of uses to serve employees
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#### **Areas removed from consideration**

Marin	Marin County	San Quentin Peninsula	Transit Neighborhood	Removed from consideration at County's request	Board of Supervisors did not approve resolution for PDA application
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Santa Clara	Mountain View	Moffett Field and NASA Ames		Application deferred	Deferred until the federal agency that has land use authority can show support for application
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Contra Costa	San Pablo	23rd Street	Mixed Use Corridor	Combined with proposed San Pablo Avenue PDA	
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Contra Costa	Richmond	Central Richmond & 23rd Street Corridor	City Center and Mixed Use Corridor	Add to existing Central Richmond PDA	
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# ***DON HORSLEY***

Board of Supervisors  
County of San Mateo

February 29, 2012

Kenneth Kirkey, Director of Planning  
Association of Bay Area Government (ABAG)  
P.O. Box 2050  
Oakland, CA 94604-2050

Re: San Mateo County's application to designate the unincorporated Midcoast a Priority Development Area

Dear Mr. Kirkey,

Recently, concerns have been raised about the San Mateo County Board of Supervisors' unanimous decision to submit an application seeking a Priority Development Area in a Rural Corridor (PDA) designation for the unincorporated Midcoast. Although I can appreciate these concerns, I continue to support the position that designating the Midcoast a PDA is essential for the future sustainability of this unique region.

There has been, and will continue to be, concerns over transportation and mobility on the Midcoast until the proper actions have taken place. With limited safe crossings on Highway 1 and a need for better roads and traffic mitigation, this designation will allow San Mateo County to pursue much needed funding to assist in creating more sustainable communities on the Midcoast. One important funding opportunity that the Midcoast would benefit from is the PDA Planning Program through One Bay Area's FOCUS program. In accordance with the Local Coastal Program resubmittal, San Mateo County has committed to conducting a Transportation Management Plan. This plan would address how to alleviate traffic and improve transit, trails, and residential transportation, all essential for a sustainable community. Without this designation, the county's ability to submit a competitive application and receive grant funding is diminished.

Another priority for the Midcoast is a community plan for Princeton by the Sea. This plan will utilize the unique characteristics of Princeton's zoned working waterfront to improve economic development, infrastructure, and capital improvements. A PDA designation would allow San Mateo County to submit a competitive application to secure needed funding to complete the planning portion of this project, the first step in creating a more sustainable community.

The concern that the Midcoast does not meet the PDA criteria has been noted. The FOCUS Application Guidelines state that the criteria to be designated a PDA is as follows: (a) the area is within an existing



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County Government Center  
400 County Center  
Redwood City, CA 94063

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Direct (650) 363-4569  
Coastside (650) 573-2222  
Fax (650) 363-1856

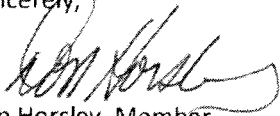


community, (b) the area is near existing or planned fixed transit (or is served by comparable bus services), and (c) the area is planned or is planning for more housing. The Midcoast does not meet the transit requirements laid out in requirement (b). However, we are currently assessing transit on the Midcoast in the hopes of working with SAMTRANS to improve Midcoast transit services. Regarding requirement (c), development on the Midcoast is limited by the Local Coastal Program and California Coastal Commission to infill in existing coastal communities.

Access to water connections and improvements to roadways also play an role in creating more sustainable communities. Currently, Montara Water and Sanitary District (MWSD), the water provider for a large portion of the Midcoast, is working with the California Coastal Commission to establish the terms of permitting future water connections within the Local Coastal Program. Once the moratorium is lifted, MWSD will be able to permit new water hook-ups to new developments. If granted the PDA designation, San Mateo County will be able to seek funding to begin improving roadways and traffic congestion. This continues to remain a priority for the county.

The effort to designate the Midcoast a PDA derives from our desire to improve the region and make it more sustainable. It is our priority to improve roads, trails, transit, and the region as a whole. I urge you to approve the PDA designation for the San Mateo County Midcoast. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Horsley", with a stylized flourish at the end.

Don Horsley, Member

San Mateo County Board of Supervisors

Sabrina Brennan  
165 La Grande Ave.  
Moss Beach, CA 94038

February 14, 2012

Kenneth Kirkey, Director of Planning  
Association of Bay Area Governments  
PO Box 2050  
Oakland, CA 94604-2050

**Re: Application by San Mateo County for Priority Development Area (PDA) for the  
unincorporated Midcoast**

Dear Mr. Kirkey,

For the reasons given below, I request that ABAG not approve the request to designate the semi-rural San Mateo County Midcoast as a PDA.

I appreciate regional development and conservation strategies that limit urban sprawl and promote urban open space, green street programs, farmers markets, wetland restoration, parks, community colleges, school bus service, food-hubs that provide professional food buyers with fresh produce grown by local farmers, and bicycle/pedestrian safety and mobility improvements near Bay Area transit and jobs.

I live in Moss Beach, one of five small unincorporated farming, fishing, and eco-tourism communities located along the semi-rural San Mateo County Midcoast. The unincorporated Midcoast communities of El Granada, Miramar, Princeton, Montara, and Moss Beach are not located near Bay Area transit or jobs. Infrastructure is extremely limited in all five communities — they lack sidewalks, street lights, curbs, and storm drainage. The lack of storm drainage in the unincorporated urban Midcoast results in significant flooding, runoff, and erosion during the rainy season. The Midcoast has woefully inadequate transit service and no school bus service. Chronic backups on 10 scenic miles of Highway 1, the only transportation corridor, bring traffic to a crawl on a daily basis. The Midcoast does not have a supermarket, library, or community center. The Midcoast lacks public and private school capacity. We do have one small hospital. Most voting age citizens commute daily over the Santa Cruz Mountains to jobs on the Bayside of San Francisco, San Mateo, and Santa Clara counties.

I am concerned about a number of issues that impact ABAG designation of the San Mateo County Midcoast as a Priority Development Area (PDA).

The Midcoast is located entirely within the Coastal Zone. I am concerned about the inherent policy conflicts between PDA designations, the California Coastal Act and San Mateo County Local Coastal Program (LCP) policies for the Midcoast. I have not been able to find any information on ABAG, FOCUS, and OneBayArea websites as to how Coastal Act and LCP policy conflicts would be resolved. If the ABAG Executive Board designates the unincorporated Midcoast as a PDA, the Midcoast could become a target for state mandated, higher density development than allowed by the LCP. Any proposed Coastside development could be subject

to appeal to the California Coastal Commission, which is likely to deny it.

A PDA designation is not appropriate for areas with significant constraints on new development. The Midcoast has inadequate infrastructure, including water, sewer, schools, and highway capacity, to accommodate planned buildout. All new development must be consistent with the County's LCP, which was certified in 1980. An update to the Midcoast LCP has been in limbo for more than a decade, and is still under review by the California Coastal Commission.

The low-lying portions of the Midcoast are located within a tsunami inundation zone, flood zone, and sea level rise zone. Specifically all of Princeton, areas along Airport Street including the proposed Big Wave project, and the Manufactured Home Park, nearly all of Miramar, and a small part of El Granada are within the mapped flood zone. Strategies for coping with coastal erosion, landslides, and sea level rise include Planned Retreat. Designating a PDA in a semi-rural unincorporated area that must plan for sea level rise impacts and is far from transit and jobs is not a sustainable growth strategy.

Designating PDAs in unincorporated areas located in the Coastal Zone that are far from transit/jobs would force counties plagued by budget problems and aggressive housing allocation numbers to change zoning regulations to maximize infill development. Rezoning the Coastal Zone for high density development in an area that is projected to experience sea level rise is not smart planning. PDAs are envisioned to "support focused growth by accommodating growth as mixed use, infill development near transit and job centers, with an emphasis on housing." That's an urban Bayside strategy, and has the potential to conflict with the Coastal Act and LCP.

The FOCUS Application Guidelines require that a PDA must meet all of the following criteria: (a) the area is within an existing community, (b) the area is near existing or planned fixed transit (or is served by comparable bus service), and (c) the area is planned or is planning for more housing.

**The Midcoast area does not meet all of these criteria:**

- 1) There is no plan for fixed transit and SAMTRANS bus service is marginal.
  - a. Route 17 (Montara to HMB) 90-min interval 8-6 daily (9-5 Sun); 60-min interval 6-8 AM weekdays.
  - b. Route 294 (Pacifica to San Mateo) 90-min interval 8-6 weekdays only.
- 2) The coastside has a significant surplus of housing compared to jobs, and residents must commute "over the hill" to jobs on the Bayside of San Mateo, Santa Clara, and San Francisco counties.
- 3) Housing is the lowest priority land use under the Coastal Act.

Another Midcoast issue which severely impacts PDA growth and development objectives is the inadequate water supply and delivery capacity. Coastsides County Water District (CCWD) receives a limited supply of water from the Hetch Hetchy system, but by agreement with the City and County of San Francisco, cannot increase this supply. Montara Water and Sanitary District (MWSD) must rely entirely upon wells for its drinking water supply, which are even less robust than CCWD's.

An additional consideration is that while MWSD issues permits based on safe yield, meaning how much water they can reliably expect to get in drought years, CCWD issues permits based on

average yield (across wet and dry years). This means that half the time, CCWD is over-committed on the water supply, and every new connection increases the probability of mandatory rationing in dry years. Many homes in the unincorporated urban Midcoast are on private wells; salt water intrusion has been a problem in the past and is an on-going concern for some property owners. There are hundreds of people who paid in the 1980s to have the right to hook up. All they have to do is go to San Mateo County, pull a building permit and go to CCWD and say "hook me up" and CCWD has to do it. If/when CCWD actually hooks up all of the pre-sold water connections, there would be mandatory rationing about half the time. The bottom line is that if the Midcoast is currently at 50% buildout as the San Mateo County Planning Department states, there is simply no water available to get to full buildout, and especially not for increasing the amount of development.

The ABAG memo dated 8/30/11 finds that building homes in the right places — near jobs and transit options — reduces the need to drive for everyday needs, with the associated benefits of improved air quality and reduced greenhouse gas emissions. SB 375 requires the California Air Resources Board (CARB) to develop regional greenhouse gas emission reduction targets to be achieved from the automobile and light truck sectors for 2020 and 2035. San Mateo County has a jobs/housing imbalance, which leads to long commute distances from around the Bay Area to Bayside jobs. The county needs more housing near jobs and transit corridors to reduce vehicle miles traveled (VMT) and greenhouse gas emissions. The San Mateo County Coastsides is one of the outlying areas providing housing for Bayside jobs, and thus has the opposite jobs/housing imbalance. There is no viable transit connection to Bayside jobs. Building more housing on the Coastsides, far from the jobs center and transit corridor will not help reduce VMT and greenhouse gas emissions, but will actually contribute to the problem.

The Coastsides's unique scenic and environmental resources are a treasure to be shared with all Californians. This area, without transit connections and isolated from the Bayside jobs centers, is best preserved as a small town farming, fishing, and visitor-serving destination, and the jobs it supports. Coastsides VMT and greenhouse gas emissions can be reduced by improving local bus service and building the Hwy 1 multi-modal trail and safe highway crossings. Funding for these projects should come from Measure A. The new ABAG Priority Development Area guidelines ('Rural Mixed-Use Corridor' and the 'Rural Town Center') are too vague to ensure that grant funding incentives would go towards building pedestrian and bicycle friendly projects such as trails.

Over the past four years San Mateo County has missed two opportunities to apply for Measure A funding for Midcoast pedestrian and bicycle initiatives. This has been frustrating for residents who are concerned about the growing number of pedestrian and bicycle accidents and fatalities on Highway 1. The Route One pedestrian/bike trail from Montara through Half Moon Bay is specifically identified in the County Transportation Authority's Strategic Plan 2009-2013 as eligible for Pedestrian and Bicycle Funds from Measure A. Although Half Moon Bay has successfully applied for funds for a significant portion of the Trail within Half Moon Bay city limits, San Mateo County has not yet submitted an application for the unincorporated Midcoast segment, despite two calls for project submittals in the past four years.

The ABAG memo dated 8/30/11 states that Priority Development Areas are areas that are ripe for growth. "PDAs comprise a network of neighborhoods that are expected to accommodate the majority of the region's population and employment growth." Though ABAG and MTC can't

force cities to accept their projections, these agencies can withhold transportation grants from cities and counties that don't comply. Development of these areas would be bolstered by state grants, with 70% going to PDAs. ABAG & MTC propose regional funding program: OneBayArea Grant to support SCS (Sustainable Communities Strategy) implementation. \$211 million for Bay Area counties, based on population, Regional Housing Needs Allocation (RHNA), and actual housing production.

I'm concerned about the alarming lack of local participation in the County's recent decision to apply for a PDA designation in the unincorporated Midcoast. I did not receive adequate notification about the County PDA application. I was informed of this application only four days before the Board of Supervisors meeting of January 31, 2012, when the agenda was published online. I receive both the County list-serve notifications regarding permit and planning and Midcoast Community Council meeting agendas and I do not recall any public discussion or public notice regarding a proposed PDA in my community. I'm very concerned that this item was put on the Board of Supervisors consent calendar without first vetting it through the public.

I respectfully request that ABAG not approve the proposed PDA for the San Mateo County unincorporated Midcoast.

Sincerely,  
Sabrina Brennan

cc: Bill Kehoe, Chair, Midcoast Community Council  
Laura Stein, Vice-Chair, Midcoast Community Council  
Lisa Ketcham, Secretary, Midcoast Community Council  
San Mateo County Board of Supervisors  
Steve Monowitz, Deputy Director, San Mateo County Planning Division  
Ruby Pap, California Coastal Commission  
Madeleine Cavalieri, California Coastal Commission  
Dan Carl, California Coastal Commission



## COUNTY OF SONOMA PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

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February 29, 2012

Ken Kirkey, ABAG Planning Director  
Association of Bay Area Governments  
PO Box 2500  
Oakland, CA 94604-2050

Re: Sonoma County Application for Airport/Larkfield Priority Development Area (PDA) Designation

Dear Mr. Kirkey,

Thank you and your staff for assisting with our applications for PDA designations in Sonoma County. We have truly appreciated ABAG's efforts to develop alternative place types in the Sustainable Communities Strategy which are more appropriate for the Bay Area's rural counties such as Sonoma.

This letter is written to provide additional context and clarification of the County of Sonoma's application for Priority Development Area designation for the Airport/Larkfield area. We hope that this entire PDA boundary can gain staff's recommendation to the Executive Board on March 15, to support the County's efforts in reducing VMT in this area and support efforts for more sustainable future development.

The County has proposed a dual designation of Employment Center/Rural Town Center which appeared to be the best fit for this unique area split by Highway 101 with jobs to the west and housing with infill potential to the east. Preliminary feedback from ABAG staff indicates concern with meeting all of the criteria for the Employment Center half of this proposed PDA, so this letter will focus just on the portion of this PDA west of Highway 101.

**Setting.** The approximately 1,400 acre portion of the Airport/Larkfield PDA area west of Highway 101 contains a mixture of office, light industrial, warehouse, commercial and public facility uses. See attached Airport/Larkfield Area Overview and Land Use Graphics. This unincorporated area contained approximately 6,000 jobs in 2009. Development has been in accordance with the Airport Industrial Area Specific Plan, originally adopted in 1987. The Sonoma County Airport occupies about 780 acres, the majority of which is restricted for runway approach protection, leaving a balance of 630 acres of land for private development to the east of the Airport. Approximately one third of the 630 acres of industrial designated land is vacant.

The Sonoma County Airport is the North Bay's only airport providing passenger service and is an important transportation component supporting the local economy. In January, the Board of Supervisors approved a new Airport Master Plan and a package of improvement projects including runway extensions. The Airport Master Plan and Airport Improvement project were heavily supported by the business community, including a petition of support from over 500 local businesses representing essentially all of the major local employers and businesses in the County. The business community hailed the existing and expanded use of the Sonoma County Airport as a vital economic component to growing and attracting new businesses to Sonoma County. Another unique feature of this area is the Sonoma Marin Area Rail Transit (SMART) rail corridor running through the business park. The area is served by Sonoma County Transit with several stops throughout the park in the morning and evening commute hours at 30 – 40 minute headway intervals. The area has been developed with roadways to accommodate a Class II bike lane along the main roadway serving the area (Airport Boulevard).

**Future Development Scenario.** The area has a potential for another 12,000 jobs. Due to budget constraints, there are no immediate future plans to shorten the existing 30 – 40 minute bus transit headways during the commute hours. The site is well situated for the improvement of multi-modal transportation options for employees. The focus of SMART at this time is initiating service within two years between San Rafael and Santa Rosa, followed by extension to the Larkspur ferry and Cloverdale. Although a SMART station at the Airport Business Park is not currently part of the approved plan, we expect that passenger rail service for residents near any of the 14 rail stations along the 70 mile SMART corridor to the 6,000+ jobs within the Airport Industrial Area business park will become a high priority in the future, particularly as the economy recovers and additional jobs are created. As the attached Airport Business Park Distance/Direction Graphic shows, 61% of the 6,000 Airport Business Park workers reside only 10 miles away in the Windsor, Larkfield, and Santa Rosa communities. In conjunction with the improvement of the SMART rail corridor, there are plans to construct an adjacent Class I bike path which will provide a bike commuting option for Airport Business Park employees in the future.

**Employment Center Criteria.** The project meets all of the criteria for PDA designation except the 20 minute headway, as discussed below.

**Employment Center:** *Acknowledging the importance of employment location in creating a robust, functional transit network and sustainable regional land use pattern, the Employment Center place type designation is intended for existing non-residential areas with transit service that are planning for more intensive development, including a greater mix of uses and more pedestrian-friendly, vibrant environments. These might include central business districts, redeveloping office parks, or retrofitting commercial corridors or shopping malls.*

1. *The areas currently contain a density of 25 jobs per gross acre or greater than 0.5 FAR or have the plan capacity for this intensity of jobs.*

**Response:** This criterion is met. Buildout of the over 600 acres of private lands designated for industrial development in the General Plan at current allowed densities and at an FAR of 1.0 would result in over 18,000 jobs using a 50/50 mix of warehouse and industrial land uses and an average employee generation rate of 600 square feet of building area per employee. This calculation includes the existing 6,000 jobs added to development on 200 acres at the FAR and land use mix described above. This would result in nearly 30 jobs per gross acre in the Year 2040.

2. *The areas are currently served by transit or have planned transit service (existing or planned fixed rail, demonstrated high frequency bus with 20 min headways during peak weekday commute hours, or shuttle service to fixed rail) and support other modes of transportation (required Transportation Demand Management, improved walking and biking, and reduced parking requirements)*

**Response:** This criterion is not met. There are 2 or 3 bus stops in the morning and evening during commute hours 30 to 40 minutes apart. See attached Sonoma County Routes 60 and 62 route schedules. As mentioned previously, over 60% of the business park employees currently live within 10 miles of their job. There is great potential to encourage more transit, bike and future rail trips to reduce single occupant vehicular trips to the work area. A class II bike lane exists along Airport Boulevard, which would connect with a future planned class II bike lane

along Old Redwood Highway and a future class I bike lane along the SMART rail corridor right of way directly linking the Airport Business Center to the communities of Larkfield, Windsor and Santa Rosa. Additionally the potential exists for a rail stop to serve all the residents within walking distance of the 14 future rail stations to the north and south in the future. Obtaining planned Priority Development Area status for this entire Airport/Larkfield PDA would support Sonoma County's efforts to reduce VMT's at this location and create more sustainable development in the future.

3. *The areas are planned for a mix of uses, services, and amenities for employees.*

**Response:** This criterion is met. The Airport business park area has lodging, a health club, restaurants, service stations, and entertainment uses for employees and customers in accordance with development standards of the Airport Industrial Specific Plan.

4. *The jurisdiction is providing sufficient housing near the employment center to merit resources supporting an exclusively employment development area. The jurisdiction has lower existing jobs per household than the regional average of 1.25 or the jurisdiction has lower future jobs per household in its adopted General Plan than its existing ratio.*

**Response:** This criterion is met. According to the jobs projections contained in ABAG's January 2012 Focused Growth scenario alternatives for 2040 the unincorporated County has a jobs/household ratio of 0.88 (57,233 jobs 2040/65,278 households), which is below the regional average of 1.25 jobs per household.

Thank you for your continued consideration of Sonoma County's application of the entire Airport/Larkfield proposed Priority Development Area. If I can provide any further information or clarification, please do not hesitate to contact me at 707-565-1925 or Denise Peter at 565-7385.

Sincerely,



Pete Parkinson, AICP  
Director, Permit and Resource Management Department

Attachments:

1. Airport/Larkfield Area Overview Map
2. Airport/Larkfield Land Use Map
3. Airport Business Park Distance/Direction Graphic, US Census LEHD 2009
4. Sonoma County Transit Schedules Routes 60, 62

cc: Board of Supervisors  
Denise Peter, Planner III  
Jennifer Barrett, Deputy Director, Planning





February 27, 2012

Kenneth Kirkey, Planning Director  
Association of Bay Area Governments  
101 Eighth Street  
Oakland, CA 94607

Dear Mr. Kirkey:

We are writing in regard to the joint application submitted by the City of Santa Rosa and Sonoma County for designation of a Priority Development Area (PDA) in the Roseland area under the FOCUS initiative. We understand that PDA designation has been postponed because transit service within the Roseland area does not meet the FOCUS criterion for 20 minute weekday peak commute headways at the present time. We respectfully ask that ABAG reconsider this decision, based on our view that the 20 minute headway criterion is not the best measure of transit density or transit orientation in the Santa Rosa CityBus system, and in the Roseland community in particular.

We are providing this letter in order to give a fuller picture of the current level of transit investment in the proposed Roseland PDA, to highlight important service design goals and constraints that limit the utility of the 20 minute headway criterion as a measure of overall transit density in the Roseland area, as well as to note what we view as a unique "chicken or egg" dilemma in relation to PDA designation for Roseland.

Transit Service Levels in the Proposed Roseland Area PDA

The proposed Roseland Area PDA encompasses the community of Roseland, an economically-disadvantaged area with high levels of transit ridership. The proposed PDA is centered on the Santa Rosa CityBus Southside Transfer Center. Every weekday, 112 CityBus trips—8 buses each hour—serve the Roseland area via four routes that provide direct service to downtown Santa Rosa as well as across Highway 101 and Highway 12 to key employment, social services, and shopping destinations on the north and east sides of Santa Rosa. These routes account for 30% of total service hours in the CityBus system. Three CityBus routes directly serve the Southside Transfer Center, pulsing at the Transfer Center every 30 minutes. This equates to six buses serving the Transfer Center each hour—one bus every 10 minutes if these trips were

distributed throughout the hour rather than being scheduled on a pulse model to facilitate transfers—an important feature of the CityBus service model. From the Southside Transfer Center, passengers can reach the downtown Transit Mall (the central hub of the CityBus system) four times each hour (on the :00, :10, :30, and :50), or travel directly across town to the Northside Transfer Center at the Coddington Mall—the second busiest transfer center in the CityBus system, after the Transit Mall.

Given the relatively low level of street connectivity in the Roseland area, providing adequate levels of service coverage is a key challenge and major area of investment in the CityBus system. Despite the lack of connectivity in some areas, many residents of the proposed PDA (such as those living near the Southside Transfer Center, Stony Point Road, Hearn Avenue, and West Avenue) have access to more than one CityBus route within a short walking distance. This reflects a decision made by the Santa Rosa City Council to ensure the widest access to transit within an area where a great many residents use transit as their primary mode of transportation. The City provides this coverage at the expense of frequency of service (due to the limits on available operating funds), but strives to mitigate the effects of lower frequencies by providing excellent connectivity via direct service to other parts of the City, as well as regular timed transfer opportunities.

We believe these other dimensions of transit service level should be considered in the case of the Roseland PDA. We additionally argue that the 20 minute headway criterion fails to take into consideration the central quandary of transit service provision in the Roseland area, which we believe makes this case unique, as discussed below.

#### “Which comes first?”

Roseland is a highly transit-oriented community, and in our view has demonstrated mobility needs and transit ridership levels that mark the area as a potential focal point for future transit operations investments, such as increased frequencies and longer span of service. (Indeed, the Roseland service model is one focus of the City of Santa Rosa’s current Short Range Transit Plan development process, in which a key proposal under consideration is introducing 15 minute headways on Roseland’s Route 9, which carries an average of over 40 passengers per hour.)

However, for CityBus to sustain the higher levels of transit service that we believe Roseland deserves, we must pursue all available measures to support three key outcomes for the area: 1) continued development, 2) increasing density in the urban fabric, and 3) vastly improved pedestrian infrastructure and connectivity to promote safe and convenient access to transit stops. We view designation of a PDA as a critical step in the process of supporting local planning, development, and infrastructure improvement projects that will enhance the already

notable transit orientation of the Roseland area. The quandary is this: which comes first—the investments that will qualify this area for PDA designation, or the PDA designation that supports these investments in the short term, and helps us to sustain them over the long-term? Santa Rosa's transit system may not have 20 minute headways in place at the present time, but PDA designation can only help us to achieve, maintain, and build upon these higher service levels to improve quality of life and economic opportunity for Roseland residents, and support the development of the Roseland area as an example of smart growth in the Bay Area.

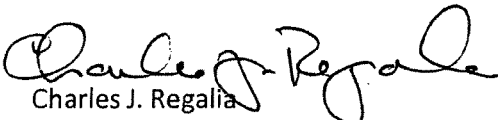
We hope that this information will provide ABAG with a fuller understanding of the unique conditions in the Roseland area, and our rationale for considering this area to be an excellent candidate for PDA designation in keeping with the goals of the FOCUS program, and the City of Santa Rosa and Sonoma County's shared vision.

Please do not hesitate to contact Rachel Ede, Transit Planner, at 707-543-3337 or Lisa Kranz, Supervising Planner, at 707-543-3259, with any questions or needs for clarification. Thank you for your consideration.

Sincerely,



Richard A. Moshier  
Director of Transportation and Public Works, City of Santa Rosa



Charles J. Regalia  
Director of Community Development, City of Santa Rosa



Pete Parkinson, AICP  
Director, Sonoma County Permit & Resource Management Department

Cc: Kathleen Millison, City Manager, City of Santa Rosa  
Santa Rosa City Council  
Sonoma County Board of Supervisors  
Jackie Reinhart, Regional Planner, ABAG

MAYOR JACK BATCHELOR, JR.  
VICE MAYOR MICHAEL CEREMELLO, JR.  
COUNCILMEMBER DANE BESNEATTE



COUNCILMEMBER THOM BOGUE  
COUNCILMEMBER RICK FULLER  
CITY TREASURER JAMES SLAUGHTER

March 5, 2012

Mr. Kenneth Kirkey  
Association of Bay Area Governments  
Regional Planning Committee  
101 Eighth Street  
Oakland, CA 94607

Re: Response to letters in opposition to designating Old Town Dixon as a PDA

Mr. Kirkey:

Recently you have received two letters, one from the Solano County Taxpayers Association and the other from the Old Town Neighbors, in opposition to the City of Dixon's application to have Old Town designated as a PDA. I wish to respond to some of the items mentioned in these letters which are inaccurate and do not represent the majority opinion of the City Council.

In the letter from the SCTA they mention that the City may need to sell the train station, because it is an asset of the now disbanded redevelopment agency. They reference a comment made by our City Attorney stating this certainty. The train station is owned by the City and not the redevelopment agency. Some redevelopment funds were used in the construction of the station, but there is no requirement they be repaid. Most of the funding for the station came from a Solano Transportation Authority (STA) grant. The comment made by our City Attorney was in response to a general question about what was going to happen to redevelopment assets. The council member asking the question wrongly assumed that the redevelopment agency owned the train station, because some redevelopment funds were used in its construction.

STA and the City are well aware that it will be expensive to ultimately make the train station meet the standards needed for a Capitol Corridor Train stop. Part of the reason for why we applied for a PDA designation of Old Town was to help further that objective by giving us a greater opportunity to apply for the needed funds to complete this work. It is true there are some people opposed to the train station ever being a stop, but they are in the minority. It has been a goal of this and many previous Dixon City Councils

**City of Dixon**

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since 1996, when the City commissioned the Downtown Revitalization Plan, to once again have a train stop in Old Town. Completion of the Transit Center (train station) was also in the 2001-2006 Redevelopment Agency Implementation Plan.

In the letter from the Old Town Dixon Neighbors they mention their neighborhood should have been notified by senior staff of the PDA application, because of the potential adverse impacts the designation will have on the neighborhood. They mention a number of traffic concerns they believe will be exacerbated by higher densities that would be allowed in Old Town as a result of receiving a PDA designation. The City was under no legal obligation to notify Old Town Neighbors of the PDA application. The City has notified the neighborhood whenever a new development project has been proposed, as a courtesy. Obtaining a PDA designation in of itself is not approval of any development. Furthermore, their concerns about traffic as a result of increasing densities within the PDA is premature in that it is not certain what effects a project will have on existing traffic until the specific project is analyzed.

The City strongly believes the Old Town Neighborhood should be designated as a PDA. We believe having the train stop in Old Town is a key component to its revitalization and without the PDA designation it will be very difficult to obtain the necessary funding. We acknowledge there are a number of hurdles that must be overcome to achieve this goal.

Please feel free to contact me at 707 678-7004 x114 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David Dowswell", with a stylized, cursive script.

David Dowswell  
Community Development Director

cc: Jack Batchelor, Mayor  
Jon Cox, Acting City Manager



**Solano County Taxpayers Association**  
**Earl Heal, President**  
**P.O Box 31**  
**Dixon, CA 95620**  
**<solanotaxpayers@sbcglobal.net>**

February 29, 2012

Association of Bay Area Governments  
Regional Planning Committee  
101 Eighth Street  
Oakland, California 94607

Attention: Kenneth Kirkey, Planning Director

Subject: Dixon Application for Priority Development Area (PDA) Adopted by Council January 24, 2012

At its February 22, 2012, meeting, Solano County Taxpayers Association (SCTA) approved a resolution to present SCTA concerns to Association of Bay Area Governments (ABAG) about the large commitments of tax money, both past and future, required to bring a Capital Corridor train stop to Dixon. In addition we believe that the Dixon City Council January 24, 2012, staff report and resolution to approve the pending Dixon Priority Development Area (PDA) application failed to include recent, relevant information to the Council and to the public regarding future ownership of the train station. The train station was completed in 2007 using State redevelopment money and is central to the intent of the PDA.

The State dissolution of redevelopment agencies late last year did more than just stop the flow of money from Sacramento; it also allows the State to appropriate redevelopment assets (buildings, parking lots and leases). As the city attorney informed the Council on February 14, 2012, "... the City's obligation is to sell (the train station)." Although SCTA would argue that the City knew or should have known of the potential sale of the train station at the time the PDA application was approved by the Council in January, it is but one additional reason that the Dixon PDA application is premature and should not be approved at this time.

Contrary to the Council's official position, the actions of the Council in these matters have been neither unanimous nor without significant public disagreement since before the construction of the train station. The unfortunate location chosen for the train station will force the City to make a number of very costly and disruptive changes to the historic section of downtown (Old Town). The most costly and disruptive of these is the West A Street grade separation tunnel that is required to provide space to construct some future rail passenger platform. The City's application for the PDA acknowledges that a funding source for this project has not been identified. This project is expected to cost several tens of millions of tax dollars.

In addition to the high cost, the construction of a grade separation tunnel of a major cross-town street, West A Street, the only east-west crossing now in the city limits, would disrupt traffic and Old Town businesses for a very long time. Many businesses in Old Town are already struggling economically and the effect of this kind of disruption on these businesses is not expected to be positive. The existing post office seems sure to suffer major, if not permanent, disruption of public access.

What will be the effect of **selling** the train station? Shouldn't the PDA application at least be tabled until this question is resolved?

The PDA application also states "... the City **hopes** that many of the existing buildings in Old Town ... will be renovated and reused. The City **hopes** that the upper floors ... will again be used for residential." The SCTA is concerned that many historic buildings in Old Town were constructed before modern earthquake and other building standards were in effect and that "renovation" may be extremely costly. Instead of renovating the former Veterans Hall in Old Town, for example, the County recently elected to purchase a new facility in another location at a lower cost. The "hopes" of the City in the PDA application may prove illusory and may become the taxpayer's most costly approach to the stated goals of the PDA.

Again, what will be the effect on the proposed PDA of **selling** the train station?

Another smaller, but costly related project for which money has been approved by the Council is the construction of a pedestrian tunnel to replace the West B Street pedestrian grade crossing near the train station. In addition to the high cost (over \$6 million), SCTA is concerned about this project because the City's portion of money required for its construction has been diverted from a development impact fund (intended to mitigate growth related issues) to a transit capital fund that contained less than half the money required for the City's portion of this project. In addition to not clearly identifying the method of repayment of the money loaned (diverted) from the development impact fund, the Council majority focused mostly on a purported pedestrian safety issue at the site. A significant number of citizens and a minority of the Council have suggested a lower-cost alternative to address the supposed safety issue (the addition of crossing arms) and repeatedly questioned the cost, need and wisdom for this project at all. Opposition to this project includes significant safety issues (lack of visibility, potential for loitering and crime and the attendant risk particularly to students), aesthetics (odors, potentially poorly maintained lighting, dampness, vandalism) and taxpayer costs.

Citizens and some on the Council have repeatedly urged the Council to consider other, more suitable sites for a future train stop that would not be burdened by most of the mitigation measures, and costs, that the train station at its current location requires before any passenger train can stop. One of these proposed sites is within the city limits to the northeast of the subject location (East H Street) and has been offered by the owner for this purpose. This site is relatively free of development at this time and would offer a clean slate for future central transit development.

SCTA believes that ABAG and the Council should step back from their headlong rush to spend large amounts of tax money on a poorly-located train station and the pending approval of the PDA application until effects of the likely sale of the train station are made clear. SCTA also believes that alternative nearby passenger train sites exist that do not come burdened with the large costs and undesirable consequences for Old Town associated with the current location.

The Dixon Chapter of SCTA is currently circulating a petition stating the foregoing objections to further expenditures of tax money at the current train station site, and asking that the PDA application be halted at this time. Copies of these petitions will be available for review after March 14, 2012.

Sincerely,



Earl Heal, President  
Solano County Taxpayers Association  
(707) 446-1353



## OLD TOWN DIXON NEIGHBORS

Dixon, California 95620

February 29, 2012

Mr. Kenneth Kirkey, Planning Director  
Regional Planning Committee  
Association of Bay Area Governments  
P.O. Box 2050  
Oakland, CA 94604-2050

Dear Mr. Kirkey:

We are writing as representatives of a group of Dixon residents known as the ***Old Town Neighbors***. Our group opposes the application by the City of Dixon to designate our downtown, core neighborhood as part of a Priority Development Area (PDA) through the FOCUS program. We have summarized our objections for your review and consideration.

**The community did not learn of the City's plan to apply for the PDA designation until well after the fact.** Even though members of the ***Old Town Neighbors*** have been meeting with David Dowswell, Dixon's Community Development Director, since early 2009, we were never made aware of the City's intent to turn our downtown commercial district and the adjacent neighborhoods into a Rural Town Center/Rural Corridor. We only found out on January 24, 2012 when the Dixon City Council adopted a resolution, by a three-to-two vote, in support of an application that apparently had already been submitted. When we questioned Mr. Dowswell at our meeting with him on February 8, 2012, he indicated that at one of their weekly meetings, City staff had discussed whether to inform us ahead of time. According to him, senior staff did not "believe" they were obligated to let us know of the intent to designate our neighborhood as part of a PDA.

We would point out that in 2009 we submitted a neighborhood letter/petition to the local Planning Commission that was their incentive to direct Mr. Dowswell to begin meeting with us. In that letter we stated:

"Citizens should be actively involved in decision making that affects them and their families. Whenever a neighborhood policy, a zoning change, a strategic plan, or any other planning is undertaken, there must be continuous and maximum participation by those who will be affected by the change, especially by the residents who live in the area."



We have no doubt that you will agree that designating Old Town as a PDA has relevance to those residents who live within its boundaries.

**Our City officials are well aware that the very neighborhood that they have chosen for a Priority Development Area has been over-developed for upwards of 30 years.** In a report presented to the Planning Commission in September of 2011, Mr. Dowswell stated: "Staff acknowledges over the past 30 years the City has wrongly approved a number of projects in old town that violated the General Plan by exceeding their allowable density. The net effect is that many more units have been created in old town than should have been." Furthermore, in a July, 2009 response by City staff to a letter from the State Department of Transportation it was pointed out that "congestion and limited parking availability in the RM-2 are factors making it desirable to encourage multi-family housing in other neighborhoods."

**Designating the Old Town area as a PDA will NOT help to implement the Downtown Revitalization Plan.** Fostering home ownership in the adjacent neighborhood is a key element in the plan to revitalize the downtown. Mr. Dowswell is well aware from his meetings with the neighborhood at large, that many homeowners question the incentive to maintain property in an area that has for years suffered the impacts of overdevelopment. Adding more compact housing to the area will only exacerbate the unmitigated impacts that already exist.

**In regard to the underutilized, existing buildings in the downtown commercial area, a determination should be made as to the cost of renovating and reusing the upper floors for residential use.** Retrofitting brick buildings to make them safe for housing may very well be cost prohibitive for the property owners.

**In terms of the goal to make Dixon a more pedestrian-friendly environment, many residents of our neighborhood and well beyond consider the undercrossing at B Street to be a giant step in the wrong direction.** We do not believe that the passage will be safe for our children and seniors. In order to accommodate ADA requirements in terms of slope and platforms, access at either end of the tunnel does not provide for a clear line of sight. Residents are of the opinion that the undercrossing will discourage walking from one side of the tracks to the other, rather than promote it.

And, there is widespread concern that in regard to public safety and traffic mitigation, the overcrossing at Parkway Boulevard should be a higher priority. Depending on the time of day, traffic congestion through the bottleneck of downtown Dixon necessitates the fire department taking a very time consuming and convoluted route to respond to emergencies in the southeastern area of Dixon. Neither the pedestrian undercrossing at B Street nor the proposed vehicular undercrossing at West A Street will improve emergency response time to certain parts of town.

And, last but not least, the fate of the train station in downtown Dixon is uncertain. At the Council meeting on February 14, 2012, there was discussion about the very real possibility that, as a redevelopment asset, the property may have to be sold. Many residents of Dixon and some members of the Council consider that to be a blessing in disguise. The current location has many more drawbacks than benefits; and, other options should be reexamined. One possibility is a site off of East H Street which at the present time and certainly in the long-term will be more accessible to the goods and services that our community has to offer.

It has been many years since our now historic downtown has been the job center for our community. Development in the Northeast Quadrant is planned as the future center for employment opportunities not only for Dixon but for the surrounding area as well.

**We trust that you agree with us that before an area is designated for Priority Development, more community input should take place. The public must be fully engaged in participatory planning in order to truly determine local aspirations for the development of a complete community.**

As representatives of the *Old Town Neighbors*, we fully support the efforts of the local chapter of the Solano County Taxpayers Association to circulate a petition in order to gauge community sentiment about the proposed location of Old Town Dixon as a Priority Development Area.

It is our understanding that you will include our letter with the report you present to the Regional Planning Committee on March 12, 2012 and to the ABAG Executive Board for their meeting on March 15, 2012. Thank you.


  
Ginger Emerson

  
Patricia Graves

  
Martha Pearson

  
Sandy Block

  
David Werrin

  
Susan Werrin



TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Lafayette RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Lafayette requests the reduction of its Draft RHNA Allocation by 822 units. The City of Lafayette's appeal was heard by the ABAG Administrative Committee on September 24, 2021, at a noticed public hearing. The City of Lafayette, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Lafayette's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals

comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5143152&GUID=9560AD4A-2138-4A1F-A3A4-76605A1E9EB2&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N= SXRIbSA2LCBIYW5kb3V0IFB1Ym xpYyBD b21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Lafayette had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Lafayette presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Lafayette's appeal. The Administrative Committee considered the documents submitted by the City of Lafayette, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Lafayette and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at: [http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9330](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9330). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-24-21-rhna-trial-day-1-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Lafayette, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Failure to Exclude Very High Fire Hazard Severity Zones on Public Lands* – The Plan Bay Area 2050 Final Blueprint Growth Geographies exclude *Very High*

*Fire Hazard Severity Zones*, but the public lands strategy is not constrained by the same criteria. BART station parking lots and other public lands within *Very High Fire Hazard Severity Zones* are not excluded from Strategy H8, as these sites represent some of the region's most critical locations for walkable transit-oriented development. Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Areas at risk of natural hazards are not identified in statute as a constraint to housing except when FEMA or Department of Water Resources has determined flood management infrastructure to protect land is inadequate. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region's housing needs and avoid planning for new homes in places at risk. The City has authority to plan for housing in places with lower risk in its Housing Element.

- *Regarding Issue #2: Concerns That Are Not A Valid Basis For An Appeal — Unforeseen Changes Related to COVID-19* – HCD's comment letter on appeals indicates 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." Potential impacts of COVID-19, including an accelerated shift toward telecommuting and associated economic boom/bust cycle, are incorporated into the RHNA Methodology through integration of the Plan Bay Area 2050 Final Blueprint. Impacts from COVID-19 are not unique to any single jurisdiction, and the appeal does not indicate Lafayette's housing need has been disproportionately impacted relative to the rest of the Bay Area. The pandemic is not cause for a reduction in RHNA for any particular jurisdiction.
- *Regarding Issue #3: Jobs-Housing Relationship* – The City's argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG's methodology does further the objectives. The RHNA methodology uses data about each jurisdiction's jobs-housing relationship in the Plan Bay Area 2050 Final Blueprint and in factors related to Job Proximity, which measure job access based on commute shed to better capture lived experience of accessing jobs irrespective of jurisdiction boundaries. Housing Element Law requires RHNA methodology to improve the *intraregional* relationship between jobs and housing—not jobs-housing balance in any particular jurisdiction. The methodology must also consider jobs-housing fit. Census Bureau data shows Lafayette has 13 low-

wage jobs per unit of rental housing affordable to low-wage workers. The City's lower-income RHNA could enable many of these workers to live closer to their jobs, for better jobs-housing balance, shorter commutes, and lower GHG.

- *Regarding Issue #4: Plan Bay Area 2050 Strategies Have Negative Impacts at Local Level* – This argument is a critique of Plan Bay Area 2050 and does not relate directly to the statutory bases for appealing the City's Draft RHNA. The required greenhouse gas (GHG) target for Plan Bay Area 2050 is set at the regional level, and the additional strategies in the Final Blueprint resulted in reduced per-capita GHG and vehicle miles travelled (VMT) compared to the Draft Blueprint. The strategies incorporated into the Final Blueprint help improve the region's jobs-housing balance, leading to shorter commutes and reduced VMT — especially for low-income workers.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Lafayette's appeal and finds that the City of Lafayette's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).



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

DATE: September 24, 2021

## OVERVIEW

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**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

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### 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
City of Lafayette	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

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**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

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<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

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<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

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<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:

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<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 *intra-regional* 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

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<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**

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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).

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<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>.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Pleasant Hill RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.



On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Pleasant Hill requests the reduction of its Draft RHNA Allocation by 1,019 units. The City of Pleasant Hill's appeal was heard by the ABAG Administrative Committee on September 24, 2021, at a noticed public hearing. The City of Pleasant Hill, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Pleasant Hill's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the

RHNA appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5143153&GUID=63F0CCFB-A49F-4150-B412-488FCBC4A78E&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N= SXRIbSA2LCBIYW5kb3V0IFB1Ym xpYyBD b21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Pleasant Hill had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Pleasant Hill presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Pleasant Hill's appeal. The Administrative Committee considered the documents submitted by the City of Pleasant Hill, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Pleasant Hill and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9330](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9330). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-24-21-rhna-trial-day-1-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Pleasant Hill, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Airport Safety Development Restriction* – Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to

a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. The Plan Bay Area 2050 Final Blueprint and final RHNA methodology align with restrictions imposed by Buchanan Airport safety zones and adequately considers the development limitations raised in the appeal. No household growth is forecasted in safety zones where residential development is prohibited. The growth forecasted in Safety Zone 4 is adjacent to existing residential and within the 4-story height limit.

- *Regarding Issue #2: Lack of Available Land* – Government Code Section 65584.04(e)(2)(B) states ABAG may not limit consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Pleasant Hill does not provide evidence it is unable to consider underutilization of sites, increased densities, and other planning tools to accommodate its assigned need. The RHNA Methodology incorporates each jurisdiction's jobs-housing relationship through use of the Plan Bay Area 2050 Final Blueprint as the baseline allocation.
- *Regarding Issue #3: Drought* – Government Code Section 65584.04(e)(2)(A) states ABAG must consider opportunities and constraints to development of housing due to "lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." Although Pleasant Hill indicates that Contra Costa Water District's Urban Water Management Plan does not analyze the impact of household growth resulting from RHNA, the City has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider.
- *Regarding Issue #4, Issue #5, Issue #6, and Issue #7: RHNA Methodology Does Not Further RHNA Objectives* – These arguments challenge the Final RHNA Methodology adopted by ABAG and approved by HCD, and thus fall outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG's methodology does further the objectives.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration

in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Pleasant Hill's appeal and finds that the City of Pleasant Hill's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Pleasant Hill Appeal of Draft RHNA Allocation and Staff Response

DATE: September 24, 2021

## OVERVIEW

**Jurisdiction:** City of Pleasant Hill

**Summary:** The City of Pleasant Hill requests the decrease of its Draft RHNA Allocation by 1,019 units (57 percent) from 1,803 units to 784 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
  - Distribution of household growth assumed for Plan Bay Area 2050.
  - The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050.
- 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.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Pleasant Hill	566	326	254	657	1,803

### Local Jurisdiction Survey

The City of Pleasant Hill did not 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 and there were two comments that specifically relate to the appeal filed by the City of Pleasant Hill. Both comments support the City's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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The City submitted an appeal based on Government Code Section 65584.05(b)(1), that ABAG "failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04." Government Code Section 65584.04(b) refers to the Local Jurisdiction Survey that ABAG conducted in January and February of 2020. However, the City of Pleasant Hill does not meet the statutory criteria for submitting an appeal on this basis, as described in Government Code Section 65584.05(b)(1), because the City did not submit a survey response to ABAG. Though the jurisdiction lacks a valid basis for appealing its draft allocation according to Government Code Section 65584.05(b)(1), ABAG-MTC staff responded to the issues raised in the jurisdiction's appeal. The City also appealed based on Government Code Section 65584.05(b)(2), claiming ABAG failed to determine the jurisdiction's Draft RHNA Allocation in accordance with the Final RHNA Methodology and in a manner that furthers the RHNA Objectives. ABAG's response below addresses these claims as well.

***Issue 1:*** *The City argues ABAG failed to adequately consider local planning factors relevant to the City of Pleasant Hill that directly influence housing production. Specifically, the City claims the RHNA Methodology does not account for impacts of the Buchanan Airport on lands in the City.*

**ABAG-MTC Staff Response:** While the City claims that ABAG failed to consider the information cited in this appeal, the City did not submit a Local Jurisdiction Survey providing ABAG with this information. Though the jurisdiction does not meet the statutory criteria for appealing on this basis, as described in Government Code Section 65584.05(b)(1), staff explored the issues raised in the jurisdiction's appeal.

ABAG-MTC staff reviewed the "Buchanan Field Airport Policies" document cited in City's appeal.<sup>1</sup> As the City notes, Safety Zones 2 and 3 prohibit residences, while Safety Zone 4 has a building limitation of four stories. Staff then examined the locations of the household growth forecasted in Pleasant Hill in the Plan Bay Area 2050 Final Blueprint, as the total number of households in a jurisdiction in 2050 affects the baseline allocation of the Final RHNA Methodology. Staff confirmed that there is *no residential growth* forecasted in Pleasant Hill in Safety Zones 2 and 3 where residential development is prohibited. The Final Blueprint does forecast growth in Safety Zone 4, which is allowed with a building limitation of four stories. The largest residential project

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<sup>1</sup> A copy of this document is available here:

<https://www.contracosta.ca.gov/DocumentCenter/View/856/Buchanan-Field-Airport-Policies?bidId>.

forecasted in this area stems from a residential development of townhomes in the forecasting model that replaces existing retail on the site. The parcel in question is 10.7 acres, and on this large site the development would certainly be within the height limit of four stories. Additionally, there are a variety of existing residential structures within Pleasant Hill in Safety Zone 4 adjacent to the forecasted growth, including both single-family and multi-family housing. Therefore, staff concludes that the Plan Bay Area 2050 Final Blueprint and Final RHNA Methodology align with the restrictions imposed by the Buchanan Airport safety zones and adequately consider these limitations on development.

***Issue 2:*** *The City argues the RHNA Methodology fails to consider the availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. Additionally, Pleasant Hill claims it will need to re-zone commercial lands for housing to meet its RHNA requirements, and this re-zoning would limit its ability to create jobs and exacerbate jobs-housing imbalance.*

***ABAG-MTC Staff Response:*** As noted previously, the City did not submit a Local Jurisdiction Survey, and so Pleasant Hill did not provide ABAG with the information that it claims the RHNA Methodology fails to consider. Though the jurisdiction does not meet the statutory criteria for appealing on the basis described in Government Code Section 65584.05(b)(1), staff explored the issues raised in the jurisdiction's appeal.

The RHNA methodology adequately considers the availability of land suitable for urban development or for conversion to residential use. The Final RHNA Methodology integrates data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation, which addresses the issues described in the City's appeal. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast Pleasant Hill's share of the region's households in 2050, which is an input into its RHNA allocation.

However, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Final Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

Importantly, 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. 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>2</sup>*

Per Government Code Section 65584.04(e)(2)(B), the City must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. While the City asserts it is built out and has little urban land available for development, it does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>3</sup>

Pleasant Hill argues that its RHNA allocation will lead to a worse jobs-housing balance, but 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 address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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.

**Issue 3:** *The City argues that RHNA Methodology fails to consider the unknown long-term availability of water resources available for new housing development required by RHNA.*

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<sup>2</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>3</sup> See HCD’s [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.



**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to “Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.”

However, the arguments put forward by the City of Pleasant Hill do not meet the requirements for a valid RHNA appeal. Importantly, the City did not submit a Local Jurisdiction Survey, and so Pleasant Hill did not provide ABAG with the information it claims the RHNA Methodology fails to consider. The City’s appeal indicates that Contra Costa Water District’s Urban Water Management Plan (UWMP) does not analyze the impact of household growth resulting from RHNA. However, the email from Contra Costa Water District explicitly states the next update to the UWMP in 2024 will incorporate information from 6<sup>th</sup> Cycle RHNA and Plan Bay Area 2050. Therefore, the City has not provided information from its water service provider suggesting that there is not adequate water supply for the household growth required by RHNA. In fact, future planning from the Contra Costa Water District will incorporate this growth.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, “these issues do not affect one city, county, or region in isolation. ABAG’s allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts.”<sup>4</sup>

Action can be taken to efficiently meet the region’s future water demand, even in the face of additional periods of drought. Eight of the region’s largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>5</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

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<sup>4</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>5</sup> See the [Drought Contingency Plan](#) for more information.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

**Issue 4:** *The City claims that the RHNA Methodology fails to further the objective related to "increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner," as described in Government Code Section 65584(d)(1). Specifically, the City argues that the RHNA Methodology does not increase the housing supply in an equitable manner because the City believes that comparable cities that are forecasted to experience more job growth than Pleasant Hill experienced less of an increase in RHNA compared to last cycle.*

**ABAG-MTC Staff Response:** This argument by Pleasant Hill 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>6</sup> Regarding the RHNA objective described in Government Code Section 65584(d)(1), HCD confirmed that the methodology increases the housing supply in an equitable manner and made the following findings:

*On a per capita basis, the methodology allocates larger shares of RHNA to higher income jurisdictions, resulting in an allocation larger than their existing share of households. Jurisdictions with more expensive housing units – an indicator of higher housing demand – receive larger allocations on a per capita basis. For example, Palo Alto and Menlo Park have some of the highest housing costs in the region, according to American Community Survey Data. Both jurisdictions receive a share of the regional RHNA that is larger than their share of the region's population, putting them in the top 15 per capita allocations. Additionally,*

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<sup>6</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

*jurisdictions with higher rates of home ownership and single-family homes receive slightly larger lower-income allocations as a percentage of their total RHNA (supporting a mix of housing types).*

Additionally, the data the City cites in its argument centers on the increase between jurisdictions' 5<sup>th</sup> Cycle RHNA and 6<sup>th</sup> Cycle RHNA, referring to this increase as the "housing growth rate." However, the "housing growth rate" resulting from RHNA may be more accurately defined as the household growth a jurisdiction would experience as a result of its 6<sup>th</sup> Cycle RHNA. Pleasant Hill would experience a growth rate of 13% from its 2020 households as a result of its 2023-2031 RHNA allocation. Notably, this household growth rate is lower than the 16% growth rate that the region will experience as a result of the 2023-2031 RHNA. Additionally, Pleasant Hill experiences a lower growth rate than the vast majority of jurisdictions in Alameda, San Francisco, and Santa Clara Counties, locations that the City's appeal cites as examples of job centers where growth should be directed. For more information on the growth rates experienced across the region due to the 2023-2031 RHNA, see Figure 1 below.<sup>7</sup>

Lastly, the City's claims also rely on older job projections data from Plan Bay Area 2040 to assert that Pleasant Hill's housing growth from RHNA is not aligned with forecasted job growth. However, more recent projections from Plan Bay Area 2050 suggest that the North Contra Costa County Superdistrict where Pleasant Hill is located is forecasted to see fairly robust job growth between 2015 and 2050, with an estimated increase of 62,000 jobs (+52% growth).<sup>8</sup> Accordingly, housing growth in Pleasant Hill is not misaligned with local job growth, especially considering that Pleasant Hill's housing growth experienced as a result of RHNA remains below the regional average.

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<sup>7</sup> This figure is also available on page 28 of ABAG's 2023-2031 Draft RHNA Plan, which can be found here: [https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG\\_2023-2031\\_Draft\\_RHNA\\_Plan.pdf](https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_Draft_RHNA_Plan.pdf)

<sup>8</sup> For more information, see the Final Blueprint growth pattern data, available here: [https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease\\_December2020\\_GrowthPattern\\_Jan2021Update.pdf](https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf)

**JURISDICTION GROWTH RATE**

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**ABAG-MTC Staff Response:** This argument by Pleasant Hill again challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and thus falls outside the scope of the appeals process. In approving ABAG's RHNA methodology, HCD

confirmed that the methodology furthers the objective described in Government Code Section 65584(d)(2) and made the following findings:

*The draft ABAG methodology encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit.*

Staff concludes that Pleasant Hill's claim is neither a valid basis for an appeal nor factually accurate, as HCD has determined that the RHNA Methodology successfully achieves the Statutory Objective described in Government Code Section 65584.05(b)(2). The response to Issue 6 below provides additional information regarding how the 2023-2031 RHNA allocations encourage reduced VMT and GHG in the region.

**Issue 6:** *The City claims that the RHNA Methodology fails to further the 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," as described in Government Code Section 65584(d)(3). Specifically, the City argues that RHNA should be reduced for Contra Costa County jurisdictions because Plan Bay Area 2050 forecasts that Contra Costa County's share of the region's projected housing growth will be larger than its share of the region's projected job growth.*

**ABAG-MTC Staff Response:** This argument by Pleasant Hill again challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and thus falls outside the scope of the appeals process. In approving ABAG's RHNA methodology, HCD confirmed that the methodology furthers the objective described in Government Code Section 65584(d)(3) and made the following findings:

*The draft ABAG methodology<sup>9</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 GHG. It includes strategies related to increased housing densities and office development subsidies to address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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 influenced by its proximity and accessibility to jobs in another community. Even in jurisdictions that lack robust

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<sup>9</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.

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 VMT and GHG.

Notably, state law also requires the RHNA to improve the balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction, as described in Government Code Section 65584(d)(2). Data from the Census Bureau indicates that Pleasant Hill has an imbalanced ratio between low-wage jobs and affordable housing in the region, with 28 low-wage jobs per unit of rental housing affordable to low-wage workers and their families.<sup>10</sup> Accordingly, the allocation of 892 units of lower-income RHNA assigned to Pleasant Hill could enable many of the low-wage workers in Pleasant Hill to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times and VMT, and lower GHG.

**Issue 7:** *The City claims that the RHNA Methodology fails to further the objective related to “allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category,” as described in Government Code Section 65584(d)(4). Specifically, the City argues that most of Pleasant Hill encompasses areas designated as Moderate Resource on the TCAC/HCD Opportunity Map, and the City believes that Pleasant Hill received a “larger percent increase” than higher resourced jurisdictions. The City also asserts that methodology’s equity adjustment is applied within each county and that the adjustment should instead be made regionally.*

**ABAG-MTC Staff Response:** This argument by Pleasant Hill again challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and thus falls outside the scope of the appeals process. In approving ABAG’s RHNA methodology, HCD confirmed that the methodology furthers the objective described in Government Code Section 65584(d)(4) and made the following findings:

*On average, cities with a larger existing share of lower income units receive smaller allocations of low- and very-low income units as a percentage of their total RHNA. For example, East Palo Alto’s current percentage of households that are lower income is the highest in the ABAG region and it receives the lowest lower income allocation as a percentage of its total RHNA. San Pablo’s percentage of households that are lower income is the second highest in the region and its lower income allocation as a percentage of its total RHNA is lower than 92% of other jurisdictions. Cities with smaller shares of existing lower income units receive larger allocations of low- and very low-income units as a percentage of their total RHNA.*

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<sup>10</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Pleasant%20Hill>



Notably, the argument that Pleasant Hill makes in its appeal is not directly related to the statutory objective it cites. The objective described in Government Code Section 65584(d) relates to ensuring that disproportionately low-income areas do not receive a disproportionate share of lower-income RHNA and vice versa. HCD affirms that the RHNA Methodology furthers this objective, as noted above.

Pleasant Hill's appeal also incorrectly describes the Equity Adjustment when it states, "This methodology appears flawed since the equity housing number increases or decreases are applicable to the County only, while the total RHNA is applied and distributed throughout the greater Bay Area region." In fact, the redistribution of lower-income RHNA that occurs as a result of the Equity Adjustment is not applied solely within each county. Lower-income units are shifted from 60 jurisdictions located across the region to the 18 jurisdictions whose allocations are increased as a result of the Equity Adjustment. This aspect of the methodology is described in more detail on pages 18 through 21 of ABAG's [2023-2031 Draft RHNA Plan](#), and Appendix 6 of this document provides additional calculations related to the Equity Adjustment.

Ultimately, the Equity Adjustment included in the Final RHNA Methodology helps ABAG make even greater progress towards its statutory obligation to affirmatively further fair housing. HCD commended the methodology's use of the Equity Adjustment in its April 2021 letter affirming that ABAG's RHNA Methodology successfully furthers all statutory objectives, including the mandate to affirmatively further fair housing. This adjustment ensures that the 49 jurisdictions identified as exhibiting racial and socioeconomic demographics that differ from the regional average receive a share of the region's lower-income RHNA units that is at least proportional to the jurisdiction's share of existing households. Most of these 49 jurisdictions receive allocations that meet this proportionality threshold based on the final RHNA methodology's emphasis on access to high opportunity areas. However, the Equity Adjustment ensures that 18 jurisdictions that might exhibit racial and economic exclusion but do not have significant shares of households living in high opportunity areas also receive proportional allocations.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the City of Pleasant Hill to reduce its Draft RHNA Allocation by 1,019 units (from 1,803 units to 784 units).



TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of San Ramon RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of San Ramon requests the reduction of its Draft RHNA Allocation by 1,450 units. The City of San Ramon's appeal was heard by the ABAG Administrative Committee on September 29, 2021, at a noticed public hearing. The City of San Ramon, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of San Ramon's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA

appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5149450&GUID=CAE1291F-C413-405C-8109-82AEF6171DC6&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N= SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBD b21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of San Ramon had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of San Ramon presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of San Ramon's appeal. The Administrative Committee considered the documents submitted by the City of San Ramon, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of San Ramon and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, Mayor Dave Hudson recused himself from participating in consideration of the City of San Ramon's appeal.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9359](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9359). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-29-21-rhna-appeals-day-2-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of San Ramon, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Jobs-Housing Relationship* – Changes to San Ramon’s CityWalk Master Plan do not affect the City’s RHNA because CityWalk is located within San Ramon’s Priority Development Area (PDA). The Plan Bay Area 2050 Final Blueprint strategies adopted by the ABAG Board applied increased density and intensity assumptions in a consistent manner based upon transit access and resource level. The Job Proximity – Transit factor in the RHNA Methodology is based on the number of jobs observed in 2015. Assumptions about future changes in jobs have no impact on San Ramon’s allocation. Impacts on jobs and transit from COVID-19 are not a valid basis for an appeal.
- *Regarding Issue #2: Impact of Recent Annexations* – Annexation DV 17 was included in all modeling for the Plan Bay Area 2050 Final Blueprint. Annexation DV 18 occurred after modeling for the Final Blueprint, so the area was included as part of Contra Costa County when calculating RHNA baselines. However, the Final Blueprint did not forecast any households in this area in 2050, so a shift of jurisdictional responsibility from the County to San Ramon would have no impact on either jurisdiction’s RHNA allocation.
- *Regarding Issue #3: Lack of Available Land* – Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction’s existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. San Ramon does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate more housing.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of San Ramon’s appeal and finds that the City of San Ramon’s RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of San Ramon Appeal of Draft RHNA Allocation and Staff Response

DATE: September 29, 2021

## OVERVIEW

**Jurisdiction:** City of San Ramon

**Summary:** City of San Ramon requests the decrease of its Draft RHNA Allocation by 1,450 units (28 percent) from 5,111 units to 3,661 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - Existing and projected jobs and housing relationship.
  - Distribution of household growth assumed for Plan Bay Area 2050.
- 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.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of San Ramon	1,497	862	767	1,985	5,111

### Local Jurisdiction Survey

The City of San Ramon submitted 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 San Ramon. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The City argues that ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey regarding the existing and projected jobs and housing relationship in San Ramon. San Ramon claims the adoption of the CityWalk Master Plan in August 2020 results in the Plan Bay Area 2050 Final Blueprint and RHNA Methodology using outdated and incorrect jobs projections. San Ramon also asserts its projected loss of jobs as well as decreased transit service during COVID impact the data used for Job Proximity – Transit factor in the RHNA Methodology, and the City believes this change in circumstances requires a reduction in San Ramon’s RHNA to improve jobs-housing balance.*

**ABAG-MTC Staff Response:** As noted in the City’s appeal, the only mention of the Bishop Ranch project in San Ramon’s survey response is the following statement: “Opportunities are being reviewed with the Bishop Ranch City Center Mixed Use project for up to 4,500 housing units near existing jobs and transportation networks.”<sup>1</sup> However, San Ramon’s Local Jurisdiction Survey makes no mention of the potential impacts of this redevelopment on the number of jobs in the City, so ABAG could not have incorporated the information that San Ramon asserts the RHNA methodology fails to consider.

Regardless, staff have determined that Plan Bay Area 2050 and the RHNA Methodology adequately incorporate the Bishop Ranch City Center Mixed Use project/CityWalk Master Plan cited in the appeal. This area is within a locally designated Priority Development Area; Priority Development Areas are one of the Growth Geographies in Plan Bay Area 2050. The Plan Bay Area 2050 Final Blueprint includes specific assumptions about increases in allowable density and intensity of future residential and commercial development that are regionally applied to Growth Geographies based on transit access and resource level in alignment with Board-adopted strategies. The RHNA Methodology incorporates the total year 2050 households forecast from the Plan Bay Area 2050 Final Blueprint as the RHNA Methodology’s baseline allocation, and so San Ramon’s RHNA allocation reflects housing growth targeted in the CityWalk Master Plan area. Plan Bay Area 2050 includes strategies that encourage the transformation of vacant commercial sites into neighborhoods, so in contrast to San Ramon’s arguments in its appeal, an expected decline in jobs could lead to an increase in forecasted housing in the Final Blueprint.

The information provided in the City’s appeal fails to prove that inaccurate and outdated data was used for the RHNA Methodology’s Job Proximity – Transit factor. The Job Proximity factors are based on the number of jobs observed in 2015. Per Government Code Section 65584.04(3), the RHNA Methodology should use “information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.” When the RHNA

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<sup>1</sup> A copy of San Ramon’s survey response is available on ABAG’s website:  
[https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG\\_RHNA\\_Local\\_Jurisdiction\\_Surveys\\_Received.pdf](https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_RHNA_Local_Jurisdiction_Surveys_Received.pdf)

Methodology was developed by the Housing Methodology Committee in 2020, ABAG used MTC's readily available data on job proximity by transit.<sup>2</sup> ABAG is not aware of any other data source on job proximity by transit for the Bay Area that existed at the time in a format that was comparable throughout the region.

Thus, assumptions about future changes in jobs have no impact on the RHNA Methodology's factors nor the baseline allocation derived from the Plan Bay Area 2050 Final Blueprint. Staff thus concludes that the information submitted by San Ramon does not provide evidence that the RHNA methodology used incorrect data, nor does this information represent a change in circumstances meriting a revision of the City's RHNA.

ABAG-MTC staff appreciates the jurisdiction's concerns about the significant economic and societal changes resulting from COVID-19. 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>3</sup>

Potential impacts of COVID-19, including 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. It is also important to remember that 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. The current cuts to transit service cited by the City in its appeal are unlikely to be permanent, with transit agencies planning to restore services in the coming months and years. The jurisdiction has not provided evidence to suggest that COVID-19 reduces the jurisdiction'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 jurisdiction's housing need has been disproportionately impacted relative to the rest of the Bay Area.

**Issue 2:** *The City states that it has had two annexations since 2016 and it is unclear whether these annexations were included in the Plan Bay Area 2050 Final Blueprint and the resulting baseline allocation for the RHNA Methodology.*

**ABAG-MTC Staff Response:** Annexation DV 17 was already included in all modeling for the Plan Bay Area 2050 Final Blueprint. In contrast, the annexation for DV 18 was finalized by the San

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<sup>2</sup> For more information on this methodology factor, see page 18 of the Draft RHNA Plan on ABAG's website: [https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG\\_2023-2031\\_Draft\\_RHNA\\_Plan.pdf](https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_Draft_RHNA_Plan.pdf)

<sup>3</sup> See [HCD's comment letter on appeals](#) for more details.

Ramon City Council in October 2020, which occurred after the September 2020 Commission and ABAG Executive Board action to initiate modeling of the Plan Bay Area 2050 Final Blueprint. Thus, this area was included as part of unincorporated Contra Costa County in the Final Blueprint. The County also cited the annexation of DV 18 as grounds for an appeal. However, while the annexation was not capturing when calculating jurisdictional baselines for RHNA, the Final Blueprint did not forecast any households in this area in 2050, so a shift of jurisdictional responsibility from the County to San Ramon would have no impact on either jurisdiction's RHNA allocation.

***Issue 3:*** *The City argues that the High Resource Area Growth Geographies in the Plan Bay Area 2050 Final Blueprint do not adequately consider land use constraints and development feasibility, and so the RHNA assigned to San Ramon is an overestimation of the City's ability to accommodate growth.*

***ABAG-MTC Staff Response:*** In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel. These feasibility and cost assessments are used to forecast San Ramon's share of the region's households in 2050, which is an input into its RHNA allocation.

However, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to San Ramon also reflects both existing and future housing demand in the Bay Area.

Importantly, 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. 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>4</sup>*

Per Government Code Section 65584.04(e)(2)(B), the City of San Ramon must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. While the City asserts that its High Resource Area Growth Geography is built out, it does not provide evidence that it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate more housing.<sup>5</sup> Furthermore, directing growth to High Resource Areas and other Growth Geographies is essential for addressing the policy priorities required for Plan Bay Area 2050 and RHNA, including promoting efficient development patterns, reducing greenhouse gas emissions, and affirmatively furthering fair housing.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by City of San Ramon to reduce its Draft RHNA Allocation by 1,450 units (from 5,111 units to 3,661 units).

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<sup>4</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>5</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: County of Contra Costa RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The County of Contra Costa requests the reduction of its Draft RHNA Allocation by 1,818 units. The County of Contra Costa's appeal was heard by the ABAG Administrative Committee on September 29, 2021, at a noticed public hearing. The County of Contra Costa, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the County of Contra Costa's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this

appeal during the RHNA appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5149451&GUID=E7107A90-B95D-463C-80CC-7822FBB8A4A3&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDdb21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the County of Contra Costa had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The County of Contra Costa presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the County of Contra Costa's appeal. The Administrative Committee considered the documents submitted by the County of Contra Costa, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by County of Contra Costa and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, Supervisor Karen Mitchoff recused herself from participating in consideration of the County of Contra Costa's appeal.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9359](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9359). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-29-21-rhna-appeals-day-2-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the County of Contra Costa, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG

Administrative Committee partially grants the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issues #1, #2 and #3: Areas Identified for Growth in Final Blueprint* – The Final Blueprint, which is the baseline allocation in the final RHNA methodology, does not allow any significant growth outside the Urban Limit Line. As a result, none of the areas identified in this appeal contributed to the County's allocation.
- *Regarding Issue #4: Region's Greenhouse Gas Target* – The final RHNA methodology adequately considers the region's greenhouse gas target by using the Final Blueprint as its baseline allocation, as the Final Blueprint was developed specifically to meet the greenhouse gas reduction target. The County's argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG's methodology does further these objectives. As HCD notes, ABAG's methodology allocates "nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. . . Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT."
- *Regarding Issue #5: Development Constraints* – Areas at risk of natural hazards are not identified in Housing Element Law as a constraint to housing development. While new development is subject to additional regulations, neither the Town nor FEMA prohibits new housing in the floodplain. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region's housing needs and avoid planning for new homes in places at risk. The Town has the authority to plan for housing in places with lower risk. Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. The Plan Bay Area 2050 growth forecast is adopted at the county and subcounty levels only. The parcel-specific forecast simulates the region's future growth pattern; an issue with growth projected for a particular parcel is not a valid basis for a RHNA appeal, as the Plan does not dictate where a jurisdiction sites housing. ABAG-MTC staff's review of the Final Blueprint showed nearly all sites identified by the County were not forecasted to have households on them, with two exceptions. Bethel Island is projected to have 19 additional households by 2050, many of which are assumed to be accessory dwelling units (ADUs). The impact of 19 households on the County's share of the region's total households in 2050 and, as a result, its draft RHNA allocation, is deemed negligible.

Parcels along SR-4 east of Hercules within the Urban Limit Line are projected to have 5,684 households in 2050, driven by baseline land use data made available to the County during the BASIS review period in 2019 and 2020. The potential for future housing in this area, as envisioned in the Final Blueprint, is possible as a result of the upcoming closure of the Phillips 66 Carbon Plant in 2023, as part of the Phillips 66 Rodeo Renewed Project.

- *Regarding Issue #6: Change in Circumstances* – An annexation by San Ramon and one by Pittsburg were not incorporated in the Final Blueprint. However, no households were forecasted in these areas, so a shift of jurisdictional responsibility would have no impact on either jurisdiction's RHNA allocation. The Faria Southwest Hills Boundary Organization affecting Pittsburg is incomplete according to Contra Costa LAFCO and is still part of Unincorporated Contra Costa County. A Pittsburg annexation (LAFCO 17-08) was incorrectly included as part of the unincorporated County in the Final Blueprint. Reducing the County's 2050 households baseline by the 412 households projected in that area results in a reduction in the County's total RHNA of 35 units.
- *Regarding Issue #6: Change in Circumstances (continued)* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. The Access to High Opportunity Areas factor is based on the percentage of households in High or Highest Resource census tracts on the State's Opportunity Map. The County's score (36% of households) is relatively low compared to other jurisdictions, so this factor reduces the County's allocation.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby partially grants the appeal filed by the County of Contra Costa by reducing its Draft RHNA Allocation by 35 units and transferring these units to the City of Pittsburg, as allowed by Government Code Section 65584.05(e)(1).

With this adjustment to the County's draft RHNA allocation, the ABAG Administrative Committee finds that the County of Contra Costa's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
DATE: September 29, 2021  
SUBJECT: County of Contra Costa Appeal of Draft RHNA Allocation and Staff Response

## OVERVIEW

**Jurisdiction:** County of Contra Costa

**Summary:** County of Contra Costa requests the decrease of its Draft RHNA Allocation by 1,818 units (24 percent) from 7,645 units to 5,827 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - Sewer or water infrastructure constraints for additional development due to laws, regulatory actions, or decisions made by a provider other than the local jurisdiction.
  - Lands protected from urban development under existing federal or state programs.
  - County policies to preserve prime agricultural land.
  - The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050.
- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Partially grant the appeal, based on an error in the Plan Bay Area 2050 Final Blueprint where an area annexed to Pittsburg in 2018 was included as part of unincorporated Contra Costa County when forecasting total 2050 households, which is used as the baseline allocation in the final RHNA methodology. Staff proposes that the County's allocation should be reduced by 35 units as a result of this error.

## BACKGROUND

### Draft RHNA Allocation

Following adoption of the Final RHNA Methodology on May 20, 2021, the County of Contra Costa received the following draft RHNA allocation on May 25, 2021:

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
County of Contra Costa	2,082	1,199	1,217	3,147	7,645

## Local Jurisdiction Survey

The County of Contra Costa submitted 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, and there was one comment that specifically relates to the appeal filed by the County of Contra Costa. The comment opposes the County's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *Contra Costa County argues its draft allocation is too high relative to the allocations to other jurisdictions in Contra Costa County. Specifically, the County argues ABAG overestimated the amount of developable land in the County because the Plan Bay Area 2050 Final Blueprint identifies areas for growth outside of the Urban Limit Lines established by voters in 1990 to preserve land in the county for agriculture, open space, wetlands, parks, and other nonurban uses. Areas outside the Urban Limit Lines have limited sewer and water infrastructure and expansion of these utilities outside the Urban Limit Lines is prohibited.*

**ABAG-MTC Staff Response:** In support of its argument, the County references the "Urban boundary lines across alternatives" map from the *Plan Bay Area 2050 Draft Forecasting and Modeling Report*, one of the technical reports that is part of the Plan Bay Area 2050 Draft Environmental Impact Report (EIR). This map shows scenarios for where future growth could occur in the different EIR alternatives.<sup>1</sup> The Plan Bay Area 2050 Final Blueprint, which is used to develop the baseline allocation in the final RHNA methodology, forecasts potential future urbanized growth in some locations outside urbanized areas (shown in purple on the map), but within the County's voter identified Urban Limit Line.<sup>2</sup> The other areas shown on the map relate to other EIR alternatives for Plan Bay Area 2050 and are not part of the Final Blueprint that is used in the final RHNA methodology. In some cases, the purple expansion areas for growth are within city limits and sometimes in unincorporated areas.

It is also important to note that identification of land as being *eligible* for growth or included in a Growth Geography does not mean the Final Blueprint necessarily forecasts future growth in these areas; the acreage included in a potential growth area does not translate linearly to development. For example, parklands are protected in perpetuity, even if they are included inside the Urban Limit Line. The Final Blueprint also assumes that some unprotected lands within expansion areas remain undeveloped by 2050.

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<sup>1</sup> [Plan Bay Area 2050 Draft Forecasting and Modeling Report](#), page 61.

<sup>2</sup> See [http://64.166.146.245/docs/2016/BOS/20161220\\_831/27024\\_Attachment%20A%20-%20ULL%20Map.pdf](http://64.166.146.245/docs/2016/BOS/20161220_831/27024_Attachment%20A%20-%20ULL%20Map.pdf).



Part of the reason the County's draft allocation is larger than other jurisdictions in Contra Costa County is because the County has the highest number of existing households (60,500) of any jurisdiction in the county.<sup>3</sup> As noted previously, the RHNA must address both existing and future housing needs. The final RHNA methodology accomplishes this by using total households in 2050 as the baseline allocation because it incorporates both existing households and the forecasted growth in households from the Final Blueprint. Housing Element Law requires the RHNA allocation to affirmatively further fair housing, which means overcoming patterns of segregation and addressing disparities in access to opportunity. Incorporating existing housing patterns into the RHNA methodology ensures that the allocations further this objective in all communities, not just those expected to experience significant growth.

**Issue 2:** *The County argues ABAG did not adequately consider lands protected from urban development under existing federal or state programs. The appeal identifies specific sites that should not be considered for housing development, including Parks Reserve Forces Training Area (a U.S. Army Reserve facility), Byron Airport (permitted by the Federal Aviation Administration), and land designated with conservation easements as part of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan.*

**ABAG-MTC Staff Response:** The Plan Bay Area 2050 Final Blueprint, which is used to develop the baseline allocation in the final RHNA methodology, does not forecast any households in 2050 on any of the sites identified above. As a result, none of these parcels contributed to the County's allocation.

**Issue 3:** *Contra Costa County asserts ABAG did not adequately consider county policies to preserve prime agricultural land because the Final Blueprint includes areas outside Urban Limit Lines.*

**ABAG-MTC Staff Response:** See response for Issue 1, above.

**Issue 4:** *The County argues ABAG failed to adequately consider the region's greenhouse gas emissions target and references the "Urban boundary lines across alternatives" map from the Plan Bay Area 2050 Draft Forecasting and Modeling Report as evidence that the growth pattern for Contra Costa County in the Final Blueprint will be sprawl and runs counter to the goal of reducing greenhouse gases.*

**ABAG-MTC Staff Response:** The final RHNA methodology adequately considers the region's greenhouse gas target by using the Plan Bay Area 2050 Final Blueprint as the baseline allocation, as the Final Blueprint was developed specifically to meet the greenhouse gas reduction target. The County's argument that the RHNA does not promote achieving the region's greenhouse gas

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<sup>3</sup> State of California, Department of Finance, *E-5 Population and Housing Estimates for Cities, Counties and the State — January 1, 2010-2020*. Sacramento, California, May 2020.

emissions target 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>4</sup> Regarding the RHNA objective related to achieving the region's greenhouse gas reduction target, HCD made the following findings:

*"The draft ABAG methodology<sup>5</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit."*

As noted previously, the Plan Bay Area 2050 Final Blueprint forecasts nearly all new growth within the County's Urban Limit Line.

**Issue 5a:** *Contra Costa County argues the final RHNA methodology does not adequately consider constraints to development related to areas at risk of natural hazards.*

**ABAG-MTC Staff Response:** The final RHNA methodology adequately considers the potential development constraints described in the County of Contra Costa's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan

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<sup>4</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>5</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.

Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast the County's share of the region's households in 2050, which is an input into its RHNA allocation.

However, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Final Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

Importantly, 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. 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>6</sup>

The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands the County of Contra Costa'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 identify areas at risk of natural hazards as a potential constraint to housing development."<sup>7</sup> Given the significant natural hazard risks in the Bay Area, whether to

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<sup>6</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>7</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."

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.<sup>8</sup> Ultimately, HMC members 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.

The Final Blueprint Growth Geographies exclude CAL FIRE designated “Very High” fire severity areas in incorporated jurisdictions, and “High” and “Very High” fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to the County.<sup>9</sup> While there may be areas at risk of flooding in the County, it has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources that the flood management infrastructure is inadequate to avoid the risk of flooding, consistent with Government Code Section 65584.04(e)(2)(B).

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, the 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. In developing its Housing Element, the County has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the County can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

Per Government Code Section 65584.04(e)(2)(B), the County of Contra Costa must consider the availability of underutilized land, opportunities for infill development, and increased residential densities to accommodate its RHNA. The County does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>10</sup>

***Issue 5b:*** *Contra Costa County argues the final RHNA methodology does not adequately consider constraints to development related to specific sites that have no potential for residential growth.*

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<sup>8</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

<sup>9</sup> The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.

<sup>10</sup> See HCD’s [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

**ABAG-MTC Staff Response:** Plan Bay Area 2050 uses parcel-based data as an input into the land use model used to generate the forecasted development pattern for the region. However, the growth forecasted for a specific parcel is only a simulation of potential growth. In Plan Bay Area 2050, the forecasted totals for future households and jobs are adopted at the county and subcounty levels, as the scale most appropriate for representing the future development pattern for the region. The jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were provided only for use as the baseline allocation for the RHNA Methodology.

Ultimately, the region has millions of parcels and identifying a potential issue on one or more specific parcels does not constitute a valid basis for a RHNA appeal, as the allocation is at the jurisdiction level and the jurisdiction could find one or more alternative parcels to accommodate that growth instead. The forecasted development for a parcel in Plan Bay Area 2050's land use modeling does not dictate where a local jurisdiction sites housing. In developing its Housing Element, the County of Contra Costa has the opportunity to identify the specific sites it will use to accommodate its RHNA.

Despite the fact that this argument is not a valid basis for a RHNA appeal, ABAG-MTC staff did review each of the specific sites the County identified as having no potential for residential growth to see if any households is forecasted to exist on them in 2050. Nearly all of the sites were not forecasted to have households on them, but there were two exceptions. The first is Bethel Island, which is projected to have fewer than 20 additional households by 2050, many of which are assumed to be accessory dwelling units (ADUs). As the County of Contra Costa has tens of thousands of households now and in the future, the impact of 19 households on the County's share of the region's total households in 2050 and, as a result, its draft RHNA allocation, is deemed negligible.

The second area where the Final Blueprint forecasted household growth to occur is along State Route 4 east of Hercules on parcels nearby and adjacent to the Phillips 66 carbon plant, where more than 5,000 households were projected to exist in 2050. Projected growth in this location is within the County's Urban Limit Line and was driven by baseline zoning and land use assumptions shared with the County during the BASIS data review process. The County did not identify development constraints in this area, due to the proximity of the industrial facility, during the BASIS review or as part of their local jurisdiction survey. The potential for future housing in this area, as envisioned in the Final Blueprint, is possible as a result of Phillips 66's plans to close the carbon plant in 2023, as part of its Phillips 66 Rodeo Renewed Project.<sup>11</sup>

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<sup>11</sup> For more information about the Phillips 66 Rodeo Renewed Project, see [https://www.contracosta.ca.gov/DocumentCenter/View/69279/LP20-2040\\_NOP?bidId=](https://www.contracosta.ca.gov/DocumentCenter/View/69279/LP20-2040_NOP?bidId=) and <https://www.ogj.com/refining-processing/refining/construction/article/14201644/phillips-66-lets-contract-for-san-francisco-refineryintorenewables-conversion-project>

**Issue 6a:** Under the appeal basis “significant and unforeseen change in circumstances,” the County identifies several areas that were annexed or are in the process of being annexed that should not be considered when forecasting future growth in the County in the Final Blueprint.

**ABAG-MTC Staff Response:** The County cites four annexations for consideration in an adjustment to its RHNA allocation, one that relates to the City of San Ramon and three that relate to the City of Pittsburg:

- 1) LAFCO 20-05 is the annexation of 867 acres by San Ramon in the Dougherty Valley (Annexation DV18). This annexation was finalized by the San Ramon City Council in October 2020, which occurred after the September 2020 Commission and ABAG Executive Board action to initiate modeling of the Plan Bay Area 2050 Final Blueprint. Thus, this area was included as part of unincorporated Contra Costa County in the Final Blueprint. However, the Final Blueprint did not forecast any households in this area in 2050, so a shift of jurisdictional responsibility from the County to the City would have no impact on either jurisdiction’s RHNA allocation.
- 2) LAFCO 16-05 is an area annexed to Pittsburg in 2017 that was incorrectly included as part of the unincorporated Contra Costa County in the Plan Bay Area 2050 Final Blueprint. However, the Final Blueprint did not forecast any households in this area in 2050, so a shift of jurisdictional responsibility from the County to the City would have no impact on either jurisdiction’s RHNA allocation.
- 3) LAFCO 17-08 is an area annexed to Pittsburg in 2018 that was incorrectly included as part of the unincorporated Contra Costa County in the Plan Bay Area 2050 Final Blueprint. The Final Blueprint forecasted a total of 412 households in this area in 2050. ABAG-MTC staff recalculated the County’s RHNA allocation after reducing its baseline share (total households in 2050) by 412 households. This results in a reduction in the County’s total RHNA of 35 units, as shown below:

Very Low- Income Units	Low-Income Units	Moderate- Income Units	Above Moderate- Income Units	Total
10	5	6	14	35

Government Code Section 65584.05(e)(1) states that the determination on an appeal may require ABAG to adjust the share of the regional housing need allocated to a jurisdiction that is not the subject of the appeal.<sup>12</sup> In this case, staff is recommending that

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<sup>12</sup> See ABAG’s adopted [2023-2031 RHNA Cycle Appeals Procedures](#) for more information.



the 35 units identified above be transferred to the City of Pittsburg, based on the fact that the forecasted households are within Pittsburg's boundaries and if the City's boundaries had been properly accounted for in the Final Blueprint, these households would have contributed to Pittsburg's draft RHNA allocation.

- 4) LAFCO 21-05 is the Faria Southwest Hills Boundary Organization affecting Pittsburg. According to Contra Costa LAFCO, this annexation is currently incomplete (**Attachment 1**). As a result, this area should still be considered part of the unincorporated county. For 90 days following the date of annexation, Government Code Section 65584.07(d) allows a transfer of a portion of the county's allocation to a city. Upon request by the County of Contra Costa and the City of Pittsburg, ABAG-MTC staff is prepared to facilitate this type of transfer of RHNA responsibility.

**Issue 6b:** *Under the appeal basis "significant and unforeseen change in circumstances," the County cites the changes that occurred between the Plan Bay Area 2050 Draft Blueprint and the Final Blueprint as a significant and unforeseen change in circumstances. As part of this argument, the County specifically cites a lack of consideration of areas at risk from natural hazards and asserts that the RHNA factor related to Access to High Opportunity Areas was incorrectly applied to the entire population of the county, even though there are many areas defined as Disadvantaged Communities per SB 1000.*

**ABAG-MTC Staff Response:** Government Code Section 65584.05(b)(3) states that a jurisdiction can appeal its allocation if there has been a significant and unforeseen change in circumstances that merits a revision of the information submitted in the Local Jurisdiction Survey. The County's argument about the impact of the Final Blueprint on the draft allocations is not consistent with the statutory language for a change in circumstances and challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and thus is not a valid basis for an appeal.

The County's argument about how the Access to High Opportunity Areas (AHOA) factor was used in the methodology challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and thus falls outside the scope of the appeals process. Importantly, the impact of the AHOA factor is to *reduce* the County's allocation.

The AHOA factor and how it was used in the RHNA methodology is explained in detail on pages 16 to 19 in the Draft RHNA Plan.<sup>13</sup> The factors in the RHNA methodology adjust a jurisdiction's baseline allocation (total households in 2050 from the Plan Bay Area 2050 Final Blueprint) either up or down, depending on how the jurisdiction scores on each factor compared to other jurisdictions in the region. The AHOA factor is based on the percentage of a jurisdiction's

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<sup>13</sup> See [https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG\\_2023-2031\\_Draft\\_RHNA\\_Plan.pdf](https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_Draft_RHNA_Plan.pdf).

households that are living in census tracts that are labelled High Resource or Highest Resource on the 2020 Opportunity Map produced by HCD and the California Tax Credit Allocation Committee (TCAC).<sup>14</sup> Using a jurisdiction's share of total households in these higher resource areas ensures that the factor excludes households living in lower resource areas. As shown in Appendix 4 of the Draft RHNA Plan, 35.9 percent of households in Contra Costa County are in High Resource or Highest Resource census tracts. Since the County scores relatively low on this factor compared to other jurisdictions in the region, this factor reduces the County's baseline allocation, leading to a lower RHNA allocation.

## RECOMMENDED ACTION

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **partially grant** the appeal filed by County of Contra Costa to reduce its Draft RHNA Allocation by 35 units (from 7,645 units to 7,610 units).

Based on the explanation provided in response to Issue 6 above, staff recommends that 35 units, distributed across income categories as shown below, be transferred to the City of Pittsburg:

Very Low-Income Units	Low-Income Units	Moderate-Income Units	Above Moderate-Income Units	Total
10	5	6	14	35

Although ABAG-MTC staff is not recommending a further reduction in the County of Contra Costa's draft RHNA allocation beyond what is stated above, we understand the County's concerns about accommodating its RHNA in a way that fosters efficient infill and protection of agricultural and environmental resources. Housing Element Law recognizes some of the specific challenges unincorporated areas face by including provisions available only to counties that allow for a transfer of RHNA units to incorporated cities and towns in the county following adoption of the final RHNA allocation.<sup>15</sup> One option allowed by the statute is for the County and one or more jurisdictions to voluntarily agree on a transfer of units from the County to the city or town. A second option is for a County to transfer units following annexation of unincorporated land to a city (as noted above for the City of Pittsburg annexation that remains incomplete).

By statute, voluntary transfers can be completed following ABAG's adoption of the final RHNA plan and prior to the Housing Element due date (January 2023) and transfers related to annexations can occur at any point during the RHNA cycle, as long as the request is submitted

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<sup>14</sup> See <https://www.treasurer.ca.gov/ctcac/opportunity/2020.asp>.

<sup>15</sup> See [Government Code Section 65584.07](#) for more details.



to ABAG within 90 days of the annexation. ABAG-MTC staff is prepared to work with jurisdictions in Contra Costa County to come to agreement on a voluntary transfer as a way to advance the County's goals for city-centered growth, and to move forward with approval of the transfer expediently following adoption of the final RHNA in December 2021.

**ATTACHMENT(S):**

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Attachment 1: Email from Contra Costa County LAFCO

**From:** [Ada Chan](#)  
**To:** [Gillian Adams](#)  
**Subject:** FW: Annexations  
**Date:** Wednesday, August 18, 2021 9:53:38 AM  
**Attachments:** [LAFCO 20-05 Dougherty Valley Reorg - Annexation to City of San Ramon and Detachment from CSA P-6 - Notice of Completed Boundary Changes.docx](#)  
[LAFCO 20-05 DV No 18 Reorg - Cert of Completion Packet.pdf](#)  
[LAFCO 20-05 BOE Acknowledgement Letter.pdf](#)

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Regional Planner  
[achan@bayareametro.gov](mailto:achan@bayareametro.gov)

**BAY AREA METRO** | [BayAreaMetro.gov](http://BayAreaMetro.gov)  
Association of Bay Area Governments  
Metropolitan Transportation Commission

Bay Area Metro Center | 375 Beale Street | Suite 800  
San Francisco, CA 94105  
(415) 820-7958

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**From:** Lou Ann Texeira <[LouAnn.Teixeira@lafco.cccounty.us](mailto:LouAnn.Teixeira@lafco.cccounty.us)>  
**Sent:** Wednesday, August 18, 2021 8:42 AM  
**To:** Ada Chan <[achan@bayareametro.gov](mailto:achan@bayareametro.gov)>  
**Subject:** RE: Annexations

**\*External Email\***

Good Morning Ada,

Thanks for contacting Contra Costa LAFCO.

Attached please find the Certificate of Completion and corresponding documentation relating to Dougherty Valley Boundary Reorganization No. 18 which was approved by LAFCO on 10/14/20.

Regarding the annexation to City of Pittsburg (Faria Southwest Hills Boundary Reorganization), the application is currently incomplete. At this time, we do not know when the LAFCO Commissioners will be asked to take action on this application.

Hope this is helpful. Feel free to contact us if you have questions or need additional information.

Lou Ann Texeira, Executive Officer  
Contra Costa LAFCO  
40 Muir Road, 1<sup>st</sup> Floor  
Martinez, CA 94553

925-313-7133  
[LouAnn.Texeira@lafco.cccounty.us](mailto:LouAnn.Texeira@lafco.cccounty.us)

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**From:** Ada Chan <[achan@bayareametro.gov](mailto:achan@bayareametro.gov)>  
**Sent:** Tuesday, August 17, 2021 6:05 PM  
**To:** Lou Ann Texeira <[LouAnn.Texeira@lafco.cccounty.us](mailto:LouAnn.Texeira@lafco.cccounty.us)>  
**Subject:** Annexations

Ms. Texeira -

The Association of Bay Area Governments is working on RHNA appeals and I'm writing to you to confirm new information provided to us by Contra Costa County.

Would an certificate of completion be available for the 11/30/2020 Annexation of 876.37 Acres by the City of San Ramon?

We understand the City of Pittsburg currently has an application in for the annexation of 606 acres. When is the annexation expected to be complete?

Any information you can provide to assist would be greatly appreciated.

Ada Chan

Regional Planner  
[achan@bayareametro.gov](mailto:achan@bayareametro.gov)

**BAY AREA METRO** | BayAreaMetro.gov  
Association of Bay Area Governments  
Metropolitan Transportation Commission

Bay Area Metro Center | 375 Beale Street | Suite 800  
San Francisco, CA 94105  
(415) 820-7958

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Belvedere RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Belvedere requests the reduction of its Draft RHNA Allocation by 30 units. The City of Belvedere's appeal was heard by the ABAG Administrative Committee on September 29, 2021, at a noticed public hearing. The City of Belvedere, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Belvedere's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals

comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5149452&GUID=3F2AB864-4B5F-4775-B0F8-C7589AB240B4&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N= SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Belvedere had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Belvedere presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Belvedere's appeal. The Administrative Committee considered the documents submitted by the City of Belvedere, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Belvedere and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9359](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9359). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-29-21-rhna-appeals-day-2-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Belvedere, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Error in RHNA Calculation* – There is no error in the calculation of Belvedere's allocation. The City's results were different because the calculations did not include the step to adjust the factor scores for all jurisdictions to ensure the

methodology allocates 100% of units in each income category assigned by HCD. When the calculations for each factor/income category include this step, the results are consistent with Draft RHNA Plan.

- *Regarding Issue #2: Implied Growth Rate* – Housing Element Law requires RHNA be consistent with the Plan Bay Area 2050 development pattern, but does not specify how to determine consistency, giving ABAG discretion to define its own approach. The approach used throughout RHNA methodology development compares RHNA allocations to Final Blueprint growth forecasts adopted at the county and subcounty (i.e., superdistrict) levels. RHNA is consistent if the 8-year growth from RHNA does not exceed the Plan’s 35-year housing growth at the county or subcounty levels. This evaluation shows RHNA is consistent with Plan Bay Area 2050, including in the South Marin superdistrict where Belvedere is located.
- *Regarding Issue #3: High Resource Area Methodology* – Use of High Resource Areas in both the Plan Bay Area 2050 and RHNA processes provides a bridge between the long-term growth forecast in Plan Bay Area 2050 and the short-term focus of RHNA. Inclusion indicates these are areas prioritized for increased focus on near-term growth during the eight-year RHNA period. The Final Blueprint designates a portion of Belvedere as a Transit-Rich and High-Resource Area based on the Tiburon Ferry Terminal, which is a major transit stop based on State’s definition. To help distribute RHNA units throughout the region, RHNA factors are scaled so all jurisdictions – even those with low scores – receive some RHNA units.
- *Regarding Issue #4: Lack of Available Land* – The HESS Tool was not used in developing RHNA allocations. Jurisdictions had several opportunities to review and provide feedback on baseline land use data and review the growth pattern for the Draft Blueprint and Final Blueprint, including UrbanSim land use modeling results. The HESS Tool evaluates sites based on *existing* local development policies. Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction’s existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Belvedere does not provide evidence it is unable to consider underutilization of sites, increased densities, and other planning tools to accommodate its assigned need.
- *Regarding Issue #5: Drought* – Government Code Section 65584.04(e)(2)(A) states ABAG must consider opportunities and constraints to development of housing due to “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary

infrastructure for additional development during the planning period.” A difference in assumptions about expected growth does not represent a determination that Belvedere will not have sufficient water capacity in the future. The City has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Belvedere’s appeal and finds that the City of Belvedere’s RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).



TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Belvedere Appeal of Draft RHNA Allocation and Staff Response

DATE: September 29, 2021

## OVERVIEW

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**Jurisdiction:** City of Belvedere

**Summary:** The City of Belvedere requests the reduction of its Draft RHNA Allocation by 30 units (19%) from 160 units to 130 units based on the following issues:

- 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.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Belvedere	49	28	23	60	160

### Local Jurisdiction Survey

The City of Belvedere did not submit a Local Jurisdiction Survey. A [compilation of the surveys submitted](#) is available on the ABAG website.

### Summary of 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, and there were nine that specifically relate to the appeal filed by the City of Belvedere. All nine comments oppose the City's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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The City of Belvedere argues ABAG mischaracterized the statutory grounds for appeal under Government Code Section 65584.05(b)(2). The City argues that a local government has the right

to appeal based on ABAG's failure to include information identified in Section 65584.04 and the local government's appeal is not limited to only the information it provided in the local government survey. ABAG developed the RHNA Appeals Procedures in accordance with applicable law and responds to the substance of each of the City's arguments below.

**Issue 1:** *Belvedere argues ABAG made an error in calculating the City's draft allocation, and thus ABAG failed to determine Belvedere's RHNA using the methodology documented in the [Draft RHNA Plan](#).*

**ABAG-MTC Staff Response:** There is no error in the calculation of Belvedere's allocation. On the "Recalculated RHNA" worksheet in the City's appeal, the second table shows the correct baseline 2050 share for Belvedere and correct factor scores for the RHNA methodology. The City's calculations resulted in a different outcome because the City's re-calculated allocations do not include the final step of adjusting the scaled factor scores for all jurisdictions to ensure they sum to 100%. This final step is shown in Appendix 4 of the Draft RHNA Plan, in the fourth column for each factor, entitled "Factor Distribution: Adjusted Baseline Rescaled to 100%." This re-scaling step is necessary to ensure the methodology allocates the exact number of housing units in each income category that was assigned by HCD in the Regional Housing Needs Determination (RHND).

Appendix 4 in the Draft RHNA Plan shows the impact that each factor has on each jurisdiction's baseline allocation from the Plan Bay Area 2050 Final Blueprint. Appendix 5 shows the number of units, by income category, that each jurisdiction receives as a result of each factor in the methodology. Although the numbers presented in these tables are rounded to a single decimal point, the calculations were done using un-rounded numbers. ABAG-MTC staff also provided access to a jurisdiction's un-rounded baseline allocation through the public open-source RHNA calculations posted on GitHub.<sup>1</sup> Attachment 1 shows the calculation of Belvedere's factor scores using the unrounded baseline.

Using the Access to High Opportunity Areas (AHOA) factor as an example, the sum of the factor scores for all jurisdictions in the region is 92.872889%. Since the total does not equal 100%, each jurisdiction's score needs to be rescaled. Belvedere's unrounded AHOA factor score (0.048487%) is rescaled as follows:  $0.048487\% / 92.872889\% = 0.052208\%$ . This value is what is then used in the distribution of units for each income category for AHOA.

For very low-income units, given the 70% weight assigned to the AHOA factor and the total of 114,442 units assigned to the Bay Area by HCD,  $0.70 * 114,442 = 80,109$  units to be distributed using the AHOA-adjusted baseline. This total (80,109) is then multiplied by Belvedere's rescaled

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<sup>1</sup> Source: [https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris\\_baselines.xlsx](https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris_baselines.xlsx)

AHOA factor score of 0.052208%. This results in a total of 42 very low-income units as a result of the AHOA factor, consistent with Appendix 5 in the Draft RHNA Report. Without the step identified above to rescale the total to 100%, this factor would only allocate 74,397 units in the low-income category in the region, and the total number of units allocated would not match the RHND.

The same rescaling process needs to be conducted for the other two factors, for each income category. Once the calculations for each factor/income category include the use of the "Factor Distribution: Adjusted Baseline Rescaled to 100%," the results match Belvedere's draft allocation, consistent with Appendix 5 in the Draft RHNA Report. As a result, there is no error in the application of the adopted RHNA methodology and, thus, it is not a valid basis for an appeal.

**Issue 2:** *The City uses its draft RHNA allocation and the total households in the region in 2050 from Plan Bay Area 2050 to impute the "implied growth" in the Plan Bay Area 2050 Final Blueprint for Belvedere and other jurisdictions in the South Marin Superdistrict. The City uses its calculations of implied growth rates to argue ABAG failed to determine Belvedere's RHNA allocation in a way that is consistent with the South Marin superdistrict's 21% growth rate in the Final Blueprint.*

**ABAG-MTC Staff Response:** While Government Code Statute 65584.04(m) requires that the RHNA plan allocate units consistent with the development pattern included in the Sustainable Community Strategy, the statute does not specify how to determine consistency. In the absence of statutory direction, ABAG has discretion to identify the framework to be used for establishing that RHNA is consistent with Plan Bay Area 2050.

Plan Bay Area 2050 includes adopted growth forecasts at the county and subcounty levels, not the jurisdiction level where RHNA is statutorily focused.<sup>2</sup> Therefore, staff developed an approach for determining consistency between RHNA and Plan Bay Area 2050 that received support from the Housing Methodology Committee, the ABAG Regional Planning Committee, and the ABAG Executive Board. This approach compares the 8-year RHNA allocations to the 35-year housing growth from the Plan Bay Area 2050 Final Blueprint at the county and subcounty geographies used in the plan. If the 8-year growth level from RHNA does not exceed the 35-year housing growth level at either of these geographic levels, then RHNA and Plan Bay Area 2050 are determined to be consistent. Staff evaluated the draft RHNA allocations using the described approach and found the RHNA allocations are fully consistent with Plan Bay Area 2050, including the allocations to the South Marin superdistrict where Belvedere is located (see Table 1 for more details).

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<sup>2</sup> View the table of 35-year household growth at [https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease\\_December2020\\_GrowthPattern\\_Jan2021Update.pdf](https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf).

**Table 1. Superdistrict Forecasted Growth in Final Blueprint Compared to Draft RHNA\***

Superdistrict	County	Superdistrict Name	Blueprint Final 2015-2050 Growth	Draft RHNA
34	Marin	South Marin County	9,000	5,976

\* The South Marin County superdistrict contains the following jurisdictions: Belvedere, Corte Madera, Mill Valley, Sausalito, Tiburon, Larkspur, and portions of unincorporated Marin County.

**Issue 3:** The City argues the RHNA methodology double counts the High Resource Area impact on Belvedere's RHNA allocation, once in the baseline allocation and again in the application of the AHOA factor. The City also questions why the RHNA methodology directs additional growth to a "Transit Rich" area after concluding, in the development of the Jobs Proximity – Transit factor, that Belvedere's JPT factor is at the lowest end of the scale at 0.5.

**ABAG-MTC Staff Response:** As noted by the City, a portion of Belvedere is identified as a Transit-Rich and High-Resource Area in the Plan Bay Area 2050 Final Blueprint. The designation of the Transit-Rich and High-Resource Area in the Final Blueprint is based on the Tiburon Ferry Terminal. Contrary to what is stated in the City's appeal, this is a major transit stop based on Public Resources Code Section 21064.3, since the ferry terminal is served by bus service; there is no frequency requirement for ferry terminals under state law.<sup>3</sup>

Directing growth to these types of Growth Geographies is an essential component to addressing the policy priorities required for Plan Bay Area 2050 and RHNA, including promoting efficient development patterns, reducing greenhouse gas emissions, and affirmatively furthering fair housing. In addition, the use of consistent geographies in the Final Blueprint and the RHNA methodology helps ensure consistency between RHNA and Plan Bay Area 2050, as required by Government Code Statute 65584.04(m). Rather than constituting double counting, use of the High Resource Areas in both processes provides a bridge between the long-term growth forecast in Plan Bay Area 2050 and the short-term focus of RHNA. Inclusion of High Resource Areas indicates that these are areas that are prioritized for an increased focus on near-term growth during the eight-year RHNA period.

In the RHNA methodology, the Job Proximity – Transit factor is based on the number of jobs that can be accessed within a 45-minute transit commute from a jurisdiction. The three factors in the RHNA methodology are placed on the same scale so a factor can modify a jurisdiction's baseline allocation in the range from 50% to 150%. Thus, jurisdictions scoring at the top for the region will get baseline share times 1.5, while jurisdictions scoring at the bottom for the region will get baseline share times 0.5. This scaling approach helps distribute RHNA units throughout

<sup>3</sup> [Public Resources Code Section 21064.3.](#)

the region by ensuring that even a jurisdiction with a low score gets an allocation from each factor and placing a limit on how many units can be assigned to a jurisdiction with a high score. Relative to other jurisdictions in the region, Belvedere has a small number of jobs that can be accessed within a 45-minute commute. As a result of its low score, the City receives a scaled score of 0.5 on the Job Proximity – Transit factor, which means few units are allocated to Belvedere based on this factor compared to other jurisdictions in the region.

**Issue 4:** *Belvedere uses data from the ABAG-MTC Housing Element Site Selection (HESS) Tool to argue ABAG has not considered the actual availability of land suitable for urban development or for conversion to residential use.*

**ABAG-MTC Staff Response:** The City of Belvedere indicates it used the HESS Tool to evaluate whether ABAG adequately considered the availability of land suitable for urban development in the RHNA methodology. Per Government Code Section 65584.05(b), this is not a valid basis for an appeal, because the HESS Tool is not used as an input in the RHNA methodology, and thus played no role in determining Belvedere’s RHNA.

The HESS Tool is a web-based mapping tool that is currently being developed by ABAG-MTC staff to assist Bay Area jurisdictions with preparing the sites inventory required for their Housing Element updates. The tool is still under development and further data collection, data quality control, and refinements to the HESS Tool’s screening methodology are underway. When Belvedere activated its HESS account, the City received an email noting that the tool was under active development and the data presented was preliminary. ABAG expects to have a final release of the data and an updated version of the HESS Tool available in fall 2021. Local jurisdictions will be able to review this data and submit corrections directly to ABAG.

Belvedere’s appeal states that it reviewed HESS data because its staff were not able to review the underlying data for the Plan Bay Area 2050 Final Blueprint, but both the land use modeling results and the inputs used to produce them have been made available to local staff. In fall 2019, ABAG-MTC staff collected local development policy data (i.e., information about zoning and general plans) from local jurisdictions for use in Plan Bay Area 2050 forecasting and modeling.<sup>4</sup> Local jurisdiction staff had several months to review and correct their land use and development pipeline data.<sup>5</sup> Jurisdictions then had an opportunity to review the growth pattern for the Draft

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<sup>4</sup> To learn more about BASIS and download its datasets, visit this website: <https://basis.bayareametro.gov/>.

<sup>5</sup> Communications to local staff about BASIS and review of Plan Bay Area 2050 baseline data included the following:

- Invitation to a webinar on August 6, 2019 about BASIS and how baseline information would be gathered for use in Plan Bay Area 2050.
- Email on August 26, 2019 asking staff to identify someone to review jurisdiction’s baseline data in fall 2019.
- [Videos](#) to assist local staff with the data review process were made available on YouTube.
- Email on October 4, 2019 to jurisdictions who had not identified a staff contact to review BASIS land use data.
- Email reminder on October 29, 2019 to local staff about the BASIS data review process.

Blueprint in summer 2020 and prior to the adoption of the Final Blueprint in January 2021, with office hours available to local jurisdictions to discuss model inputs and forecasted growth from the Bay Area UrbanSim 2.0 model. While only county and sub-county projections are used for the purposes of Plan Bay Area 2050, the jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were then provided for use as the baseline allocation for the RHNA Methodology.

The City of Belvedere also uses information from the HESS Tool to argue it does not have sufficient developable land available to accommodate its RHNA. As noted previously, the data in HESS is still under development (with an opportunity for future review by local jurisdictions) and it was not used in the RHNA methodology. Furthermore, Belvedere was notified that this data was preliminary and under active development when it activated its HESS account. It is also important to note that the HESS Tool evaluates potential sites based on **existing** local development policies. Housing Element Law specifically prohibits ABAG from limiting RHNA based on the existing zoning or land use restrictions that are shown in the HESS Tool. Importantly, 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. 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>6</sup>

RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology

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- Email to Bay Area planning directors on July 10, 2020 about office hours where local staff could have a one-on-one consultation with ABAG-MTC staff to provide feedback on the Plan Bay Area 2050 Draft Blueprint or BASIS.
  - Additional office hours were held in December 2020 to discuss Plan Bay Area 2050 Final Blueprint outcomes and the draft RHNA methodology.

<sup>6</sup> See [HCD's comment letter on appeals](#) for more details.

adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects the realities of housing demand in the Bay Area.

Per Government Code Section 65584.04(e)(2)(B), the City of Belvedere must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. In addition to considering non-vacant sites, sites identified in the HESS Tool as “environmentally constrained” may still be developable. The HESS Tool designates sites as environmentally constrained if they possess hazard risks or other restrictive environmental conditions such as critical habitats and California protected areas. Local jurisdictions are generally advised to avoid locating new housing on these sites where possible. However, local jurisdictions may find that siting housing on sites with hazards is unavoidable in order to accommodate their housing need, in which case appropriate mitigation measures should be considered. For additional guidance on how to integrate resilience into the Sites Inventory and the Housing Element more broadly, refer to ABAG’s Resilient Housing Instruction Guide and associated resources.<sup>7</sup>

Based on the information above, staff concludes that Belvedere’s claims about the HESS Tool are neither evidence that the RHNA Methodology failed to consider the availability of land suitable for development nor do they provide evidence that Belvedere is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>8</sup>

**Issue 5:** *Belvedere argues ABAG failed to adequately consider water service capacity due to decisions made by a water service provider. Marin Municipal Water District (MMWD) provides water to the City of Belvedere. The population growth associated with the draft RHNA allocation exceeds the growth analyzed in the Urban Water Management Plan (UWMP) adopted by MMWD on June 15, 2020.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to “Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.”

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<sup>7</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>.

<sup>8</sup> See HCD’s [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.



However, the arguments put forward by the City of Belvedere do not meet the requirements for a valid RHNA appeal. Although the City cites information from the Urban Water Management Plan (UWMP) prepared by Marin Municipal Water District (MMWD), Belvedere has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by this water service provider. The City indicates the RHNA allocation exceeds the population growth assumption used by the water service provider in the UWMP. However, this difference in assumptions about expected growth does not represent a determination that Belvedere will not have sufficient water capacity in the future.

Indeed, future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.<sup>9</sup> A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

While Marin Water has discussed a potential moratorium on new water connections in response to the drought, this action has not yet been implemented. Even if a moratorium is implemented in the future, there is no indication that it would extend for the next ten years until the end of the RHNA planning period in 2031. Thus, at this time, there is no evidence that Belvedere is precluded from accommodating its RHNA allocation.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase

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<sup>9</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.



water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, “these issues do not affect one city, county, or region in isolation. ABAG’s allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts.”<sup>10</sup>

Action can be taken to efficiently meet the region’s future water demand, even in the face of additional periods of drought. Eight of the region’s largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>11</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area’s lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially water districts with a small or singular water supply portfolio.

## RECOMMENDED ACTION

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the City of Belvedere to reduce its Draft RHNA Allocation by 30 units (from 160 units to 130 units).

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<sup>10</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>11</sup> See the [Drought Contingency Plan](#) for more information.

**ATTACHMENT(S):**

Attachment 1: Overview of Factor Score Calculations Using Unrounded Baseline

## Attachment 1: Overview of Factor Score Calculations Using Unrounded Baseline

In its appeal, the City of Belvedere includes a recalculation of its factor scores (similar to what is shown in Appendix 4 of the Draft RHNA Plan) using the un-rounded baseline allocation. The following shows the results for the factor scores when using the unrounded baseline:

- For the **Access to High Opportunity Areas (AHOA)** factor, Belvedere's raw score is 100.0%; this becomes 1.5 when scaled to the 0.5-1.5 range. The scaled factor score (1.5) is multiplied with Belvedere's un-rounded baseline share (0.032325%) to result in 0.048487% for the AHOA factor. The sum of the factor scores for *all* jurisdictions in the region is 92.872889%, so a rescaling of all the factors to 100% is done as a last step, as follows:  $0.048487\% / 92.872889\% = 0.052208\%$ . This value is what is then used in the distribution of units for each income category for AHOA. This last adjustment was omitted in Belvedere's appeal.
- For the **Job Proximity - Auto (JPA)** factor, Belvedere's raw score is 3.208475; this becomes 0.6 when scaled to the 0.5-1.5 range with 1-digit precision. The calculation retains full floating-point precision, so the scaled factor score (0.597460) is multiplied with Belvedere's un-rounded baseline share (0.032325%) to result in 0.019313% for the JPA factor. The sum of the factor scores for *all* jurisdictions in the region is 103.624431%, so a rescaling of all the factors to 100% is done as a last step, as follows:  $0.019313\% / 103.624431\% = 0.018637\%$ . This value is what is then used in the distribution of units for each income category for JPA. This last adjustment was omitted in Belvedere's appeal.
- For the **Job Proximity - Transit (JPT)** factor, Belvedere's raw score is 0.0; this becomes 0.5 when scaled to the 0.5-1.5 range. The scaled factor score (0.5) is multiplied with Belvedere's un-rounded baseline share (0.032325%) to result in 0.016162% for the JPT factor. The sum of the factor scores for *all* jurisdictions in the region is 74.786074%, so a rescaling of all the factors to 100% is done as a last step, as follows:  $0.016162\% / 74.786074\% = 0.021612\%$ . This value is what is then used in the distribution of units for each income category for JPT. This last adjustment was omitted in Belvedere's appeal.

The City uses its own recalculated factor scores to show the impact of each factor on the jurisdiction's final allocation (similar to what is shown in Appendix 5 of the Draft RHNA Plan) and argues that use of the un-rounded baseline resulted in a total allocation of 151 units instead of 160 units. However, as noted in ABAG-MTC Staff's response to Issue 1 in the appeal, the City's calculations result in a different total allocation because they do not include the final step of adjusting the scaled factor scores for all jurisdictions to ensure they sum to 100%, which is necessary to ensure the methodology allocates the exact number of housing units in each income category in the RHND.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Corte Madera RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The Town of Corte Madera requests the reduction of its Draft RHNA Allocation by 325 units. The Town of Corte Madera's appeal was heard by the ABAG Administrative Committee on September 29, 2021, at a noticed public hearing. The Town of Corte Madera, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the Town of Corte Madera's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this

appeal during the RHNA appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5149453&GUID=80F6A1FD-5070-4248-B622-D7C6EF5B6BCC&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N= SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the Town of Corte Madera had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The Town of Corte Madera presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the Town of Corte Madera's appeal. The Administrative Committee considered the documents submitted by the Town of Corte Madera, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by Town of Corte Madera and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9359](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9359). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/9-29-21-rhna-appeals-day-2-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the Town of Corte Madera, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Areas at Risk of Natural Hazards* – Areas at risk of natural hazards are not identified in Housing Element Law as a constraint to housing. While new development is subject to additional regulations, neither the Town nor FEMA prohibits new housing in the floodplain. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region’s housing needs and avoid planning for new homes in places at risk. The Town has authority to plan for housing in places with lower risk. Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction’s existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing.
- *Regarding Issue #2: Methodology Does Not Encourage Efficient Development Patterns (RHNA Objective 2)* – The Town’s argument challenges the Final RHNA Methodology adopted by ABAG and approved by HCD, which falls outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG’s methodology does further the objectives. As HCD notes, ABAG’s methodology allocates “nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. . . Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT.”
- *Regarding Issue #3: Jobs-Housing Relationship* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG’s methodology does further the objectives. The RHNA methodology uses data about each jurisdiction’s jobs-housing relationship in the Plan Bay Area 2050 Final Blueprint and in factors related to Job Proximity, which measure job access based on commute shed to better capture lived experience of accessing jobs irrespective of jurisdiction boundaries. Housing Element Law requires the RHNA methodology to improve the intraregional relationship between jobs and housing—not jobs-housing balance in any particular jurisdiction. South Marin is near many of the region’s jobs, so adding housing can lead to shorter commutes, helping to reduce VMT and GHG. The methodology must also consider jobs-housing fit. Census Bureau data shows Corte Madera has 1,615 low-wage jobs and few rental housing units affordable to low-wage workers. The RHNA allocation of 336 lower-income units could enable many of these workers to live closer to their jobs, for better jobs-housing balance, shorter commutes, and lower GHG.

**Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the Town of Corte Madera's appeal and finds that the Town of Corte Madera's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).



TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
DATE: September 29, 2021  
SUBJECT: Town of Corte Madera Appeal of Draft RHNA Allocation and Staff Response

## OVERVIEW

**Jurisdiction:** Town of Corte Madera

**Summary:** Town of Corte Madera requests the decrease of its Draft RHNA Allocation by 325 units (45 percent) from 725 units to 400 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.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

Following adoption of the Final RHNA Methodology on May 20, 2021, the Town of Corte Madera received the following draft RHNA allocation on May 25, 2021:

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Town of Corte Madera	213	123	108	281	725

### Local Jurisdiction Survey

The Town of Corte Madera submitted 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, and there were nine that specifically relate to the appeal filed by the Town of Corte Madera. All nine comments oppose the Town's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The Town argues ABAG failed to adequately consider information from the Local Jurisdiction Survey related to land suitability, the impact of climate change and natural hazards, and the availability of vacant land. The Town's appeal states that 33.68% of parcels are in the FEMA 100-year flood zone on land that FEMA has determined is not adequately protected by flood management infrastructure, which Government Code Section 65584.04(e)(2)(B) states may make this land considered not suitable for development. The appeal also notes that 50% of parcels are in the Wildland Urban Interface (WUI), which the Town believes makes them unsuitable for additional urban development. Additionally, the Town claims its remaining parcels are all occupied with existing uses, with 97% of these parcels having existing residential uses. The Town believes its current RHNA allocation will require it to build the majority of its housing within the 100-year flood zone, which is most susceptible to risks associated with sea level rise.*

**ABAG-MTC Staff Response:** The Town's argument centers on lacking land suitable for urban development as a result of natural hazard risks. The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands Corte Madera'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 identify areas at risk of natural hazards as a potential constraint to housing development."<sup>1</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>2</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.<sup>3</sup> Ultimately, 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

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<sup>1</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>2</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>3</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

concerns about natural hazards, as the Final Blueprint excludes areas with unmitigated high hazard risk from Growth Geographies.

The Final Blueprint Growth Geographies exclude CAL FIRE designated “Very High” fire severity areas in incorporated jurisdictions, and “High” and “Very High” fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Corte Madera.<sup>4</sup> Plan Bay Area 2050 assumes one foot of sea level rise by 2035 and two feet of rise in 2050. The adaptation solutions that are imagined are targeted along portions of shoreline that have inundation with just two feet of rise, including locations in Corte Madera. While Plan Bay Area 2050 focuses on the segments of shoreline that flood with two feet of rise, the strategies are costed out to provide significantly greater levels of protection.

Regarding flood risks, Housing Element Law identifies a flood zone as a constraint to housing if “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> The Town states in its appeal that 33.68% of all parcels and 40% of gross lot area is located in the FEMA 100-year flood zone. The Town also claims this is “land that FEMA has determined is not adequately protected by flood management infrastructure to avoid the risk of flooding.” While ABAG recognizes that a portion of Corte Madera is in a FEMA-designated Special Flood Hazard Area (SFHA), the Town does not provide any evidence that FEMA has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding, which is required in Government Code Section 65584.04(e)(2)(B) for the land to be excluded from consideration as part of land suitable for urban development.

In fact, Corte Madera’s own flood protection website states, “The National Flood Insurance Program (NIFP) requires that the town examine the construction of all new structures, and the improvement, modification, or repair of existing structures that are located within the SFHA. Any new development or additions/renovations to an existing structure within the SFHA will require a ‘Floodplain Development Permit.’”<sup>6</sup> So while new development in Corte Madera’s floodplain is subject to additional regulations, there is no indication FEMA prohibits construction of new housing.

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, the residents of new development are likely to be safer from

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<sup>4</sup> The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.

<sup>5</sup> Government Code Section 65584.04(e)(2)(B).

<sup>6</sup> For more information, see Corte Madera’s website here: <https://townofcortemadera.org/192/Flood-Protection>

hazards than current residents living in older structures, as new construction is built to modern standards that more effectively address hazard risk. In developing its Housing Element, Corte Madera has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the Town can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

While the Town asserts that it will be forced to build in areas of high hazard risk, it has not provided evidence that it cannot accommodate its RHNA in locations within the jurisdiction that are subject to lower risk of natural hazards. Per Government Code Section 65584.04(e)(2)(B), Corte Madera must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. The Town does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>7</sup>

**Issue 2:** *The Town of Corte Madera argues ABAG failed to determine its share of the regional housing needs in a manner that furthers the statutory objective to promote “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 reductions target,” as described in Government Code Section 65584(d)(2). Specifically, the Town argues the large allocation of lower-income units to Corte Madera will force the town to site these units in areas at risk of flooding and sea level rise. Additionally, the Town claims the RHNA Methodology fails to promote efficient development patterns because it assigns too many housing units to communities like Corte Madera that lack adequate transportation infrastructure, are away from existing and future job centers, and face high natural hazard risks.*

**ABAG-MTC Staff Response:** This argument by the Town 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. Regarding the RHNA objective described in in Government Code Section 65584(d)(2), HCD confirmed the RHNA methodology encourages efficient development patterns and made the following findings:

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<sup>7</sup> See HCD’s [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

*The draft ABAG methodology encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis. Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit.*

The Town asserts the allocation of 336 units of lower-income RHNA to Corte Madera “undermines the promotion of socioeconomic equity in Corte Madera.” However, ABAG is mandated by statute to affirmatively further fair housing, and assigning fewer lower-income units to well-resourced communities like Corte Madera would limit progress toward regional equity goals. Additionally, HCD commended the equitable outcomes of the RHNA Methodology: “HCD applauds the significant weighting of Access to High Opportunity Areas as an adjustment factor and including an equity adjustment in the draft methodology. ABAG’s methodology allocates more RHNA to jurisdictions with higher access to resources on a per capita basis. Additionally, those higher-resourced jurisdictions receive even larger lower income RHNA on a per capita basis.”

Corte Madera argues it cannot accommodate its lower-income RHNA because it will need to build these units in areas at high risk of flooding and sea level rise. Unless the Town is planning to adopt a strategy of retreat, Corte Madera can plan to accommodate new lower-income residents in these existing neighborhoods that the Town is actively working to protect from hazards. Furthermore, the Town does not conclusively show that it cannot use alternative zoning, increased density, and other planning tools to accommodate some of its lower-income RHNA in areas at less risk of flooding and other hazards.

HCD has determined that the RHNA Methodology successfully achieves the statutory objective described in Government Code Section 65584(d)(2), as the RHNA allocation promotes socioeconomic equity, efficient development patterns, and GHG reduction. While the information above discusses how the RHNA Methodology furthers equity by providing greater access to opportunity for all, the response to Issue 3 below provides additional details regarding

how the 2023-2031 RHNA allocations encourage efficient development patterns that can reduce VMT and GHG across the region.

**Issue 3:** *The Town claims the RHNA Methodology fails to further the 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,” as described in Government Code Section 65584(d)(3). Specifically, the Town argues the RHNA Methodology represents an even larger reduction to the jobs-housing ratio in Corte Madera than is forecasted in Plan Bay Area 2050, which projects the Central and South Marin “superdistricts” will lose jobs while gaining households.*

**ABAG-MTC Staff Response:** Similar to Issue 2, this argument by the Town challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and thus falls outside the scope of the appeals process. In its findings that the RHNA methodology furthers the statutory objective described in Government Code Section 65584(d)(3), HCD stated:

*The draft ABAG methodology<sup>8</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 GHG. It includes strategies related to increased housing densities and office development subsidies to address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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.

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<sup>8</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.

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 influenced by its proximity and accessibility to jobs in another community. As the Town notes in its appeal, Plan Bay Area 2050 forecasts a decline in the number of jobs in the South Marin superdistrict where Corte Madera is located. However, regional transportation, environmental, and housing goals aim for a jobs-housing balance at the regional level, and South Marin remains in close proximity to many of the region’s jobs. 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 VMT and GHG.

Notably, state law also requires the RHNA to improve the balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction, as described in Government Code Section 65584(d)(2). Data from the Census Bureau indicates that Corte Madera has an imbalanced ratio between low-wage jobs and affordable housing units, with 1,615 low-wage jobs and few units of rental housing affordable to low-wage workers and their families.<sup>9</sup> Accordingly, the allocation of 336 units of lower-income RHNA assigned to Corte Madera could enable many of the low-wage workers in Corte Madera to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower GHG.

## RECOMMENDED ACTION

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by Town of Corte Madera to reduce its Draft RHNA Allocation by 325 units (from 725 units to 400 units).

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<sup>9</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Corte%20Madera>.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Fairfax RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.



On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The Town of Fairfax requests the reduction of its Draft RHNA Allocation by 120 units. The Town of Fairfax's appeal was heard by the ABAG Administrative Committee on October 8, 2021, at a noticed public hearing. The Town of Fairfax, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the Town of Fairfax's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals comment

period, are available on the MTC Legistar page at

<https://mtc.legistar.com/LegislationDetail.aspx?ID=5157869&GUID=4962BE0E-535A-4FED-842C-29CD479A5431&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDdb21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the Town of Fairfax had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The Town of Fairfax presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the Town of Fairfax's appeal. The Administrative Committee considered the documents submitted by the Town of Fairfax, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by Town of Fairfax and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9456](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9456). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-8-21-rhna-appeals-trial-day-3-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the Town of Fairfax, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Error in RHNA Calculation* – The HESS tool was not used at any point in the RHNA process. ABAG-MTC staff began developing HESS tool in fall of 2020, after

RHNA methodology development had concluded. This argument is not a valid basis for appeal.

- *Regarding Issue #2: Lack of Available Land* – The HESS Tool plays no role in determining a jurisdiction’s RHNA, and it evaluates sites based on *existing* local development policies. Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction’s existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region’s housing needs and avoid planning for new homes in places at risk. Fairfax has authority to plan for housing in places with lower risk. Fairfax does not provide evidence it is unable to consider underutilization of sites, increased densities, and other planning tools to accommodate its assigned need.
- *Regarding Issue #3: Jobs-Housing Relationship* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG’s methodology does further the objectives. The RHNA methodology uses data about each jurisdiction’s jobs-housing relationship in the Plan Bay Area 2050 Final Blueprint and in factors related to Job Proximity, which measure job access based on commute shed to better capture lived experience of accessing jobs irrespective of jurisdiction boundaries. Housing Element Law requires the RHNA methodology to improve the *intraregional* relationship between jobs and housing—not jobs-housing balance in any particular jurisdiction. South Marin is near many of the region’s jobs, so adding housing can lead to shorter commutes, helping to reduce VMT and GHG.
- *Regarding Issue #4: Drought* – Fairfax did not submit a Local Jurisdiction Survey, so an appeal on this basis is not valid. Government Code Section 65584.04(e)(2)(A) states ABAG must consider opportunities and constraints to development of housing due to “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.” Fairfax has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider. Even if a moratorium on new water connections is implemented in the future, there is no indication it would extend until the end of the RHNA planning period in 2031.

**Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the Town of Fairfax's appeal and finds that the Town of Fairfax's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Fairfax Appeal of Draft RHNA Allocation and Staff Response

DATE: October 8, 2021

## OVERVIEW

**Jurisdiction:** Town of Fairfax

**Summary:** The Town of Fairfax requests the decrease of its Draft RHNA Allocation by 120 units (24 percent) from 490 units to 370 units based on the following issues:

- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Town of Fairfax	149	86	71	184	490

### Local Jurisdiction Survey

The Town of Fairfax did not submit a Local Jurisdiction Survey. A [compilation of the surveys submitted](#) is available on the ABAG website.

### Summary of 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, and there were nine that specifically relate to the appeal filed by the Town of Fairfax. All nine comments oppose the City's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The Town claims that the Housing Element Site Selection (HESS) Tool developed by ABAG-MTC staff was used in the RHNA process. Additionally, the Town argues that the HESS Tool contains erroneous data and that this inaccurate data resulted in ABAG failing to determine the jurisdiction's Draft Allocation in accordance with the Final RHNA Methodology.*

**ABAG-MTC Staff Response:** The Town's argument is not a valid basis for an appeal. Contrary to the Town's claims, the HESS Tool was not used at any point in the RHNA process. In fact, ABAG-MTC began developing the HESS Tool in fall 2020 after the development of the RHNA Methodology had concluded. Therefore, the HESS Tool is not used as an input in the RHNA Methodology and played no role in determining Fairfax's RHNA.

The HESS Tool is a web-based mapping tool currently being developed by ABAG-MTC staff to assist Bay Area jurisdictions with preparing the sites inventory required for their Housing Element updates. The tool is still under development and further data collection, data quality control, and refinements to the HESS Tool's screening methodology are underway. When Fairfax activated its HESS account, the Town received an email noting that the tool was under active development and the data presented was preliminary. ABAG expects to have a final release of the data and an updated version of the HESS Tool available in fall 2021. Local jurisdictions will be able to review this data and submit corrections directly to ABAG.

**Issue 2:** *The Town asserts nearly all of Fairfax's parcels are in a CAL FIRE-designated High Fire Hazard Severity Zone, and thus the HESS Tool should label all sites in Fairfax as environmentally constrained. The Town argues that if these sites are environmentally constrained they "therefore are not suitable for higher-density, multifamily development," and thus the Town's RHNA should be reduced.*

**ABAG-MTC Staff Response:** As noted previously, the HESS Tool plays no role in determining a jurisdiction's RHNA. Therefore, whether sites in Fairfax are shown in the HESS Tool as "environmentally constrained" has no effect on the Town's allocation. Furthermore, the data in HESS is still under development (with an opportunity for future review by local jurisdictions). Fairfax was notified that this data was preliminary and under active development when it activated its HESS account.

The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands Fairfax'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 identify areas at risk of natural hazards as a potential constraint to housing development."<sup>1</sup> As

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<sup>1</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

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>2</sup> It is important to note that the HESS Tool evaluates potential sites based on *existing* local development policies and that the sites identified in the HESS Tool as “environmentally constrained” may still be developable.

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.<sup>3</sup> Ultimately, 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.

The Final Blueprint Growth Geographies exclude CAL FIRE designated “Very High” fire severity areas in incorporated jurisdictions, and “High” and “Very High” fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Fairfax.<sup>4</sup> While there may be areas at risk of flooding in the jurisdiction, Fairfax has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources consistent with the requirements of Government Code Section 65584.04(e)(2)(B).

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, the 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. In developing its Housing Element, the Fairfax has the opportunity to identify the specific sites it will use to accommodate its RHNA. In

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Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.”

<sup>2</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>3</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

<sup>4</sup> The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.

doing so, the Town can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

Staff concludes that the Town's claims about the HESS Tool do not represent a valid basis for a RHNA appeal, as the HESS Tool is not used to calculate a jurisdiction's RHNA. Furthermore, Fairfax's appeal has not demonstrated that the Town cannot accommodate its RHNA in locations within the jurisdiction that are subject to lower risk of natural hazards. Per Government Code Section 65584.04(e)(2)(B), the Town must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. Fairfax does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>5</sup>

**Issue 3:** *The Town argues that ABAG failed to determine Fairfax's Draft Allocation in accordance with the Final RHNA Methodology and in a manner that furthers the RHNA Objective related to promoting an improved intraregional relationship between jobs and housing.*

**ABAG-MTC Staff Response:** This argument by the Town 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>6</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:

*The draft ABAG methodology<sup>7</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*

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<sup>5</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

<sup>6</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>7</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.



*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 address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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 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 influenced by its proximity and accessibility to jobs in another community. As the Town notes in its appeal, Plan Bay Area 2050 forecasts a decline in the number of jobs in the Central Marin superdistrict. However, regional transportation, environmental, and housing goals aim for a jobs-housing balance at the regional level, and Central Marin remains in close proximity to many of the region's jobs. 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 and GHG.

Based on the information provided above, staff concludes that the Final RHNA Methodology effectively considers the jobs-housing relationship in Bay Area jurisdictions and successfully achieves the statutory requirement to improve the jobs-housing balance in the region. Furthermore, the arguments related to this topic in the Town's appeal do not represent a valid basis for appealing the Draft RHNA allocation.

***Issue 4:*** *The Town asserts that a lack of water supply represents a significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.*

**ABAG-MTC Staff Response:** The Town has submitted an appeal based on Government Code Section 65584.05(b)(3), that a "significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04." Government Code Section 65584.04(b) refers to the Local Jurisdiction Survey that ABAG conducted in January and February of 2020. However, the jurisdiction does not meet the statutory criteria for submitting an appeal, as described in Government Code Section 65584.05(b)(1), because the Town did not submit a survey response to ABAG. A [compilation of the surveys submitted](#) is available on the ABAG website.

Though the jurisdiction lacks a valid basis appealing its Draft Allocation, staff explored the issues raised in the jurisdiction's appeal. Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period."

The Town has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by Marin Water. While Marin Water has discussed a potential moratorium on new water connections in response to the drought, this action has not yet been implemented. Even if a moratorium is implemented in the future, there is no indication that it would extend for the next ten years until the end of the RHNA planning period in 2031. Furthermore, future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.

A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person

per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase because of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>8</sup>

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>9</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

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

<sup>9</sup> See the [Drought Contingency Plan](#) for more information.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially water districts with a small or singular water supply portfolio.

### **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by The Town of Fairfax to reduce its Draft RHNA Allocation by 120 units (from 490 units to 370 units).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Larkspur RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Larkspur requests the reduction of its Draft RHNA Allocation by 236 units. The City of Larkspur's appeal was heard by the ABAG Administrative Committee on October 8, 2021, at a noticed public hearing. The City of Larkspur, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Larkspur's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals

comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5157870&GUID=3582BD22-05EF-4B1C-B909-4A8CFDBA2D39&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDdb21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Larkspur had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Larkspur presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Larkspur's appeal. The Administrative Committee considered the documents submitted by the City of Larkspur, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Larkspur and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at: [http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9456](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9456). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-8-21-rhna-appeals-trial-day-3-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Larkspur, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Lack of Available Land* – Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction's

existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Areas at risk of natural hazards are not identified in Housing Element Law as a constraint to housing except when FEMA or Department of Water Resources has determined flood management infrastructure to protect land is inadequate. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region's housing needs and avoid planning for new homes in places at risk. Larkspur has authority to plan for housing in places with lower risk. Larkspur does not provide evidence it is unable to consider underutilization of sites, increased densities, and other planning tools to accommodate its assigned need.

- *Regarding Issue #2: Methodology Does Not Further RHNA Objectives* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG's methodology does further the objectives. As HCD notes, ABAG's methodology allocates *"nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. . . . Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT."* Housing Element Law requires the RHNA methodology to improve the *intraregional* relationship between jobs and housing—not jobs-housing balance in any particular jurisdiction. South Marin is near many of the region's jobs, so adding housing can lead to shorter commutes, helping to reduce VMT and GHG.
- *Regarding Issue #3: Drought* – Government Code Section 65584.04(e)(2)(A) states ABAG must consider opportunities and constraints to development of housing due to "lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." A difference in assumptions about expected growth does not represent a determination that the City of Larkspur will not have sufficient water capacity in the future. Even if a moratorium on new water connections is implemented in future, there is no indication it would extend until end of the RHNA planning period in 2031. Larkspur has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider.



**Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Larkspur's appeal and finds that the City of Larkspur's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Larkspur Appeal of Draft RHNA Allocation and Staff Response

DATE: October 8, 2021

## OVERVIEW

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**Jurisdiction:** City of Larkspur

**Summary:** City of Larkspur requests the decrease of its Draft RHNA Allocation by 236 units (24 percent) from 979 units to 743 units based on the following issues:

- 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.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Larkspur	291	168	145	375	979

### Local Jurisdiction Survey

The City of Larkspur did not 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, and there were nine that specifically relate to the appeal filed by the City of Larkspur. All nine comments oppose the Town's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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The City of Larkspur argues that ABAG mischaracterized the statutory grounds for appeal under Government Code Section 65584.05(b)(2). The City argues that a local government has the right

to appeal based on ABAG's failure to include information identified in Section 65584.04 and the local government's appeal is not limited to only the information it provided in the local government survey. ABAG developed the RHNA Appeals Procedures in accordance with applicable law and responds to the substance of each of the City's arguments below.

**Issue 1:** *Larkspur argues ABAG did not adequately consider constraints in availability of land. The City identifies constraints related to natural hazard risks and lack of undeveloped land in the areas identified as Transit-Rich Areas and High-Resource Areas in the Plan Bay Area 2050 Final Blueprint.*

**ABAG-MTC Staff Response:** The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands Larkspur'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 identify areas at risk of natural hazards as a potential constraint to housing development."<sup>1</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>2</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.<sup>3</sup> Ultimately, 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.

The Final Blueprint Growth Geographies exclude CAL FIRE designated "Very High" fire severity areas in incorporated jurisdictions, and "High" and "Very High" fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas.

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<sup>1</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>2</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>3</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Larkspur.<sup>4</sup> Plan Bay Area 2050 assumes one foot of sea level rise by 2035 and two feet of rise in 2050. The adaptation solutions that are imagined are targeted along portions of shoreline that have inundation with just two feet of rise, including locations in Larkspur. While there may be areas at risk of flooding in the jurisdiction, the City has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources consistent with the requirements of Government Code Section 65584.04(e)(2)(B).

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, the 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. In developing its Housing Element, the City of Larkspur has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, Larkspur can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

While Larkspur asserts that it will be forced to build in areas of high hazard risk, it has not demonstrated that it cannot accommodate its RHNA in locations within the jurisdiction that are subject to lower risk of natural hazards. Per Government Code Section 65584.04(e)(2)(B), the City of Larkspur must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. The City does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>5</sup>

***Issue 2:*** *Larkspur argues that the RHNA methodology does not promote socioeconomic equity and the encouragement of efficient development patterns as required by Government Code Section 65584(d)(2) and does not promote “an improved intraregional relationship between jobs and housing,” as required by Government Code Section 65584(d)(3).*

**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

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<sup>4</sup> The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.

<sup>5</sup> See HCD’s [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

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>6</sup> Regarding the RHNA objective related to *"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 reductions targets provided by the State Air Resources Board pursuant to Section 65080,"* HCD made the following findings:

*"The draft ABAG methodology<sup>7</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit."*

The Draft RHNA Allocation was also found to be consistent with Plan Bay Area 2050, which meets the statutory greenhouse gas reduction target.

In its findings that the RHNA methodology furthers the statutory 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 stated:

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<sup>6</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>7</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.

*The draft ABAG methodology<sup>8</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 emissions. It includes strategies related to increased housing densities and office development subsidies to address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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 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 Need 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 influenced by its proximity and accessibility to jobs in another community. As Larkspur notes in its appeal, Plan Bay Area 2050 forecasts a decline in the number of jobs in the Central and

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<sup>8</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.

Southern Marin superdistricts. However, regional transportation, environmental, and housing goals aim for a jobs-housing balance at the regional level, and areas in the Central and Southern Marin superdistricts remain in close proximity to many of the region's jobs. 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 and greenhouse gas emissions.

Notably, Government Code Section 65584(d)(3) also requires the RHNA methodology to consider the balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. Data from the Census Bureau indicates Larkspur has an imbalanced ratio between low-wage jobs and affordable housing in the region, with 6.5 low-wage jobs per unit of rental housing affordable to low-wage workers and their families.<sup>9</sup> Accordingly, the allocation of 459 units of lower-income RHNA assigned to Larkspur could enable many of the low-wage workers in Larkspur to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower greenhouse gas emissions.

***Issue 3:*** *Larkspur argues ABAG failed to adequately consider water service capacity due to decisions made by a water service provider. Marin Municipal Water District (MMWD) provides water to the City of Larkspur. The population growth associated with the draft RHNA allocation exceeds the growth analyzed in the Urban Water Management Plan (UWMP) adopted by MMWD on June 15, 2020.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period."

However, the arguments put forward by the City of Larkspur do not meet the requirements for a valid RHNA appeal. Although Larkspur cites information from the UWMP prepared by MMWD, the City has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by this water service provider. Larkspur indicates the RHNA allocation exceeds the population growth assumption used by the MMWD in the UWMP. However, this difference in assumptions about expected growth does not represent a determination that the City will not have sufficient water capacity in the future.

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<sup>9</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Larkspur>.

Indeed, future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent. A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

While MMWD has discussed a potential moratorium on new water connections in response to the drought, this action has not yet been implemented. Even if a moratorium is implemented in the future, there is no indication that it would extend for the next ten years until the end of the RHNA planning period in 2031. Thus, at this time, there is no evidence that Larkspur is precluded from accommodating its RHNA allocation.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in



existing communities that have more resources to promote climate resilience and conservation efforts.”<sup>10</sup>

Action can be taken to efficiently meet the region’s future water demand, even in the face of additional periods of drought. Eight of the region’s largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>11</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area’s lack of housing affordability. Part of the reason the RHND assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by City of Larkspur to reduce its Draft RHNA Allocation by 236 units (from 979 units to 743 units).

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<sup>10</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>11</sup> See the [Drought Contingency Plan](#) for more information.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Mill Valley RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Mill Valley requests the reduction of its Draft RHNA Allocation by 286 units. The City of Mill Valley's appeal was heard by the ABAG Administrative Committee on October 8, 2021, at a noticed public hearing. The City of Mill Valley, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Mill Valley's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals

comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5180916&GUID=F6E8652D-5878-4225-B295-D1094B343B60&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9836540&GUID=1603966E-228B-4907-AA28-6F50249DC3AD>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N= SXRIbSA2LCBIYW5kb3V0IFB1YmtpYyBD b21tZW50>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Mill Valley had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Mill Valley presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Mill Valley's appeal. The Administrative Committee considered the documents submitted by the City of Mill Valley, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Mill Valley and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9456](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9456). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-8-21-rhna-appeals-trial-day-3-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Mill Valley, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1 and #5: Methodology Does Not Further RHNA Objective 2 or Consider Hazard Constraints* – The City's argument challenges the Final RHNA Methodology adopted by ABAG and approved by HCD, which falls outside scope of appeals process.

HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found ABAG's methodology does further the objectives. Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Areas at risk of natural hazards are not identified in Housing Element Law as a constraint to housing except when FEMA or Department of Water Resources has determined the flood management infrastructure to protect land is inadequate. Mill Valley does not provide evidence it is unable to consider underutilization of existing sites, increased densities, and other planning tools to accommodate its assigned need.

- *Regarding Issue #2: Plan Bay Area 2050 Final Blueprint Growth Geographies* – Strategy H3 only applies to Growth Geographies, which encompass a small area of Mill Valley. The City's argument about use of Growth Geographies in the Final Blueprint challenges the Final RHNA Methodology adopted by ABAG and approved by HCD, which falls outside scope of appeals process. Housing Element Law requires RHNA to be consistent with Plan Bay Area 2050, but does not specify how to determine consistency, giving ABAG discretion to define approach. The approach used throughout RHNA methodology development compares RHNA allocations to Final Blueprint growth forecasts adopted at the county and subcounty (i.e., superdistrict) levels. RHNA is consistent if the 8-year RHNA does not exceed the Plan's 35-year housing growth at the county or subcounty levels. This evaluation shows RHNA is consistent with Plan Bay Area 2050, including in the South Marin superdistrict where Mill Valley is located.
- *Regarding Issue #3: Error in RHNA Calculation* – There is no error in the calculation of Mill Valley's allocation. The City's results were different because the calculations did not include step to adjust factor scores for all jurisdictions to ensure the methodology allocates 100% of units in each income category assigned by HCD. When the calculations for each factor/income category include this step, the results are consistent with Draft RHNA Plan.
- *Regarding Issue #4: RHNA Methodology Factors* – This argument by the City again 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.

- *Regarding Issue #6: Concerns That Are Not A Valid Basis For An Appeal — Increased Fire Risk* – The example policies in the draft 2020 Fire Hazard Planning Technical Advisory related to minimizing risks to existing and new land uses are not in conflict with the RHNA methodology. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region’s housing needs and avoid planning for new homes in places at risk. Mill Valley has authority to plan for housing in places with lower risk in its Housing Element and adopt policies to require risk reduction measures as recommended in the State’s Technical Advisory. Regarding appeals that identify increased wildfire risk as an issue HCD notes, *“these issues do not affect one city, county, or region in isolation. ABAG’s allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts.”*
- *Regarding Issue #7: Concerns That Are Not A Valid Basis For An Appeal — Slowing Population Growth* – Government Code Section 65584.04(g)(3) states that stable population numbers cannot be used as a justification for a reduction of a jurisdiction’s share of the regional housing need. Stable or declining population is not, by itself, evidence that there is not a need for additional. It may be a sign of an unhealthy housing market where those lacking affordable housing choices must leave the jurisdiction to find housing elsewhere. Mill Valley has not provided evidence to suggest its population will continue to decline long-term or that there has been a reduction in the jurisdiction’s housing need for the 2023-2031 RHNA planning period.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Mill Valley’s appeal and finds that the City of Mill Valley’s RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Mill Valley Appeal of Draft RHNA Allocation and Staff Response

DATE: October 8, 2021

## OVERVIEW

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**Jurisdiction:** City of Mill Valley

**Summary:** City of Mill Valley requests the decrease of its Draft RHNA Allocation by 286 units (33 percent) from 865 units to 579 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - Existing and projected jobs and housing relationship.
  - Availability of land suitable for urban development or for conversion to residential use.
  - The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050.
- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Mill Valley	262	151	126	326	865

### Local Jurisdiction Survey

The City of Mill Valley submitted 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 and there were nine comments that specifically relate to the appeal filed by the City of Mill Valley. All nine comments oppose the City's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *Mill Valley argues that the RHNA methodology does not promote infill development and socio-economic equity through efficient development patterns that achieve greenhouse gas emission targets and protect environmental and agricultural resources, as required in Government Code Section 65584(d)(2). The City also argues the methodology does not consider each jurisdiction's constraints related to areas at risk of flooding or wildfires.*

**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>1</sup> Regarding the RHNA objective noted in the City's appeal, HCD made the following findings:

*The draft ABAG methodology encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower*

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<sup>1</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.



*VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit.*

The final RHNA methodology adequately considers the potential development constraints described in Mill Valley's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints (e.g., steep hillsides). These feasibility and cost assessments are used to forecast the Mill Valley's share of the region's households in 2050, which is an input into its RHNA allocation.

However, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

Importantly, 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. 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>2</sup>

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<sup>2</sup> See [HCD's comment letter on appeals](#) for more details.

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 identify areas at risk of natural hazards as a potential constraint to housing development."<sup>3</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.<sup>4</sup> Ultimately, HMC members 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.

The Final Blueprint Growth Geographies exclude CAL FIRE designated "Very High" fire severity areas in incorporated jurisdictions, and "High" and "Very High" fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which doesn't apply to Mill Valley.<sup>5</sup> While there may be areas at risk of flooding in Mill Valley, the City has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources that the flood management infrastructure is inadequate to avoid the risk of flooding, consistent with Government Code Section 65584.04(e)(2)(B).

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, the 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. In developing its Housing Element, Mill Valley has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the city can choose to take hazard risk into consideration with where and how it sites future development or by increasing building standards for sites within at-risk areas to cope with the hazard. Per Government Code Section 65584.04(e)(2)(B), Mill Valley must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. The City does not provide evidence it is unable to consider

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<sup>3</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>4</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

<sup>5</sup> The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.

underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>6</sup>

**Issue 2:** *Mill Valley argues Plan Bay Area 2050 Strategy H3, which allows a greater mix of housing densities and types in Growth Geographies, should only apply in the eastern part of the City that is a high-resource area, near transit, outside a floodplain, and outside the Fire Severity Zone. The City also asserts that its draft RHNA is inconsistent with Plan Bay Area 2050's growth forecasts and timeline, asserting that Plan Bay Area forecasts growth of 1,000 households in Mill Valley by 2050, while the 8-year RHNA is 865 units.*

**ABAG-MTC Staff Response:** The Plan Bay Area 2050 Final Blueprint accounts for the concerns raised in this appeal. Strategy H3 applies only to those areas identified as a Growth Geography, which includes only a small area within the eastern part of Mill Valley identified as a Transit-Rich High-Resource Area. As noted above, in developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints (e.g., steep hillsides). Additionally, the Growth Geographies incorporate hazards by excluding CAL FIRE designated "Very High" fire severity areas in incorporated jurisdictions. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Mill Valley.<sup>7</sup> While only a small portion of Mill Valley is identified as a Growth Geography where higher densities may be appropriate, a limited amount of infill growth at a scale more similar to existing communities is still envisioned in areas outside of Growth Geographies in the Plan Bay Area 2050 Final Blueprint.

The City's argument about how the Plan Bay Area 2050 Final Blueprint should forecast growth in Growth Geographies again 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.

Regarding the arguments related to consistency between RHNA and Plan Bay Area 2050, while Government Code Statute 65584.04(m) requires that the RHNA plan allocate units consistent with the development pattern included in the Sustainable Community Strategy, the statute does not specify how to determine consistency. In the absence of statutory direction, ABAG has

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<sup>6</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

<sup>7</sup> The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.

discretion to identify the framework to be used for establishing that RHNA is consistent with Plan Bay Area 2050.

Plan Bay Area 2050 includes adopted growth forecasts at the county and subcounty levels, not the jurisdiction level where RHNA is statutorily focused.<sup>8</sup> Therefore, staff developed an approach for determining consistency between RHNA and Plan Bay Area 2050 that received support from the Housing Methodology Committee, the ABAG Regional Planning Committee, and the ABAG Executive Board. This approach compares the 8-year RHNA allocations to the 35-year housing growth from the Plan Bay Area 2050 Final Blueprint at the county and subcounty geographies used in the plan. If the 8-year growth level from RHNA does not exceed the 35-year housing growth level at either of these geographic levels, then RHNA and Plan Bay Area 2050 are determined to be consistent. Mill Valley is located within South Marin County superdistrict. Staff evaluated the draft RHNA allocations using the described approach and found the RHNA allocations are fully consistent with Plan Bay Area 2050, including the allocations to the South Marin superdistrict where Mill Valley is located (see Table 1 below for more details).

**Table 1. Superdistrict Forecasted Growth in Final Blueprint Compared to Draft RHNA\***

Superdistrict	County	Superdistrict Name	Blueprint Final 2015-2050 Growth	Draft RHNA
34	Marin	South Marin County	9,000	5,976

\* The South Marin County superdistrict contains the following jurisdictions: Belvedere, Corte Madera, Mill Valley, Sausalito, Tiburon, Larkspur, and portions of unincorporated Marin County.

**Issue 3:** Mill Valley argues that ABAG made an error in calculating the city's allocation.

**ABAG-MTC Staff Response:** There is no error in ABAG's calculation of Mill Valley's allocation. In Attachment 3 of the City's appeal, the second table shows the correct baseline 2050 share for Mill Valley and correct factor scores for the RHNA methodology. The City's calculations resulted in a different outcome because the City's re-calculated allocations do not include the final step of adjusting the scaled factor scores for all jurisdictions to ensure they sum to 100%. This final step is shown in Appendix 4 of the Draft RHNA Plan, in the fourth column for each factor, entitled "Factor Distribution: Adjusted Baseline Rescaled to 100%." This re-scaling step is necessary to ensure the methodology allocates the exact number of housing units in each income category that was assigned by HCD in the Regional Housing Needs Determination (RHND).

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<sup>8</sup> View the table of 35-year household growth at [https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease\\_December2020\\_GrowthPattern\\_Jan2021Update.pdf](https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf).

Appendix 4 in the Draft RHNA Plan shows the impact that each factor has on each jurisdiction's baseline allocation from the Plan Bay Area 2050 Final Blueprint. Appendix 5 shows the number of units, by income category, that each jurisdiction receives as a result of each factor in the methodology. Although the numbers presented in these tables are rounded to a single decimal point, the calculations were done using un-rounded numbers. ABAG-MTC staff also provided access to a jurisdiction's un-rounded baseline allocation through the public open-source RHNA calculations posted on GitHub.<sup>9</sup> Attachment 1 shows the calculation of Mill Valley's factor scores using the unrounded baseline.

Using the Access to High Opportunity Areas (AHOA) factor as an example, the sum of the factor scores for all jurisdictions in the region is 92.872889%. Since the total does not equal 100%, each jurisdiction's score needs to be rescaled. Mill Valley's unrounded AHOA factor score (0.246444%) is rescaled as follows:  $0.246444\% / 92.872889\% = 0.265356\%$ . This value is what is then used in the distribution of units for each income category for AHOA.

For very low-income units, given the 70% weight assigned to the AHOA factor and the total of 114,442 units assigned to the Bay Area by HCD,  $0.70 * 114,442 = 80,109$  units to be distributed using the AHOA-adjusted baseline. This total (80,109) is then multiplied by Mill Valley's rescaled AHOA factor score of 0.265356%. This results in a total of 213 very low-income units as a result of the AHOA factor, consistent with Appendix 5 in the Draft RHNA Report. Without the step identified above to rescale the total to 100%, this factor would only allocate 74,397 units in the low-income category in the region, and the total number of units allocated would not match the RHND.

The same rescaling process is conducted for the other two factors, for each income category. Once the calculations for each factor/income category include the use of the "Factor Distribution: Adjusted Baseline Rescaled to 100%," the results match Mill Valley's draft allocation, consistent with Appendix 5 in the Draft RHNA Report. As a result, there is no error in the application of the adopted RHNA methodology and, thus, it is not a valid basis for an appeal.

**Issue 4:** *The City argues that the factors used in the RHNA methodology are all within the same area and should only be counted once.*

**ABAG-MTC Staff Response:** This argument by the City again 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

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<sup>9</sup> Source: [https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris\\_baselines.xlsx](https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris_baselines.xlsx)

the jurisdiction's allocation; a critique of the adopted methodology itself falls outside the scope of the appeals process.

**Issue 5:** *Mill Valley argues that the RHNA methodology does not adequately consider local constraints to additional development of housing. The City asserts that at least 65% of City's land should be removed from any forecasting based on High Fire Severity zone and FEMA Floodway. In addition, the City states that minimum lot sizes and lack of vacant land are also constraints to building housing.*

**ABAG-MTC Staff Response:** See the response to Issue 1 for a description of how information about constraints to housing development were considered in the RHNA methodology.

**Issue 6:** *Mill Valley argues that there has been a significant change in circumstances because recommendations in the draft 2020 Fire Hazard Planning Technical Advisory are in conflict with RHNA methodology. The City also notes that Mill Valley is at increased fire risk because of climate change/drought.*

**ABAG-MTC Staff Response:** Mill Valley's appeal cites example policies related to minimizing risks to existing and new land uses from the State's Fire Hazard Planning Technical Advisory. Specifically, the appeal cites example policies that recommend that all infill development projects be required to comply with applicable state or local fire safety and defensible space regulations or standards and that jurisdictions should avoid expanding new development in areas subject to extreme threat or high risk "unless all feasible risk reduction measures have been incorporated into project designs or conditions of approval."

Contrary to Mill Valley's assertion, the RHNA methodology is not in conflict with these recommendations. As noted previously, given the natural hazard risks in the Bay Area, it is essentially impossible to avoid all hazards when siting new development. In developing its Housing Element, Mill Valley can choose sites for housing that are at lower risk from fires and adopt policies to require risk reduction measures, as recommended in the State's Technical Advisory.

The City of Mill Valley also contends that increased fire risk represents a change in circumstances meriting a reduction in the City's RHNA. However, as HCD notes in its comment letter on appeals that identified increased wildfire risk as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>10</sup> Wildfire hazard in

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<sup>10</sup> See [HCD's comment letter on appeals](#) for more details.

California is increasing, but the increasing fire hazard alone does not directly correlate to increasing fire risk. Risk is a function of hazard, susceptibility, consequence, and adaptive capacity. The hazard has been increasing over time while the response was constant for many years. However, recently the State of California and local governments have begun to take more aggressive actions to reduce susceptibility and consequences, which in turn may keep overall wildfire risk constant during the coming RHNA cycle.

**Issue 7:** *Mill Valley notes California's population growth slowed down in the last decade and argues ABAG should modify its population and households forecasts accordingly.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(g)(3) states that stable population numbers cannot be used as a justification for a reduction of a jurisdiction's share of the regional housing need. Consistent with this statutory language, stable or declining population in a jurisdiction is not, by itself, evidence that there is not a need for additional homes in the community. It may instead be a sign of an unhealthy housing market where individuals and families lack affordable housing choices and must leave the jurisdiction to find housing elsewhere. In fact, a primary reason the Regional Housing Needs Determination (RHND) of 441,176 units was higher than the need assigned to the Bay Area in past RHNA cycles was because it included factors related to overcrowding, high housing cost burdens and a target vacancy rate as a way to address the region's challenges in meeting the housing needs of the existing population. In addition, Mill Valley has not provided evidence to suggest that its population will continue to decline long-term or that there has been a reduction in the jurisdiction's housing need for the 2023-2031 RHNA planning period.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by City of Mill Valley to reduce its Draft RHNA Allocation by 286 units (from 865 units to 579 units).

## **ATTACHMENT(S):**

Attachment 1: Overview of Factor Score Calculations Using Unrounded Baseline

## Attachment 1: Overview of Factor Score Calculations Using Unrounded Baseline

In its appeal, the City of Mill Valley includes a recalculation of its factor scores (similar to what is shown in Appendix 4 of the Draft RHNA Plan) using the un-rounded baseline allocation. The following shows the results for the factor scores when using the unrounded baseline:

- For the **Access to High Opportunity Areas (AHOA)** factor, Mill Valley's raw score is 100.0%; this becomes 1.5 when scaled to the 0.5-1.5 range. The scaled factor score (1.5) is multiplied with Mill Valley's un-rounded baseline share (0.164296%) to result in 0.246444% for the AHOA factor. The sum of the factor scores for *all* jurisdictions in the region is 92.872889%, so a rescaling of all the factors to 100% is done as a last step, as follows:  $0.246444\% / 92.872889\% = 0.265356\%$ . This value is what is then used in the distribution of units for each income category for AHOA. This last adjustment was omitted in Mill Valley's appeal.
- For the **Job Proximity - Auto (JPA)** factor, Mill Valley's raw score is 6.628723; this becomes 0.7 when scaled to the 0.5-1.5 range with 1-digit precision. The calculation retains full floating-point precision, so the scaled factor score (0.704695) is multiplied with Mill Valley's un-rounded baseline share (0.164296%) to result in 0.115779% for the JPA factor. The sum of the factor scores for *all* jurisdictions in the region is 103.624431%, so a rescaling of all the factors to 100% is done as a last step, as follows:  $0.115779\% / 103.624431\% = 0.111729\%$ . This value is what is then used in the distribution of units for each income category for AHOA. This last adjustment was omitted in Mill Valley's appeal.
- For the **Job Proximity - Transit (JPT)** factor, Mill Valley's raw score is 0.268235; this becomes 0.518421 when scaled to the 0.5-1.5 range. The scaled factor score (0.518421) is multiplied with Mill Valley's un-rounded baseline share (0.164296%) to result in 0.0851745% for the JPT factor. The sum of the factor scores for *all* jurisdictions in the region is 74.786074%, so a rescaling of all the factors to 100% is done as a last step, as follows:  $0.0851745\% / 74.786074\% = 0.113891\%$ . This value is what is then used in the distribution of units for each income category for AHOA. This last adjustment was omitted in Mill Valley's appeal.

The City uses its own recalculated factor scores to show the impact of each factor on the jurisdiction's final allocation (similar to what is shown in Appendix 5 of the Draft RHNA Plan) and argues that use of the un-rounded baseline resulted in a total allocation of 818 units instead of 865 units. However, as noted in ABAG-MTC staff's response to Issue 3 in the appeal, the City's calculations result in a different total allocation because they do not include the final step of adjusting the scaled factor scores for all jurisdictions to ensure they sum to 100%, which is necessary to ensure the methodology allocates the exact number of housing units in each income category in the RHND.



TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Ross RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The Town of Ross requests the reduction of its Draft RHNA Allocation by 59 units. The Town of Ross's appeal was heard by the ABAG Administrative Committee on October 15, 2021, at a noticed public hearing. The Town of Ross, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the Town of Ross's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals comment

period, are available on the MTC Legistar page at

<https://mtc.legistar.com/LegislationDetail.aspx?ID=5180916&GUID=F6E8652D-5878-4225-B295-D1094B343B60&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9890312&GUID=A565A11F-A38F-40CC-A3BE-1FA306F1CA05>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9890313&GUID=7A4EE16F-F38D-421A-A0A4-AA1DC1163566>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the Town of Ross had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The Town of Ross presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the Town of Ross's appeal. The Administrative Committee considered the documents submitted by the Town of Ross, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by Town of Ross and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9524](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9524). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-15-21-rhna-appeals-day-4-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the Town of Ross, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Lack of Available Land* – Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Ross has not provided evidence it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources that the flood management infrastructure is inadequate to avoid the risk of flooding. Ross does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units, and other planning tools to accommodate its assigned need.
- *Issue #2: Jobs-Housing Relationship* – The Town's argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG's methodology does further the objectives. The RHNA methodology uses data about each jurisdiction's jobs-housing relationship in the Plan Bay Area 2050 Final Blueprint and in factors related to Job Proximity, which measure job access based on commute shed to better capture lived experience of accessing jobs irrespective of jurisdiction boundaries. Housing Element Law requires the RHNA methodology to improve the *intraregional* relationship between jobs and housing—not jobs-housing balance in any particular jurisdiction. The methodology must also consider jobs-housing fit. Census Bureau data shows Ross has 89 low-wage jobs and no rental units that are affordable to low-wage workers and their families. The Town's lower-income RHNA could enable many of these workers to live closer to their jobs, for better jobs-housing balance, shorter commutes, and lower GHG.
- *Issue #3: Drought* – Government Code Section 65584.04(e)(2)(A) states ABAG must consider opportunities and constraints to development of housing due to "lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." Ross has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider. A moratorium on new water connections has not been implemented, nor is there an indication a moratorium would extend until the end of the RHNA planning period in 2031.

**Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the Town of Ross's appeal and finds that the Town of Ross's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Ross Appeal of Draft RHNA Allocation and Staff Response

DATE: October 15, 2021

## OVERVIEW

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**Jurisdiction:** Town of Ross

**Summary:** Town of Ross requests the decrease of its Draft RHNA Allocation by 59 units (53 percent) from 111 units to 52 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
  - Distribution of household growth assumed for Plan Bay Area 2050.
  - The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050.
- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Town of Ross	34	20	16	41	111

## Local Jurisdiction Survey

The Town of Ross submitted 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, and there were nine that specifically relate to the appeal filed by the Town of Ross. All nine comments oppose the Town's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The Town argues that while the Local Jurisdiction Survey included questions about constraints to housing due to land suitability, there is no indication that the Plan Bay Area 2050 Final Blueprint, the baseline allocation for the RHNA methodology, took specific issues like FEMA floodplain, fire severity zones, slope stability, or availability of vacant land with public services and utilities into consideration when considering "developable land."*

**ABAG-MTC Staff Response:** The final RHNA methodology adequately considers the potential development constraints described in Ross's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast the Town's share of the region's households in 2050, which is an input into its RHNA allocation.

However, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

Importantly, 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. 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>1</sup>

The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands the Town'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 identify areas at risk of natural hazards as a potential constraint to housing development."<sup>2</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.<sup>3</sup> Ultimately, HMC members 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.

The Final Blueprint Growth Geographies exclude CAL FIRE designated "Very High" fire severity areas in incorporated jurisdictions, and "High" and "Very High" fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Ross.<sup>4</sup> While there may be areas at risk of flooding in Ross, the Town has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources that the flood management infrastructure is inadequate to avoid the risk of flooding, consistent with Government Code Section 65584.04(e)(2)(B).

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<sup>1</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>2</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>3</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

<sup>4</sup> The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.



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, the 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. In developing its Housing Element, Ross has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the Town can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard by choosing strategies related to the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density or by increasing building standards for sites within at-risk areas to cope with the hazard.

Per Government Code Section 65584.04(e)(2)(B), the Town of Ross must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. The Town does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>5</sup>

***Issue 2:*** *The Town of Ross argues ABAG failed to adequately consider the Town's jobs-housing relationship, because there is no indication that modeling of households and jobs observed discrete jurisdictional boundaries. The Town also notes that Ross has 0.44 jobs per housing unit and argues that adding units to areas with few jobs and limited transit will increase vehicle miles traveled and greenhouse gas emissions.*

***ABAG-MTC Staff Response:*** This argument by the Town 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>6</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:

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<sup>5</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

*The draft ABAG methodology<sup>7</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, and when exporting data about total households in 2050 for the RHNA baseline, appropriate jurisdiction boundaries were used. 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 address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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.

The factors in the RHNA methodology 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

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<sup>7</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.

work outside their jurisdiction of residence, and demand for housing in a particular jurisdiction is substantially 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 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 Ross has an imbalanced ratio between low-wage jobs and affordable housing units, with 89 low-wage jobs in the jurisdiction and no rental units that are affordable to low-wage workers and their families.<sup>8</sup> Accordingly, the allocation of 54 units of lower-income RHNA assigned to the Town of Ross could enable many of the low-wage workers in the town to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower GHG.

**Issue 3:** *Ross asserts that a significant and unforeseen change in circumstances has occurred in the Town because the Marin Municipal Water District (MMWD) has declared drought conditions. If drought conditions persist, a mitigating step that MMWD could take would be to place a moratorium on new or expanded water service until such time that adequate supply is available. Ross argues that the uncertainty regarding municipal water supply has the potential to dramatically affect the feasibility of new housing development in the Town of Ross.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to “Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.”

However, the arguments put forward by the Town of Ross do not meet the requirements for a valid RHNA appeal. While Marin Water has discussed a potential moratorium on new water connections in response to the drought, this action has not yet been implemented. Even if a moratorium is implemented in the future, there is no indication that it would extend for the next ten years until the end of the RHNA planning period in 2031. Thus, at this time, there is no evidence that the Town is precluded from accommodating its RHNA allocation.

Importantly, future population growth does not necessarily mean a similar increase in water consumption: while the region’s population grew by approximately 23 percent between 1986

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<sup>8</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Ross>.

and 2007, total water use increased by less than one percent. A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

Also, the Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>9</sup>

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply

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<sup>9</sup> See [HCD's comment letter on appeals](#) for more details.

reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>10</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by Town of Ross to reduce its Draft RHNA Allocation by 59 units (from 111 units to 52 units).

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<sup>10</sup> See the [Drought Contingency Plan](#) for more information.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of San Anselmo RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The Town of San Anselmo requests the reduction of its Draft RHNA Allocation by 558 units. The Town of San Anselmo's appeal was heard by the ABAG Administrative Committee on October 15, 2021, at a noticed public hearing. The Town of San Anselmo, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the Town of San Anselmo's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal

during the RHNA appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5180917&GUID=64DDEA57-D430-4A99-AB71-F3636A91A144&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9890312&GUID=A565A11F-A38F-40CC-A3BE-1FA306F1CA05>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9890313&GUID=7A4EE16F-F38D-421A-A0A4-AA1DC1163566>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the Town of San Anselmo had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The Town of San Anselmo presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the Town of San Anselmo's appeal. The Administrative Committee considered the documents submitted by the Town of San Anselmo, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by Town of San Anselmo and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9524](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9524). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-15-21-rhna-appeals-day-4-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the Town of San Anselmo, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:



- Regarding Issue #1: Availability of Data for Review* – All data and calculations for the RHNA methodology are available in the Draft RHNA Plan, including each jurisdiction's share of 2050 households, raw and scaled factor scores, and each factor's impact on each jurisdiction's baseline allocation, as well as the number of units, by income category, that result from each factor in the methodology. Additionally, public open-source RHNA calculations are also posted on GitHub. ABAG-MTC also provided local jurisdiction staff with access to the underlying data for the Plan Bay Area 2050 Final Blueprint forecast that determines the RHNA methodology's baseline allocation. Local jurisdiction staff had several months to review and correct land use and development pipeline data. Jurisdictions could review the growth pattern for the Draft Blueprint in summer 2020 and prior to adoption of the Final Blueprint in January 2021, with office hours to discuss model inputs and forecasted growth from the Bay Area UrbanSim 2.0 model. Additionally, Plan Bay Area 2050 modeling assumptions are documented in the *Forecasting and Modeling Report*.
- Regarding Issue #2: Local Jurisdiction Survey* – Government Code Section 65584.04(e)(1) specifies low-wage jobs and housing affordable to low-wage workers in its definition of the factor related to the jobs-housing relationship. Local Jurisdiction Survey questions 1-6 fulfilled this statutory requirement. Questions 51 through 53 were general and open-ended questions that provided additional opportunities for sharing information related to the jobs-housing relationship. Government Code Section 65584.04(e)(3) references "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." Question 10 in the Local Jurisdiction Survey ("Does your jurisdiction face opportunities or constraints in encouraging more jobs and housing near public transportation and existing transportation infrastructure?") aligns with this statutory factor.
- Regarding Issue #3: Lack of Available Land* – Areas at risk of natural hazards are not identified in Housing Element Law as a constraint to housing development. San Anselmo has not provided evidence that FEMA or the Department of Water Resources has determined the Town's flood management infrastructure is inadequate to avoid the risk of flooding. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region's housing needs and avoid planning for new homes in places at risk. The Town has the authority to plan for housing in places with lower risk. Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider

underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing.

- *Regarding Issue #4: Consistency with Plan Bay Area 2050* – The Final RHNA methodology directly incorporates the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. Housing Element Law requires RHNA to be consistent with the Plan Bay Area 2050 development pattern, but statute does not specify how to determine consistency, giving ABAG discretion to define its own approach. The approach used throughout the RHNA methodology development compares RHNA allocations to Final Blueprint growth forecasts adopted at the county and subcounty (i.e., superdistrict) levels. RHNA is consistent if the 8-year growth from RHNA does not exceed the Plan’s 35-year housing growth at the county or subcounty levels. This evaluation shows RHNA is consistent with Plan Bay Area 2050, including in the Central Marin superdistrict where San Anselmo is located.
- *Regarding Issue #5: Methodology Does Not Further RHNA Objectives* – These arguments challenge the final RHNA methodology adopted by ABAG and approved by HCD, and thus fall outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG’s methodology does further these objectives. HCD concluded ABAG’s RHNA methodology promotes efficient development patterns and reduced greenhouse gas emissions by allocating more units to jurisdictions with greater job access and lower vehicle miles traveled per resident. The RHNA methodology uses data about each jurisdiction’s jobs-housing relationship in the Plan Bay Area 2050 Final Blueprint and in factors related to job proximity, which measure job access based on commute shed to better capture the lived experience of accessing jobs irrespective of jurisdiction boundaries. The methodology must also improve the balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction. Census Bureau data shows San Anselmo has almost 12 low-wage jobs per unit of rental housing affordable to low-wage workers.
- *Regarding Issue #6: Drought* – Government Code Section 65584.04(e)(2)(A) states that ABAG must consider opportunities and constraints to development of housing due to a “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.” San Anselmo has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider. Even if a moratorium on new water connections is implemented in the future, there is no indication it would extend until the end of the RHNA planning period in 2031.

- *Regarding Issue #7: Impact of COVID-19 on Transit* – Job proximity factors in the RHNA methodology use existing jobs in 2015, the readily available data at the time of methodology development. HCD’s comment letter on Bay Area jurisdictions’ appeals indicates RHNA appeals based on changes caused by COVID-19 do not fall within the appeal criteria defined by statute. HCD states, “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.” The potential impacts of COVID-19, including the accelerated shift toward telecommuting and associated economic boom/bust cycle, are incorporated into the RHNA methodology through the integration of the Plan Bay Area 2050 Final Blueprint. Impacts from COVID-19 are not unique to any single jurisdiction, and the appeal does not indicate San Anselmo’s housing need has been disproportionately impacted relative to the rest of the Bay Area. The pandemic is not cause for a reduction in RHNA for any particular jurisdiction.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the Town of San Anselmo’s appeal and finds that the Town of San Anselmo’s RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of San Anselmo Appeal of Draft RHNA Allocation and Staff Response

## OVERVIEW

**Jurisdiction:** Town of San Anselmo

**Summary:** Town of San Anselmo requests the decrease of its Draft RHNA Allocation by 558 units (67 percent) from 833 units to 275 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
  - Distribution of household growth assumed for Plan Bay Area 2050.
  - The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

Following adoption of the Final RHNA Methodology on May 20, 2021, the Town of San Anselmo received the following draft RHNA allocation on May 25, 2021:

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Town of San Anselmo	253	145	121	314	833

### Local Jurisdiction Survey

The Town of San Anselmo submitted 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 and there were 10 comments that specifically relate to the appeal filed by the Town of San Anselmo. All 10 comments oppose the Town's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The Town of San Anselmo raises Constitutional arguments and asserts that the RHNA Appeals Procedures improperly limited the bases of appeal and that ABAG did not provide adequate data to jurisdictions to verify data or calculations used to generate the draft RHNA and, as a result, jurisdictions are unable to verify if the methodology has been applied correctly.*

**ABAG-MTC Staff Response:** ABAG developed the RHNA Appeals Procedures, including the limitations placed on the bases to appeal, in accordance with applicable law and principles of administrative due process and responds to the substance of each of the Town's arguments below. As noted, ABAG has provided local jurisdictions with the data related to the final RHNA methodology.

ABAG-MTC provided local jurisdiction staff with access to the underlying data for the Plan Bay Area 2050 Final Blueprint forecast that determines the RHNA methodology's baseline allocation. Both the land use modeling results and the inputs used to produce them have been made available to local staff. In fall 2019 ABAG-MTC staff collected local development policy data (i.e., information about zoning and general plans) from local jurisdictions for use in Plan Bay Area 2050 forecasting and modeling.<sup>1</sup> Local jurisdiction staff had several months to review and correct their land use and development pipeline data.<sup>2</sup> Jurisdictions then had an opportunity to review the growth pattern for the Draft Blueprint in summer 2020 and prior to the adoption of the Final Blueprint in January 2021, with office hours available to local jurisdictions to discuss model inputs and forecasted growth from the Bay Area UrbanSim 2.0 model. Additionally, the modeling assumptions for Plan Bay Area 2050 are documented in the *Draft Forecasting and*

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<sup>1</sup> To learn more about these datasets, visit this website: <https://basis.bayareametro.gov/>.

<sup>2</sup> Communications to local staff about BASIS and review of Plan Bay Area 2050 baseline data included the following:

- Invitation to a webinar on August 6, 2019 about BASIS and how baseline information would be gathered for use in Plan Bay Area 2050.
- Email on August 26, 2019 asking staff to identify someone to review jurisdiction's baseline data in fall 2019.
- [Videos](#) to assist local staff with the data review process were made available on YouTube.
- Email on October 4, 2019 to jurisdictions who had not identified a staff contact to review BASIS land use data.
- Email reminder on October 29, 2019 to local staff about the BASIS data review process.
- Email to Bay Area planning directors on July 10, 2020 about office hours where local staff could have a one-on-one consultation with ABAG-MTC staff to provide feedback on the Plan Bay Area 2050 Draft Blueprint or BASIS.
- Additional office hours were held in December 2020 to discuss Plan Bay Area 2050 Final Blueprint outcomes and the draft RHNA methodology.

*Modeling Report* published in May 2021 and the *Final Forecasting and Modeling Report* published in October 2021.<sup>3</sup> While only county and sub-county projections are used for the purposes of Plan Bay Area 2050, the jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were then provided for use as the baseline allocation for the RHNA Methodology, in the Proposed Methodology report (October 2020), Draft Methodology report (February 2021), and the Draft RHNA Plan report (May 2021). Local jurisdictions, stakeholders, and the public at-large also had access to an online tool enabling them to compare RHNA baseline options, as well as factors and weights, during the Housing Methodology Committee (HMC) process to develop the RHNA methodology throughout 2020.

All relevant data and calculations for the RHNA Methodology are available in the [Draft RHNA Plan](#). Pages 15-21 of the report provide information about the data sources used and describe the steps in calculating the draft RHNA allocations. The specific information for each jurisdiction is shown in the report's appendices. As Plan Bay Area 2050 does not include growth forecasts at the jurisdiction level, the first column in Appendix 4 shows the information from the Plan Bay Area 2050 Final Blueprint that is relevant to the RHNA methodology, namely each jurisdiction's share of the region's total households in 2050 (baseline allocation). The other data in Appendix 4 shows the raw score for each factor, the scaled factor score for each factor, and the impact that each factor has on each jurisdiction's baseline allocation from the Plan Bay Area 2050 Final Blueprint.

Appendix 5 shows the number of units, by income category, that each jurisdiction receives as a result of each factor in the methodology. Although the numbers presented in these tables are rounded to a single decimal point, the calculations were done using un-rounded numbers. ABAG-MTC staff provided access to a jurisdiction's un-rounded baseline allocation through the public open-source RHNA calculations posted on GitHub.<sup>4</sup> Appendix 6 demonstrates how the Equity Adjustment is applied, and includes each jurisdiction's information for the adjustment's composite score.

***Issue 2:*** *The Town claims that ABAG's Local Jurisdiction Survey did not request information related to two of the statutory factors: each member jurisdiction's existing and projected jobs and housing relationship, as described in Government Code Section 65584.04(e)(1), and 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, as described in Government Code Section 65584.04(e)(3). The Town believes that the lack of Local Jurisdiction Survey questions related to these topics prevented jurisdictions from submitting the relevant information for consideration during the methodology development process.*

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<sup>3</sup> For more details, see the [Plan Bay Area 2050 Draft Forecasting and Modeling Report](#) and the [Plan Bay Area 2050 Final Forecasting and Modeling Report](#).

<sup>4</sup> Source: [https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris\\_baselines.xlsx](https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris_baselines.xlsx)

**ABAG-MTC Staff Response:** Government Code Section 65584.04(b) requires ABAG to survey its member jurisdictions to request information related to the factors listed in Government Code Section 65584.04(e). The Town argues that ABAG did not include a survey question related to the factor described by Government Code Section 65584.04(e)(1), which states *“Each member jurisdiction’s existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.”*

As the Town notes in its appeal, the Local Jurisdiction Survey included several questions (Questions 1 through 6) that specifically address the statute’s emphasis on information related to the number of low-wage jobs within a jurisdiction and how many housing units within the jurisdiction are affordable to low-wage workers (also known as jobs-housing fit).<sup>5</sup> This included providing relevant data to help local jurisdiction staff in answering questions about jobs-housing fit. As Government Code Section 65584.04(e)(1) specifies low-wage jobs and housing affordable to low-wage workers in its description of the jobs-housing relationship, ABAG-MTC staff believe the Local Jurisdiction Survey questions fulfilled the statutory requirement. In the interest of trying to minimize the number of questions requiring local staff input, ABAG-MTC staff did not focus on requests for information that could readily be obtained by other available sources, such as the U.S. Census.

Furthermore, Questions 51 through 53 in the Local Jurisdiction Survey were general, open-ended questions that provided local staff with the opportunity to submit comments and emphasize factors that ABAG should incorporate in the RHNA methodology. These questions provided the Town with additional opportunities to submit information related to the jobs-housing relationship in San Anselmo if San Anselmo staff did not believe the opportunities to comment on this topic in Questions 1 through 6 were adequate.

The Town also argues that ABAG did not include a survey question related to the factor described by Government Code Section 65584.04(e)(3), which states *“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.”* However, Question 10 in the Local Jurisdiction Survey asked, *“Does your jurisdiction face opportunities or constraints in encouraging more jobs and housing near public transportation and existing transportation infrastructure?”* ABAG-MTC staff believe that this survey question aligns with the statutory factor described by Government Code Section

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<sup>5</sup> Responses to the Local Jurisdiction Survey are available on ABAG’s website:

[https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG\\_RHNA\\_Local\\_Jurisdiction\\_Surveys\\_Received.pdf](https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_RHNA_Local_Jurisdiction_Surveys_Received.pdf).

ABAG has also provided access to the data resources shared with jurisdictions as part of the Local Jurisdiction Survey:

[https://abag.ca.gov/sites/default/files/documents/2021-06/Jurisdiction\\_Survey\\_Resources.pdf](https://abag.ca.gov/sites/default/files/documents/2021-06/Jurisdiction_Survey_Resources.pdf).

65584.04(e)(3). Again, as the distribution of household growth assumed in Plan Bay Area 2050 is generated by ABAG-MTC staff, we focused on a question for that factor where local jurisdiction staff input was most valuable.

**Issue 3:** *The Town argues that ABAG failed to consider the availability of land suitable for urban development or for conversion to residential use in San Anselmo because the RHNA methodology does not account for small lot sizes and limited vacant land. Additionally, the Town claims that the RHNA methodology fails to exclude land at risk of wildfires and flooding.*

**ABAG-MTC Staff Response:** The final RHNA methodology adequately considers the potential development constraints described in San Anselmo's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast San Anselmo's share of the region's households in 2050, which is an input into its RHNA allocation. While only county and sub-county projections are adopted for Plan Bay Area 2050, the jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were then provided for use as the baseline allocation for the RHNA Methodology.

However, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Final Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to San Anselmo also reflects both existing and future housing demand in the Bay Area.

Importantly, 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. 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>6</sup>*

The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands San Anselmo’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 identify areas at risk of natural hazards as a potential constraint to housing development.”<sup>7</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.<sup>8</sup> Ultimately, HMC members 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.

As noted in San Anselmo’s appeal, the Final Blueprint Growth Geographies exclude CAL FIRE designated “Very High” fire severity areas in incorporated jurisdictions, and “High” and “Very High” fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to San Anselmo.<sup>9</sup> While there may be areas at risk of flooding in San Anselmo, it has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources that the flood management infrastructure is inadequate to avoid the risk of flooding, consistent with Government Code Section 65584.04(e)(2)(B).

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, the 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

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<sup>6</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>7</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>8</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

<sup>9</sup> The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.

standards that more effectively address hazard risk. In developing its Housing Element, San Anselmo has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the Town can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

Per Government Code Section 65584.04(e)(2)(B), San Anselmo must consider the availability of underutilized land, opportunities for infill development, and increased residential densities to accommodate its RHNA. The Town does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>10</sup>

**Issue 4:** *The Town asserts that the RHNA Methodology fails to adequately consider 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," per Government Code Section 65584.04(e)(3). Specifically, the Town claims its draft RHNA is not consistent with the distribution of household growth assumed for Plan Bay Area 2050, the Bay Area's regional transportation plan and Sustainable Community Strategy.*

**ABAG-MTC Staff Response:** The statutory factor cited in the Town's argument centers on whether the RHNA Methodology considers the distribution of household growth from regional transportation plans like Plan Bay Area 2050 as well opportunities to maximize transit use. The Final RHNA Methodology addresses this statutory requirement because the methodology directly incorporates the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation.

The Town's appeal includes figures that it argues relate to projected household growth from Plan Bay Area 2050. ABAG-MTC staff was unable to determine the source for these figures. However, while Government Code Statute 65584.04(m) requires that the RHNA plan allocate units consistent with the development pattern included in the Sustainable Communities Strategy, the statute does not specify how to determine consistency. In the absence of statutory direction, ABAG has discretion to identify the framework to be used for establishing that RHNA is consistent with Plan Bay Area 2050.

Plan Bay Area 2050 includes adopted growth forecasts at the county and subcounty levels, not the jurisdiction level where RHNA is statutorily focused.<sup>11</sup> Therefore, staff developed an

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<sup>10</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

<sup>11</sup> View the table of 35-year household growth at [https://www.planbayarea.org/sites/default/files/pdfs\\_referenced/FinalBlueprintRelease\\_December2020\\_GrowthPattern\\_Jan2021Update.pdf](https://www.planbayarea.org/sites/default/files/pdfs_referenced/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf)

approach for determining consistency between RHNA and Plan Bay Area 2050 that received support from the Housing Methodology Committee, the Regional Planning Committee, and the Executive Board. This approach compares the 8-year RHNA allocations to the 35-year housing growth from the Plan Bay Area 2050 Final Blueprint at the county and subcounty geographies used in the plan. If the 8-year growth level from RHNA does not exceed the 35-year housing growth level at either of these geographic levels, then RHNA and Plan Bay Area 2050 are determined to be consistent. Staff evaluated the draft RHNA allocations using this approach and found the RHNA allocations are fully consistent with Plan Bay Area 2050, including the allocations to the Central Marin County superdistrict where San Anselmo is located (see Table 1 below for more details).

**Table 1. Superdistrict Forecasted Growth in Final Blueprint Compared to Draft RHNA\***

Superdistrict	County	Superdistrict Name	Blueprint Final 2015-2050 Growth	Draft RHNA
33	Marin	Central Marin County	22,000	5,977

\* The Central Marin County superdistrict contains the following jurisdictions: Fairfax, San Anselmo, San Rafael, Ross, and portions of unincorporated Marin County.

As noted previously, RHNA reflects both existing and future housing demand in the Bay Area, which is captured with the use of total households in 2050 as the baseline allocation for the adopted RHNA methodology. The factors in the methodology – Access to High Opportunity Areas and Job Proximity – adjust a jurisdiction’s baseline allocation from the Final Blueprint to emphasize near-term growth during the 8-year RHNA period in locations with the most access to resources (to affirmatively further fair housing) and jobs (to improve the intraregional relationship between jobs and housing). San Anselmo’s high share of existing households living in areas designated as Highest Resource or High Resource on the State’s Opportunity Map<sup>12</sup> relative to other jurisdictions in the region adjusts its baseline allocation upward, resulting in more RHNA units. However, its lower access to jobs relative to other jurisdictions adjusts its baseline allocation downward.

**Issue 5:** *The Town argues the RHNA allocation methodology does not adequately promote an improved intraregional relationship between jobs and housing, which is the statutory objective described in Government Code Section 65584(d)(3). Additionally, the Town claims that the RHNA methodology fails to reduce greenhouse gas emissions, the statutory objective described in Government Code Section 65584(d)(2), because too much housing is allocated to communities far from jobs and existing transportation infrastructure.*

<sup>12</sup> For more information about the Opportunity Map, visit <https://www.treasurer.ca.gov/ctcac/opportunity/2020.asp>.

**ABAG-MTC Staff Response:** This argument by San Anselmo 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>13</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:

*The draft ABAG methodology<sup>14</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.*

HCD also made the following findings regarding the RHNA objective related to *"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 reductions targets provided by the State Air Resources Board pursuant to Section 65080:"*

*"The draft ABAG methodology<sup>15</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

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<sup>13</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>14</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.

<sup>15</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.

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit."*

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, and when exporting data about total households in 2050 for the RHNA baseline, appropriate jurisdiction boundaries were used. 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 address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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.

The factors in the RHNA methodology 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 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 to improve the balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction, as described in Government Code Section 65584(d)(2). Data from the Census Bureau indicates that San Anselmo has an imbalanced ratio between low-wage jobs and affordable housing units, with nearly 12 low-wage jobs per unit of rental housing affordable to low-wage workers and their families.<sup>16</sup> Accordingly, the allocation of 398 units of lower-income RHNA assigned to the Town could enable many of the low-wage workers in San Anselmo to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower GHG.

**Issue 6:** *The Town argues that the declaration of a drought by the Marin Municipal Water District represents a change in circumstances meriting a revision of San Anselmo's draft RHNA. The Town claims that jurisdictions served by the Marin Municipal Water District lack capacity to accommodate RHNA, and the Town also asserts that there is uncertainty for developers about water connections for new housing development.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." However, the arguments put forward by San Anselmo do not meet the requirements for a valid RHNA appeal.

While the Marin Municipal Water District has discussed a potential moratorium on new water connections in response to the drought, this action has not yet been implemented. Even if a moratorium is implemented in the future, there is no indication that it would extend for the next ten years until the end of the RHNA planning period in 2031. Thus, at this time, there is no evidence that San Anselmo is precluded from accommodating its RHNA allocation.

Importantly, future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986

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<sup>16</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=San%20Anselmo>.

and 2007, total water use increased by less than one percent.<sup>17</sup> A review by ABAG-MTC staff of 54 Urban Water Management Plans from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>18</sup>

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked

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<sup>17</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.

<sup>18</sup> See [HCD's comment letter on appeals](#) for more details.



together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>19</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

**Issue 7:** *The Town argues that the impacts of COVID-19 on transit service represent a significant and unforeseen change in circumstances meriting a revision of San Anselmo's draft RHNA.*

**ABAG-MTC Staff Response:** The Job Proximity factors in the RHNA methodology are based on the number of jobs observed in 2015. Per Government Code Section 65584.04(3), the RHNA Methodology should use "information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible." When the RHNA Methodology was developed by the Housing Methodology Committee in 2020, ABAG used MTC's readily available data on job proximity by transit.<sup>20</sup> ABAG is not aware of any other data source on job proximity by transit for the Bay Area that existed at the time in a format that was comparable throughout the region. The column "Raw JPT Factor Score" in Appendix 4 of the [Draft RHNA Plan](#) shows the share of the region's jobs that can be accessed by a 45-minute transit commute for each jurisdiction (which for San Anselmo is 0.23%). Relative to other jurisdictions in the region, the Town has a small number of jobs that can be accessed within a 45-minute commute. As a result of its low score, San Anselmo receives a scaled score of 0.5 on the Job Proximity – Transit factor, which means few units are allocated to San Anselmo based on this factor compared to other jurisdictions in the region.

ABAG-MTC Staff appreciates the Town's concerns about the significant economic and societal changes resulting from COVID-19. In its comment letter on submitted appeals, HCD indicated

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<sup>19</sup> See the [Drought Contingency Plan](#) for more information.

<sup>20</sup> For more information on this methodology factor, see page 18 of the Draft RHNA Plan on ABAG's website: [https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG\\_2023-2031\\_Draft\\_RHNA\\_Plan.pdf](https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG_2023-2031_Draft_RHNA_Plan.pdf)



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>21</sup>

Potential impacts of COVID-19, including 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 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. San Anselmo has not provided evidence to suggest that COVID-19 reduces the jurisdiction’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 jurisdiction’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.

## RECOMMENDED ACTION

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by Town of San Anselmo to reduce its Draft RHNA Allocation by 558 units (from 833 units to 275 units).

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<sup>21</sup> See [HCD’s comment letter on appeals](#) for more details.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Sausalito RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Sausalito requests the reduction of its Draft RHNA Allocation by 579-599 units. The City of Sausalito's appeal was heard by the ABAG Administrative Committee on October 15, 2021, at a noticed public hearing. The City of Sausalito, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Sausalito's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA

appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5180918&GUID=A10FD573-6302-4B85-9929-16290B7056DC&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=AO&ID=108043&GUID=c99193fd-6c9a-43dd-8c87-9a84bd9a83d7&N=SXRIbSA2YyBIYW5kb3V0IExhdGUgUHVibGljIENvbW1lbnQgU2F1c2FsaXRv>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=108222&GUID=ec1f6d78-8c1e-454b-9126-bf902a0ea903&N=SXRIbSA2YywgSGFuZG91dCBMYXRlIFB1YmtpYyBDb21tZW50IFNhdXNhbgI0bw%3d%3d>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmtpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9890312&GUID=A565A11F-A38F-40CC-A3BE-1FA306F1CA05>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9890313&GUID=7A4EE16F-F38D-421A-A0A4-AA1DC1163566>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Sausalito had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Sausalito presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Sausalito's appeal. The Administrative Committee considered the documents submitted by the City of Sausalito, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Sausalito and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9524](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9524). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-15-21-rhna-appeals-day-4-certifiedpdf>.

## **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Sausalito, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Lack of Available Land* – The development constraints named in this appeal are considered in the Plan Bay Area 2050 Final Blueprint, which is the baseline allocation for the RHNA methodology. Jurisdictions had access to the land use modeling inputs and results for the Final Blueprint. All data and calculations for the RHNA methodology are available in the Draft RHNA Plan, including data for each step of the RHNA methodology for each jurisdiction. Public open-source RHNA calculations are also posted on GitHub. The Housing Element Site Selection (HESS) Tool plays no role in determining RHNA, and the tool evaluates sites using *existing* local development policies. Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing.
- *Regarding Issue #2: Areas at Risk of Natural Hazards* – Areas at risk of natural hazards are not identified in Housing Element Law as a constraint to housing development. Sausalito is not protected by Plan Bay Area 2050 sea level rise adaptations because only one housing unit in Sausalito is at risk. No additional households are forecasted in inundation areas, so Sausalito's RHNA baseline allocation is lower than if the land was protected. Sausalito has not provided evidence that FEMA or the Department of Water Resources has determined Sausalito's flood management infrastructure is inadequate to avoid the risk of flooding. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region's housing needs and avoid planning for new homes in places at risk. Sausalito has the authority to plan for housing in places with lower risk. Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing.

- Regarding Issue #3: Drought* – Government Code Section 65584.04(e)(2)(A) states that ABAG must consider opportunities and constraints to development of housing due to a “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.” Sausalito has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider. A moratorium on new water connections has not been implemented, nor is there an indication a moratorium would extend until the end of the RHNA planning period in 2031.
- Regarding Issues #4 and #5: Methodology Does Not Meet Statutory Requirements* – These arguments challenge the Final RHNA Methodology adopted by ABAG and approved by HCD, and thus fall outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG’s methodology does further the objectives. Housing Element Law requires RHNA be consistent with the Plan Bay Area 2050 development pattern, but statute does not specify how to determine consistency, giving ABAG discretion to define its own approach. The approach to determine consistency used throughout the RHNA methodology development process compares RHNA allocations to Final Blueprint growth forecasts adopted at the county and subcounty (i.e., superdistrict) levels. RHNA is consistent if the 8-year growth from RHNA does not exceed the Plan’s 35-year housing growth at the county or subcounty levels. This evaluation shows RHNA is consistent with Plan Bay Area 2050, including in the Central Marin superdistrict where Sausalito is located.
- Regarding Issue #6: Growth Geography Designation* – The Final Blueprint designates a portion of Sausalito as a Transit-Rich and High-Resource Area based on the Sausalito Ferry Terminal, which is a major transit stop according to Public Resources Code Section 21064.3. The ferry terminal is served by bus service, and there is no frequency requirement for ferry terminals under state law. Directing growth to Growth Geographies is essential to addressing policy priorities required for Plan Bay Area 2050 and RHNA, including promoting efficient development patterns, reducing greenhouse gas emissions, and affirmatively furthering fair housing.
- Regarding Issues #7, #8, #9, #10, and #11: Critiques of Methodology* – These arguments challenge the Final RHNA Methodology adopted by ABAG and approved by HCD, and thus fall outside the scope of the appeals process.
- Regarding Issue #12: Maximum Growth Potential* – Statute forbids ABAG from calculating RHNA using the same constraints Sausalito included in its calculation of near-term development capacity. Government Code Section 65584.04(e)(2)(B) states that ABAG

may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Sausalito's recalculation of its RHNA does not identify mistakes in the application of the adopted RHNA methodology. This recalculation represents a critique of the adopted methodology, and such critiques are not a valid basis for a RHNA appeal.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Sausalito's appeal and finds that the City of Sausalito's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Sausalito Appeal of Draft RHNA Allocation and Staff Response

DATE: October 15, 2021

## OVERVIEW

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**Jurisdiction:** City of Sausalito

**Summary:** The City of Sausalito requests the reduction of its Draft RHNA Allocation by 579-599 units (80-83 percent) from 724 units to 125-145 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
  - Distribution of household growth assumed for Plan Bay Area 2050.
- 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.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Sausalito	200	115	114	295	724

### Local Jurisdiction Survey

The City of Sausalito 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 and there were 12 comments that specifically relate to the appeal filed by the City of Sausalito. All 12 comments oppose the City's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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The City of Sausalito argues ABAG mischaracterized the statutory grounds for appeal under Government Code Section 65584.05(b)(2). The City argues that a local government has the right to appeal based on ABAG's failure to include information identified in Section 65584.04 and the local government's appeal is not limited to only the information it provided in the local government survey. ABAG developed the RHNA Appeals Procedures in accordance with applicable law and responds to the substance of each of the City's arguments below.

The City's appeal also states that it requested data from ABAG regarding its RHNA methodology in letters from [October 2020](#) and [November 2020](#). However, while the letters recommended proposed changes to the RHNA methodology, neither of them included a request for information. ABAG addressed the City's comments about the proposed RHNA methodology in its [response letter](#). More details about how ABAG-MTC staff provided local jurisdictions with access to data related to Plan Bay Area 2050 and the RHNA methodology is provided in the response to Issue 1 below.

***Issue 1: Sausalito argues that ABAG failed to adequately consider readily available information about the availability of land suitable for urban development or for conversion to residential use. The City also asserts that ABAG's Draft RHNA Plan does not provide sufficient information about each jurisdiction's land availability.***

**ABAG-MTC Staff Response:** The final RHNA methodology adequately considers information about land available for housing development through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast Sausalito's share of the region's households in 2050, which is an input into its RHNA allocation.

The City of Sausalito indicates it used the HESS Tool to evaluate whether ABAG adequately considered the availability of land suitable for urban development in the RHNA methodology.

Per Government Code Section 65584.05(b), this is not a valid basis for an appeal, because the HESS Tool is not used as an input in the RHNA methodology, and thus played no role in determining Sausalito's RHNA. The HESS Tool is a web-based mapping tool developed by ABAG-MTC staff to assist Bay Area jurisdictions with preparing the sites inventory required for their Housing Element updates. When Sausalito activated its HESS account, the City received an email noting that the tool was under active development and the data presented was preliminary. ABAG anticipates releasing version 1.0 of the HESS Tool this month. Local jurisdictions will be able to review this data and submit corrections directly to ABAG for future iterations of the HESS Tool. Even with the updates in version 1.0, the HESS Tool still plays no role in RHNA.

Sausalito's appeal states that it reviewed HESS data because its staff were not able to review the underlying data for the Plan Bay Area 2050 Final Blueprint, but both the land use modeling results and the inputs used to produce them have been made available to local staff. In fall 2019 ABAG-MTC staff collected local development policy data (i.e., information about zoning and general plans) from local jurisdictions for use in Plan Bay Area 2050 forecasting and modeling. Local jurisdiction staff had several months to review and correct their land use and development pipeline data.<sup>1</sup> Jurisdictions then had an opportunity to review the growth pattern for the Draft Blueprint in summer 2020 and prior to the adoption of the Final Blueprint in January 2021, with office hours available to local jurisdictions to discuss model inputs and forecasted growth from the Bay Area UrbanSim 2.0 model. Additionally, the modeling assumptions for Plan Bay Area 2050 are documented in the *Draft Forecasting and Modeling Report* published in May 2021 and the *Final Forecasting and Modeling Report* published in October 2021.<sup>2</sup> While only county and sub-county projections are adopted for Plan Bay Area 2050, the jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were then provided for use as the baseline allocation for the RHNA Methodology, in the Proposed Methodology report (October 2020), Draft Methodology report (February 2021), and the Draft RHNA Plan report (May 2021). Local jurisdictions, stakeholders, and the public at-large also had access to an online tool enabling them to compare RHNA baseline options, as well as factors and weights, during the

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<sup>1</sup> Communications to local staff about BASIS and review of Plan Bay Area 2050 baseline data included the following:

- Invitation to a webinar on August 6, 2019 about BASIS and how baseline information would be gathered for use in Plan Bay Area 2050.
- Email on August 26, 2019 asking staff to identify someone to review jurisdiction's baseline data in fall 2019.
- [Videos](#) to assist local staff with the data review process were made available on YouTube.
- Email on October 4, 2019 to jurisdictions who had not identified a staff contact to review BASIS land use data.
- Email reminder on October 29, 2019 to local staff about the BASIS data review process.
- Email to Bay Area planning directors on July 10, 2020 about office hours where local staff could have a one-on-one consultation with ABAG-MTC staff to provide feedback on the Plan Bay Area 2050 Draft Blueprint or BASIS.
- Additional office hours were held in December 2020 to discuss Plan Bay Area 2050 Final Blueprint outcomes and the draft RHNA methodology.

<sup>2</sup> For more details, see the [Plan Bay Area 2050 Draft Forecasting and Modeling Report](#) and the [Plan Bay Area 2050 Final Forecasting and Modeling Report](#).

Housing Methodology Committee (HMC) process to develop the RHNA methodology throughout 2020.

All relevant data and calculations for the RHNA Methodology are available in the Draft RHNA Plan. As Plan Bay Area 2050 does not include growth forecasts at the jurisdiction level, the first column in Appendix 4 shows the information from the Plan Bay Area 2050 Final Blueprint that is relevant to the RHNA methodology, namely each jurisdiction's share of the region's total households in 2050 (baseline allocation). The other data in Appendix 4 shows the raw score for each factor, the scaled factor score for each factor, and the impact that each factor has on each jurisdiction's baseline allocation from the Plan Bay Area 2050 Final Blueprint. Appendix 5 shows the number of units, by income category, that each jurisdiction receives as a result of each factor in the methodology. Although the numbers presented in these tables are rounded to a single decimal point, the calculations were done using un-rounded numbers. ABAG-MTC staff provided access to a jurisdiction's un-rounded baseline allocation through the public open-source RHNA calculations posted on GitHub.<sup>3</sup> The City of Sausalito is welcome to contact ABAG-MTC staff with any questions related to this data.

The City of Sausalito also uses information from the HESS Tool to argue it does not have sufficient developable land available to accommodate its RHNA. The data from the HESS Tool cited in Sausalito's appeal comes from an early version of the HESS Tool that was still under development. Sausalito was notified that this data was preliminary and under active development when it activated its HESS account. The City is correct that the beta version of the HESS Tool included errors that overstated the total acreage of parcels and included some inaccuracies regarding the existing uses of parcels. The acreage error has been corrected and local planning staff will have the ability to leverage their expertise and local knowledge to edit inaccuracies regarding the existing uses of parcels in version 1.0 of the HESS Tool. As noted previously, none of the data from the HESS Tool was used in either the modeling for Plan Bay Area 2050 or in the RHNA methodology. Thus, the errors in the initial version of the HESS Tool had no impact on calculating the draft RHNA for Sausalito and do not represent evidence that the RHNA methodology fails to accurately consider the availability of land suitable for urban development in Sausalito.

It is also important to note that the HESS Tool evaluates potential sites based on *existing* local development policies. Housing Element Law specifically prohibits ABAG from limiting RHNA based on the existing zoning or land use restrictions that are shown in the HESS Tool. Importantly, as HCD notes in its comment letter on submitted appeals, Government Code Section 65584.04(e)(2)(B) states that ABAG:

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<sup>3</sup> Source: [https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris\\_baselines.xlsx](https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris_baselines.xlsx)

*"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>4</sup>

Importantly, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects existing and future housing demand in the Bay Area.

Per Government Code Section 65584.04(e)(2)(B), the City of Sausalito must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. In addition to considering non-vacant sites, sites identified in the HESS Tool as "environmentally constrained" may still be developable. The HESS Tool designates sites as environmentally constrained if they possess hazard risks or other restrictive environmental conditions such as critical habitats and California protected areas. Local jurisdictions are generally advised to avoid locating new housing on these sites where possible. However, local jurisdictions may find that siting housing on sites with hazards is unavoidable in order to accommodate their housing need, in which case appropriate mitigation measures should be considered. For additional guidance on how to integrate resilience into the Sites Inventory and the Housing Element more broadly, refer to ABAG's Resilient Housing Instruction Guide and associated resources.<sup>5</sup>

Based on the information above, staff concludes that Sausalito's claims about the HESS Tool are neither evidence that the RHNA Methodology failed to consider the availability of land suitable for development nor do they provide evidence that Sausalito is unable to consider

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<sup>4</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>5</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>.

underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>6</sup>

**Issue 2:** *The City argues that ABAG failed to consider the availability of land suitable for urban development or for conversion to residential use in Sausalito because the RHNA methodology fails to exclude land at risk of wildfires and flooding.*

**ABAG-MTC Staff Response:** As noted in the response to Issue 1, the final RHNA methodology adequately considers the potential development constraints described in Sausalito's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands Sausalito'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 identify areas at risk of natural hazards as a potential constraint to housing development."<sup>7</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.<sup>8</sup> Ultimately, HMC members 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.

As noted in Sausalito's appeal, the Final Blueprint Growth Geographies exclude CAL FIRE designated "Very High" fire severity areas in incorporated jurisdictions, and "High" and "Very High" fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Sausalito.<sup>9</sup>

Plan Bay Area 2050 assumes one foot of sea level rise by 2035 and two feet of rise in 2050, and includes adaptation solutions targeted along portions of shoreline that have inundation with just two feet of rise. Importantly, Plan Bay Area measures impacts up to two feet of permanent

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<sup>6</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

<sup>7</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>8</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

<sup>9</sup> The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.

inundation by sea level rise based on the recommendation by the State of California for impacts in 2050.<sup>10</sup> As Sausalito notes in its appeal, the adaptation solutions envisioned in Plan Bay Area 2050 do not protect its shoreline from inundation because there is only 1 residential unit that will be affected by sea level rise. Because the potential inundation areas are not protected by investments, the Final Blueprint does not envision additional households in these areas. As a result, the household growth forecasted for the City, and thus its baseline allocation in RHNA, is lower than if the land was protected and available for future residential use. With regard to areas at risk of flooding, Sausalito, it has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources that the flood management infrastructure is inadequate to avoid the risk of flooding, consistent with Government Code Section 65584.04(e)(2)(B).

As noted previously, the UrbanSim 2.0 model used to develop the Plan Bay Area 2050 Final Blueprint assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with development constraints, such as the steep hillsides. As a result of the higher development costs for these parcels, growth is directed to locations that are not susceptible to landslides.

Although ABAG-MTC staff understands the City's concerns about earthquake-related hazards and the importance of planning for evacuation in the event of a natural disaster, these concerns affect all jurisdictions in the Bay Area. 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, the 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. In developing its Housing Element, Sausalito has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the City can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

Per Government Code Section 65584.04(e)(2)(B), Sausalito must consider the availability of underutilized land, opportunities for infill development, and increased residential densities to accommodate its RHNA. The City does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>11</sup>

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<sup>10</sup> For more information, see page 18 of [State of California Sea-Level Rise Guidance \(2018 update\)](#).

<sup>11</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

**Issue 3:** *The City argues that the RHNA methodology fails to consider the lack of capacity for sewer or water service in Sausalito related to the Marin Municipal Water District's declaration of a water emergency in April 2021.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period."

However, the arguments put forward by Sausalito do not meet the requirements for a valid RHNA appeal. Although the City cites information from the Urban Water Management Plan (UWMP) prepared by the Marin Municipal Water District, Sausalito has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by this water service provider. While the Marin Municipal Water District has discussed a potential moratorium on new water connections in response to the drought, this action has not yet been implemented. Even if a moratorium is implemented in the future, there is no indication that it would extend for the next ten years until the end of the RHNA planning period in 2031. Thus, at this time, there is no evidence that Sausalito is precluded from accommodating its RHNA allocation.

Importantly, future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.<sup>12</sup> A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve

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<sup>12</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.



new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>13</sup>

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>14</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan

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<sup>13</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>14</sup> See the [Drought Contingency Plan](#) for more information.



will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

**Issue 4:** *The City argues ABAG failed to adequately consider Sausalito's jobs-housing relationship. The City asserts ABAG must provide a jurisdiction-level evaluation of existing and projected jobs and housing growth and also demonstrate that the RHNA does not result in a detrimental jobs-housing balance.*

**ABAG-MTC Staff Response:** 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 address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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 influenced by its proximity and accessibility to jobs in another community. As the City notes in its appeal, Plan Bay Area 2050 forecasts a decline in the number of jobs in Marin County. However, regional transportation, environmental, and housing goals aim for a jobs-housing balance at the regional level, and Sausalito remains in close proximity to many of the region's jobs. 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 Sausalito has an imbalanced ratio between low-wage jobs and affordable housing units, with more than 15 low-wage jobs per unit of rental housing affordable to low-wage workers and their families.<sup>15</sup> Accordingly, the allocation of 315 units of lower-income RHNA assigned to the City could enable many of the low-wage workers in Sausalito to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower GHG.

Importantly, HCD has confirmed that the RHNA methodology furthers the RHNA objective to improve the region's jobs-housing balance. 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>16</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:

*The draft ABAG methodology<sup>17</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.*

**Issue 5:** *The City argues the RHNA allocation does not meet the statutory requirement for consistency with the development pattern in Plan Bay Area 2050. Specifically, the City asserts the method ABAG-MTC staff used to determine consistency is flawed because it does not consider the capacity of an individual jurisdiction to accommodate growth, does not reflect the growth horizon of Plan Bay Area 2050, and will result in growth in jurisdictions beyond what is planned for in Plan*

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<sup>15</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Sausalito>.

<sup>16</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>17</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.

*Bay Area 2050. The City also states that its share of the region's RHNA is larger than its share of the region's households in 2050, based on the forecasted growth from Plan Bay Area 2050.*

**ABAG-MTC Staff Response:** While Government Code Statute 65584.04(m) requires that the RHNA plan allocate units consistent with the development pattern included in the Sustainable Community Strategy, the statute does not specify how to determine consistency. In the absence of statutory direction, ABAG has discretion to identify the framework to be used for establishing that RHNA is consistent with Plan Bay Area 2050.

Plan Bay Area 2050 includes adopted growth forecasts at the county and subcounty levels, not the jurisdiction level where RHNA is statutorily focused.<sup>18</sup> Therefore, staff developed an approach for determining consistency between RHNA and Plan Bay Area 2050 that received support from the Housing Methodology Committee, the Regional Planning Committee, and the Executive Board. This approach compares the 8-year RHNA allocations to the 35-year housing growth from the Plan Bay Area 2050 Final Blueprint at the county and subcounty geographies used in the plan. If the 8-year growth level from RHNA does not exceed the 35-year housing growth level at either of these geographic levels, then RHNA and Plan Bay Area 2050 are determined to be consistent. Staff evaluated the draft RHNA allocations using this approach and found the RHNA allocations are fully consistent with Plan Bay Area 2050, including the allocations to the South Marin County superdistrict where Sausalito is located (see Table 1 below for more details).

**Table 1. Superdistrict Forecasted Growth in Final Blueprint Compared to Draft RHNA\***

Superdistrict	County	Superdistrict Name	Blueprint Final 2015-2050 Growth	Draft RHNA
34	Marin	South Marin County	9,000	5,976

\* The South Marin County superdistrict contains the following jurisdictions: Belvedere, Corte Madera, Mill Valley, Sausalito, Tiburon, Larkspur, and portions of unincorporated Marin County.

As noted previously, RHNA reflects both existing and future housing demand in the Bay Area, which is captured with the use of total households in 2050 as the baseline allocation for the adopted RHNA methodology. The factors in the RHNA methodology – Access to High Opportunity Areas and Job Proximity – adjust a jurisdiction's baseline allocation from the Final Blueprint to emphasize near-term growth during the 8-year RHNA period in locations with the most access to resources (to affirmatively further fair housing) and jobs (to improve the intraregional relationship between jobs and housing). Sausalito's high share of existing households living in areas designated as Highest Resource or High Resource on the State's

<sup>18</sup> View the table of 35-year household growth at [https://www.planbayarea.org/sites/default/files/pdfs\\_referenced/FinalBlueprintRelease\\_December2020\\_GrowthPattern\\_Jan2021Update.pdf](https://www.planbayarea.org/sites/default/files/pdfs_referenced/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf)

Opportunity Map<sup>19</sup> and access to a significant share of the region's jobs relative to other jurisdictions in the region adjusts its baseline allocation upward, resulting in more RHNA units. However, its lower access to jobs by transit relative to other jurisdictions adjusts its baseline allocation downward.

**Issue 6:** *Sausalito argues that a portion of the City is mistakenly designated as a Growth Geography. The City states that there should not be any Growth Geographies in Sausalito because the City does not meet the minimum transit service thresholds.*

**ABAG-MTC Staff Response:** As noted by the City, a portion of Sausalito is identified as a Transit-Rich and High-Resource Area in the Plan Bay Area 2050 Final Blueprint. The designation of the Transit-Rich and High-Resource Area in the Final Blueprint is based on the Sausalito Ferry Terminal. Contrary to what is stated in the City's appeal, this is a major transit stop based on Public Resources Code Section 21064.3, since the ferry terminal is served by bus service; there is no frequency requirement for ferry terminals under state law. Directing growth to these types of Growth Geographies is an essential component to addressing the policy priorities required for Plan Bay Area 2050 and RHNA, including promoting efficient development patterns, reducing greenhouse gas emissions, and affirmatively furthering fair housing.

**Issue 7:** *The City argues that the way in which the factors in the RHNA methodology adjust the allocations results in infeasible growth and allocations that are inconsistent with Final Blueprint development pattern.*

**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>20</sup> While Sausalito contends that ABAG should have applied the methodology's factor adjustments differently, the City does not identify any mistakes in how its RHNA was calculated by ABAG using the adopted methodology. Additionally, ABAG-MTC staff have concluded that the draft RHNA allocations are consistent with the development pattern in Plan Bay Area 2050, as discussed in the response to Issue 5 above.

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<sup>19</sup> For more information about the Opportunity Map, visit <https://www.treasurer.ca.gov/ctcac/opportunity/2020.asp>.

<sup>20</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

**Issue 8:** *The City argues that ABAG did not adequately consider data on overcrowding in developing the RHNA methodology, as required by Government Code Section 65584.04(e)(7). Additionally, the City contends that ABAG should have created an overcrowding factor to ensure that additional units were allocated to jurisdictions with the highest percentages of overcrowding.*

**ABAG-MTC Staff Response:** Overcrowding rates are inputs into the Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the final RHNA methodology. Plan Bay Area 2050 also directly incorporates multiple strategies to address housing affordability, and these strategies also seek to reduce overcrowding. Like housing cost burden, overcrowding indicates a lack of adequate housing supply, especially housing units affordable for lower-income households. The final RHNA methodology seeks to expand the housing supply, and especially the supply of affordable units, within the most expensive parts of the region, which can help reduce the rates of overcrowding experienced by Bay Area households. Notably, the final RHNA methodology results in the jurisdictions with the highest housing costs receiving a larger percentage of their RHNA as lower-income units than other jurisdictions and a share of the region's total RHNA that is 8 percent larger than their share of the region's households.

The City's suggestion to include an overcrowding factor challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD. As stated previously, critiques of the RHNA methodology itself do not represent a valid basis for a RHNA appeal.

**Issue 9:** *The City critiques the way HCD incorporated vacancy rates in its calculation of the Regional Housing Needs Determination (RHND), and argues that ABAG should have established a vacancy factor in the RHNA methodology to assign more units to areas with low vacancy.*

**ABAG-MTC Staff Response:** Critiques of the RHND calculation do not represent a valid basis for an appeal. As HCD noted in its comment letter on submitted appeals, "The council of government may file an objection within 30 days of HCD issuing the RHND, per Government Code section 65584.01(c)(1). ABAG did not object to the RHND. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation. There are no further appeal procedures available to alter the ABAG region's RHND for this cycle."

The City's suggestion to include a vacancy factor challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD. As stated previously, critiques of the RHNA methodology itself do not represent a valid basis for a RHNA appeal.

**Issue 10:** *The City critiques use of the 2050 Households baseline and suggests the methodology should be adjusted to distribute RHNA where growth is anticipated in the near- and mid-term.*

**ABAG-MTC Staff Response:** The City's suggestion to alter the baseline allocation challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD. As stated previously, critiques of the RHNA methodology itself do not represent a valid basis for a RHNA appeal.

**Issue 11:** *The City argues that the RHNA methodology's Equity Adjustment is flawed because this component of the methodology does not consider a jurisdiction's capacity to accommodate growth, does not address jobs-housing balance, and does not account for constraints to development.*

**ABAG-MTC Staff Response:** This argument by Sausalito again challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and thus falls outside the scope of the appeals process. The Equity Adjustment included in the Final RHNA Methodology helps ABAG make even greater progress towards its statutory obligation to affirmatively further fair housing. HCD commended the methodology's use of the Equity Adjustment in its April 2021 letter affirming that ABAG's RHNA Methodology successfully furthers all statutory objectives, including the mandate to affirmatively further fair housing. This adjustment ensures that the 49 jurisdictions identified as exhibiting racial and socioeconomic demographics that differ from the regional average receive a share of the region's lower-income RHNA units that is at least proportional to the jurisdiction's share of existing households. Most of these 49 jurisdictions, including Sausalito, receive allocations that meet this proportionality threshold based on the final RHNA methodology's emphasis on access to high opportunity areas. However, the Equity Adjustment ensures that 18 jurisdictions that might exhibit racial and economic exclusion but do not have significant shares of households living in high opportunity areas also receive proportional allocations.

**Issue 12:** *The City provides calculations that indicate the maximum growth potential in Sausalito during the 6th RHNA Cycle is 145 units, and the City argues its allocation should not exceed this amount.*

**ABAG-MTC Staff Response:** As stated earlier, by statute, ABAG "may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions." Notably, available land suitable for urban development or conversion to residential use, as expressed in 65584.04(e)(2)(B), is also not restricted to vacant sites; rather, underutilized land, opportunities for infill development, and increased residential densities are a component of "available" land. Statute forbids ABAG from calculating RHNA using the same constraints that Sausalito included in its calculation of near-term development capacity.

Additionally, as HCD notes in its comment letter on submitted appeals, "...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.” While Sausalito asserts it is built out and has little urban land available for development, it does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need. Furthermore, Sausalito’s recalculation of its RHNA does not identify mistakes in the application of the adopted RHNA methodology. Rather, this recalculation represents a critique of the adopted methodology, and such critiques are not a valid basis for a RHNA appeal.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the City of Sausalito to reduce its Draft RHNA Allocation by 579-599 units (from 724 units to 125-145 units).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Tiburon RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.



On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The Town of Tiburon requests the reduction of its Draft RHNA Allocation by 103 units. The Town of Tiburon's appeal was heard by the ABAG Administrative Committee on October 15, 2021, at a noticed public hearing. The Town of Tiburon, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the Town of Tiburon's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals

comment period, are available on the MTC Legistar page at

<https://mtc.legistar.com/LegislationDetail.aspx?ID=5180919&GUID=1B7FF137-BFC4-477E-943F-BB3EB88D279D&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9890312&GUID=A565A11F-A38F-40CC-A3BE-1FA306F1CA05>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9890313&GUID=7A4EE16F-F38D-421A-A0A4-AA1DC1163566>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the Town of Tiburon had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The Town of Tiburon presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the Town of Tiburon's appeal. The Administrative Committee considered the documents submitted by the Town of Tiburon, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by Town of Tiburon and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9524](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9524). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-15-21-rhna-appeals-day-4-certifiedpdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the Town of Tiburon, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1 Error in RHNA Calculation* – There is no error in the calculation of Tiburon’s allocation. The calculations in Tiburon’s appeal did not include the step to adjust factor scores for all jurisdictions to ensure they sum to 100%, which is necessary to allocate the exact number of units in each income category from the Regional Housing Needs Determination. When calculations for each factor and income category include this step, results are consistent with Draft RHNA Plan.
- *Regarding Issue #2: RHNA-Plan Bay Area Consistency* – The modeling assumptions for the Final Blueprint are available in the *Forecasting and Modeling Report*. All data and calculations for the RHNA methodology are available in the Draft RHNA Plan, including each jurisdiction’s share of 2050 households. Housing Element Law requires RHNA to be consistent with the Plan Bay Area 2050 development pattern, but statute does not specify how to determine consistency, giving ABAG discretion to define its own approach. The approach used throughout the RHNA methodology development process compares RHNA allocations to Final Blueprint growth forecasts adopted at the county and subcounty (i.e., superdistrict) levels. Using this approach, RHNA is consistent if the 8-year growth from RHNA does not exceed the Plan’s 35-year housing growth at the county or subcounty levels. This evaluation shows RHNA is consistent with Plan Bay Area 2050, including in the South Marin superdistrict where Tiburon is located.
- *Regarding Issue #3: High Resource Area Methodology* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals processes. The use of High Resource Areas in both Plan Bay Area 2050 and the RHNA methodology provides a bridge between the long-term growth forecast in Plan Bay Area 2050 and short-term focus of RHNA. The inclusion of these areas indicates these are areas prioritized for increased focus on near-term growth during the eight-year RHNA period. The Final Blueprint designates a portion of Tiburon as a Transit-Rich and High-Resource Area based on the Tiburon Ferry Terminal, which is a major transit stop based on the State’s definition. To help distribute RHNA units throughout the region, the RHNA factors are scaled so all jurisdictions – even those with low scores – receive some RHNA units from each factor.
- *Regarding Issue #4: Lack of Available Land* – The HESS Tool plays no role in determining RHNA, and the tool evaluates sites using *existing* local development policies. Jurisdictions had several opportunities to correct land use data and review the growth pattern for the Draft Blueprint and Final Blueprint, including the UrbanSim land use modeling results for superdistricts. Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit its consideration of suitable housing sites to a jurisdiction’s existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Tiburon

does not provide evidence it is unable to consider underutilization of sites, increased densities, and other planning tools to accommodate its assigned need.

- *Regarding Issue #5: Drought* – Government Code Section 65584.04(e)(2)(A) states that ABAG must consider opportunities and constraints to the development of housing due to a “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.” A difference in assumptions about expected growth does not represent a determination that Tiburon will not have sufficient water capacity in the future. The Town has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the Town of Tiburon’s appeal and finds that the Town of Tiburon’s RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Tiburon Appeal of Draft RHNA Allocation and Staff Response

DATE: October 15, 2021

## OVERVIEW

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**Jurisdiction:** Town of Tiburon

**Summary:** The Town of Tiburon requests the reduction of its Draft RHNA Allocation by 103 units (16%) from 639 units to 536 units based on the following issues:

- 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.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Town of Tiburon	193	110	93	243	639

### Local Jurisdiction Survey

The Town of Tiburon submitted a Local Jurisdiction Survey. A [compilation of the surveys submitted](#) is available on the ABAG website.

### Summary of 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, and there were nine that specifically relate to the appeal filed by the Town of Tiburon. All nine comments oppose the Town's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *Tiburon argues ABAG made an error in calculating the Town's draft allocation, and thus ABAG failed to determine Tiburon's RHNA using the methodology documented in the [Draft RHNA Plan](#).*

**ABAG-MTC Staff Response:** There is no error in the calculation of Tiburon's allocation. On the "Recalculated RHNA" worksheet in the Town's appeal, the second table shows the correct baseline 2050 share for Tiburon and correct factor scores for the RHNA methodology. The Town's calculations resulted in a different outcome because the Town's re-calculated allocations do not include the final step of adjusting the scaled factor scores for all jurisdictions to ensure they sum to 100%. This final step is shown in Appendix 4 of the Draft RHNA Plan, in the fourth column for each factor, entitled "Factor Distribution: Adjusted Baseline Rescaled to 100%." This re-scaling step is necessary to ensure the methodology allocates the exact number of housing units in each income category that was assigned by HCD in the Regional Housing Needs Determination (RHND).

Appendix 4 in the Draft RHNA Plan shows the impact that each factor has on each jurisdiction's baseline allocation from the Plan Bay Area 2050 Final Blueprint. Appendix 5 shows the number of units, by income category, that each jurisdiction receives as a result of each factor in the methodology. Although the numbers presented in these tables are rounded to a single decimal point, the calculations were done using un-rounded numbers. ABAG-MTC staff also provided access to a jurisdiction's un-rounded baseline allocation through the public open-source RHNA calculations posted on GitHub.<sup>1</sup> Attachment 1 shows the calculation of Tiburon's factor scores using the unrounded baseline.

Using the Access to High Opportunity Areas (AHOA) factor as an example, the sum of the factor scores for all jurisdictions in the region is 92.872889%. Since the total does not equal 100%, each jurisdiction's score needs to be rescaled. Tiburon's unrounded AHOA factor score (0.189572%) is rescaled as follows:  $0.189572\% / 92.872889\% = 0.204120\%$ . This value is what is then used in the distribution of units for each income category for AHOA.

For very low-income units, given the 70% weight assigned to the AHOA factor and the total of 114,442 units assigned to the Bay Area by HCD,  $0.70 * 114,442 = 80,109$  units to be distributed using the AHOA-adjusted baseline. This total (80,109) is then multiplied by Tiburon's rescaled AHOA factor score of 0.204120%. This results in a total of 164 very low-income units as a result of the AHOA factor, consistent with Appendix 5 in the Draft RHNA Report. Without the step identified above to rescale the total to 100%, this factor would only allocate 74,397 units in the

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<sup>1</sup> Source: [https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris\\_baselines.xlsx](https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris_baselines.xlsx)

low-income category in the region, and the total number of units allocated would not match the RHND.

The same rescaling process is conducted for the other two factors, for each income category. Once the calculations for each factor/income category include the use of the “Factor Distribution: Adjusted Baseline Rescaled to 100%,” the results match Tiburon’s draft allocation, consistent with Appendix 5 in the Draft RHNA Report. As a result, there is no error in the application of the adopted RHNA methodology and, thus, it is not a valid basis for an appeal.

**Issue 2:** *The Town uses its draft RHNA allocation and the total households in the region in 2050 from Plan Bay Area 2050 to impute the “implied growth” in the Plan Bay Area 2050 Final Blueprint for Tiburon and other jurisdictions in the South Marin Superdistrict. The Town uses its calculations of implied growth rates to argue ABAG failed to determine Tiburon’s RHNA allocation in a way that is consistent with the South Marin superdistrict’s 21% growth rate in the Final Blueprint. The Town also argues that there is no publicly available methodology to demonstrate how individual jurisdictions’ baseline allocations were calculated.*

**ABAG-MTC Staff Response:** The baseline allocation in the RHNA methodology is each jurisdiction’s share of total households in 2050 from the Plan Bay Area 2050 Final Blueprint. The modeling assumptions for Plan Bay Area 2050 are documented in the *Draft Forecasting and Modeling Report* published in May 2021 and the *Final Forecasting and Modeling Report* published in October 2021.<sup>2</sup> While only county and sub-county projections are used for the purposes of Plan Bay Area 2050, the jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were then provided for use as the baseline allocation for the RHNA Methodology, in the Proposed Methodology report (October 2020), Draft Methodology report (February 2021), and the Draft RHNA Plan report (May 2021). Local jurisdictions, stakeholders, and the public at-large also had access to an online tool enabling them to compare RHNA baseline options, as well as factors and weights, during the Housing Methodology Committee (HMC) process to develop the RHNA methodology throughout 2020. All relevant data and calculations for the RHNA Methodology are available in the Draft RHNA Plan. As Plan Bay Area 2050 does not include growth forecasts at the jurisdiction level, the first column in Appendix 4 shows the information from the Plan Bay Area 2050 Final Blueprint that is relevant to the RHNA methodology, namely each jurisdiction’s share of the region’s total households in 2050 (baseline allocation).

While Government Code Statute 65584.04(m) requires that the RHNA plan allocate units consistent with the development pattern included in the Sustainable Community Strategy, the statute does not specify how to determine consistency. In the absence of statutory direction,

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<sup>2</sup> For more details, see the [Plan Bay Area 2050 Draft Forecasting and Modeling Report](#) and the [Plan Bay Area 2050 Final Forecasting and Modeling Report](#).

ABAG has discretion to identify the framework to be used for establishing that RHNA is consistent with Plan Bay Area 2050.

Plan Bay Area 2050 includes adopted growth forecasts at the county and subcounty levels, not the jurisdiction level where RHNA is statutorily focused.<sup>3</sup> Therefore, staff developed an approach for determining consistency between RHNA and Plan Bay Area 2050 that received support from the Housing Methodology Committee, the ABAG Regional Planning Committee, and the ABAG Executive Board. This approach compares the 8-year RHNA allocations to the 35-year housing growth from the Plan Bay Area 2050 Final Blueprint at the county and subcounty geographies used in the plan. If the 8-year growth level from RHNA does not exceed the 35-year housing growth level at either of these geographic levels, then RHNA and Plan Bay Area 2050 are determined to be consistent. Staff evaluated the draft RHNA allocations using the described approach and found the RHNA allocations are fully consistent with Plan Bay Area 2050, including the allocations to the South Marin superdistrict where Tiburon is located (see Table 1 below for more details).

**Table 1. Superdistrict Forecasted Growth in Final Blueprint Compared to Draft RHNA\***

Superdistrict	County	Superdistrict Name	Blueprint Final 2015-2050 Growth	Draft RHNA
34	Marin	South Marin County	9,000	5,976

*\* The South Marin County superdistrict contains the following jurisdictions: Belvedere, Corte Madera, Mill Valley, Sausalito, Tiburon, Larkspur, and portions of unincorporated Marin County.*

RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. The factors in the RHNA methodology – Access to High Opportunity Areas and Job Proximity – adjust a jurisdiction’s baseline allocation from the Final Blueprint to emphasize near-term growth during the 8-year RHNA period in locations with the most access to resources (to affirmatively further fair housing) and jobs (to improve the intraregional relationship between jobs and housing). Tiburon’s high share of existing households living in areas designated as Highest Resource or High Resource on the State’s Opportunity Map<sup>4</sup> relative to other jurisdictions in the region adjusts its baseline allocation upward, resulting in more RHNA units. However, its lower access to jobs relative to other jurisdictions adjusts its baseline allocation downward.

<sup>3</sup> View the table of 35-year household growth at [https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease\\_December2020\\_GrowthPattern\\_Jan2021Update.pdf](https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf).

<sup>4</sup> For more information about the Opportunity Map, visit <https://www.treasurer.ca.gov/ctcac/opportunity/2020.asp>.



**Issue 3:** *The Town argues the RHNA methodology double counts the High Resource Area impact on Tiburon's RHNA allocation, once in the baseline allocation and again in the application of the AHOA factor. The Town also questions why the RHNA methodology directs additional growth to a "Transit Rich" area after concluding, in the development of the Jobs Proximity – Transit factor, that Tiburon's JPT factor is at the lowest end of the scale at 0.5.*

**ABAG-MTC Staff Response:** This argument by the Town 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 on the methodology when it was being developed and adopted between October 2019 and May 2021.

As noted by the Town, a portion of Tiburon is identified as a Transit-Rich and High-Resource Area in the Plan Bay Area 2050 Final Blueprint. The designation of the Transit-Rich and High-Resource Area in the Final Blueprint is based on the Tiburon Ferry Terminal. Contrary to what is stated in the Town's appeal, this is a major transit stop based on Public Resources Code Section 21064.3, since the ferry terminal is served by bus service; there is no frequency requirement for ferry terminals under state law.<sup>5</sup>

Directing growth to these types of Growth Geographies is an essential component to addressing the policy priorities required for Plan Bay Area 2050 and RHNA, including promoting efficient development patterns, reducing greenhouse gas emissions, and affirmatively furthering fair housing. In addition, the use of consistent geographies in the Final Blueprint and the RHNA methodology helps ensure consistency between RHNA and Plan Bay Area 2050, as required by Government Code Statute 65584.04(m). Rather than constituting double counting, use of the High Resource Areas in both processes provides a bridge between the long-term growth forecast in Plan Bay Area 2050 and the short-term focus of RHNA. Inclusion of High Resource Areas indicates that these are areas that are prioritized for an increased focus on near-term growth during the eight-year RHNA period.

In the RHNA methodology, the Job Proximity – Transit factor is based on the number of jobs that can be accessed within a 45-minute transit commute from a jurisdiction. The three factors in the RHNA methodology are placed on the same scale so a factor can modify a jurisdiction's baseline allocation in the range from 50% to 150%. Thus, jurisdictions scoring at the top for the region will get baseline share times 1.5, while jurisdictions scoring at the bottom for the region will get baseline share times 0.5. This scaling approach helps distribute RHNA units throughout the region by ensuring that even a jurisdiction with a low score gets an allocation from each factor and placing a limit on how many units can be assigned to a jurisdiction with a high score.

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<sup>5</sup> [Public Resources Code Section 21064.3](#).

Relative to other jurisdictions in the region, Tiburon has a small number of jobs that can be accessed within a 45-minute commute. As a result of its low score, the Town receives a scaled score of 0.5 on the Job Proximity – Transit factor, which means few units are allocated to Tiburon based on this factor compared to other jurisdictions in the region.

**Issue 4:** *Tiburon uses data from the ABAG-MTC Housing Element Site Selection (HESS) Tool to argue ABAG has not considered the actual availability of land suitable for urban development or for conversion to residential use.*

**ABAG-MTC Staff Response:** The Town of Tiburon indicates it used the HESS Tool to evaluate whether ABAG adequately considered the availability of land suitable for urban development in the RHNA methodology. Per Government Code Section 65584.05(b), this is not a valid basis for an appeal, because the HESS Tool is not used as an input in the RHNA methodology, and thus played no role in determining Tiburon's RHNA.

The HESS Tool is a web-based mapping tool developed by ABAG-MTC staff to assist Bay Area jurisdictions with preparing the sites inventory required for their Housing Element updates. When Tiburon activated its HESS account, the Town received an email noting that the tool was under active development and the data presented was preliminary. ABAG anticipates releasing version 1.0 of the HESS Tool this month. Local jurisdictions will be able to review this data and submit corrections directly to ABAG for future iterations of the HESS Tool. Even with the updates in version 1.0, the HESS Tool still plays no role in RHNA.

Tiburon's appeal states it reviewed HESS data because its staff were not able to review the underlying data for the Plan Bay Area 2050 Final Blueprint, but both the land use modeling results and the inputs used to produce them have been made available to local staff. In fall 2019 ABAG-MTC staff collected local development policy data (i.e., information about zoning and general plans) from local jurisdictions for use in Plan Bay Area 2050 forecasting and modeling.<sup>6</sup> Local jurisdiction staff had several months to review and correct their land use and development pipeline data.<sup>7</sup> Jurisdictions then had an opportunity to review the growth pattern for the Draft Blueprint in summer 2020 and prior to the adoption of the Final Blueprint in January 2021, with

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<sup>6</sup> To learn more about BASIS and download its datasets, visit this website: <https://basis.bayareametro.gov/>.

<sup>7</sup> Communications to local staff about BASIS and review of Plan Bay Area 2050 baseline data included the following:

- Invitation to a webinar on August 6, 2019 about BASIS and how baseline information would be gathered for use in Plan Bay Area 2050.
- Email on August 26, 2019 asking staff to identify someone to review jurisdiction's baseline data in fall 2019.
- [Videos](#) to assist local staff with the data review process were made available on YouTube.
- Email on October 4, 2019 to jurisdictions who had not identified a staff contact to review BASIS land use data.
- Email reminder on October 29, 2019 to local staff about the BASIS data review process.
- Email to Bay Area planning directors on July 10, 2020 about office hours where local staff could have a one-on-one consultation with ABAG-MTC staff to provide feedback on the Plan Bay Area 2050 Draft Blueprint or BASIS.
- Additional office hours were held in December 2020 to discuss Plan Bay Area 2050 Final Blueprint outcomes and the draft RHNA methodology.

office hours available to local jurisdictions to discuss model inputs and forecasted growth from the Bay Area UrbanSim 2.0 model. Additionally, the modeling assumptions for Plan Bay Area 2050 are documented in the *Draft Forecasting and Modeling Report* published in May 2021 and the *Final Forecasting and Modeling Report* published in October 2021.<sup>8</sup> While only county and sub-county projections are used for the purposes of Plan Bay Area 2050, the jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were then provided for use as the baseline allocation for the RHNA Methodology.

The Town of Tiburon also uses information from the HESS Tool to argue it does not have sufficient developable land available to accommodate its RHNA. The data from the HESS Tool cited in Tiburon's appeal comes from an early version of the HESS Tool that was still under development. Tiburon was notified that this data was preliminary and under active development when it activated its HESS account. The Town is correct that the beta version of the HESS Tool included errors that overstated the total acreage of parcels and included some inaccuracies regarding the existing uses of parcels. The acreage error has been corrected and local planning staff will have the ability to leverage their expertise and local knowledge to edit inaccuracies regarding the existing uses of parcels in version 1.0 of the HESS Tool. As noted previously, none of the data from the HESS Tool was used in either the modeling for Plan Bay Area 2050 or in the RHNA methodology. Thus, the errors in the initial version of the HESS Tool had no impact on calculating the draft RHNA for Tiburon and do not represent evidence that the RHNA methodology fails to accurately consider the availability of land suitable for urban development in Tiburon.

It is also important to note that the HESS Tool evaluates potential sites based on **existing** local development policies. Housing Element Law specifically prohibits ABAG from limiting RHNA based on the existing zoning or land use restrictions that are shown in the HESS Tool. Importantly, 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. 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*

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<sup>8</sup> For more details, see the [Plan Bay Area 2050 Draft Forecasting and Modeling Report](#) and the [Plan Bay Area 2050 Final Forecasting and Modeling Report](#).

*must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land.”<sup>9</sup>*

As noted previously, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects the realities of housing demand in the Bay Area.

Per Government Code Section 65584.04(e)(2)(B), Tiburon must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. In addition to considering non-vacant sites, sites identified in the HESS Tool as “environmentally constrained” may still be developable. The HESS Tool designates sites as environmentally constrained if they possess hazard risks or other restrictive environmental conditions such as critical habitats and California protected areas. Local jurisdictions are generally advised to avoid locating new housing on these sites where possible. However, local jurisdictions may find that siting housing on sites with hazards is unavoidable in order to accommodate their housing need, in which case appropriate mitigation measures should be considered. For additional guidance on how to integrate resilience into the Sites Inventory and the Housing Element more broadly, refer to ABAG’s Resilient Housing Instruction Guide and associated resources.<sup>10</sup>

Based on the information above, staff concludes that Tiburon’s claims about the HESS Tool are neither evidence that the RHNA Methodology failed to consider the availability of land suitable for development nor do they provide evidence the Town is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>11</sup>

**Issue 5:** *Tiburon argues ABAG failed to adequately consider water service capacity due to decisions made by a water service provider. Marin Municipal Water District (MMWD) provides water to the Town. The population growth associated with the draft RHNA allocation exceeds the growth analyzed in the Urban Water Management Plan (UWMP) adopted by MMWD on June 15, 2020.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each

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<sup>9</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>10</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>.

<sup>11</sup> See HCD’s [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

member jurisdiction due to “Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.”

However, the arguments put forward by the Town of Tiburon do not meet the requirements for a valid RHNA appeal. Although the Town cites information from the Urban Water Management Plan (UWMP) prepared by Marin Municipal Water District (MMWD), Tiburon has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by this water service provider. The Town indicates the RHNA allocation exceeds the population growth assumption used by the water service provider in the UWMP. However, this difference in assumptions about expected growth does not represent a determination that Tiburon will not have sufficient water capacity in the future.

Indeed, future population growth does not necessarily mean a similar increase in water consumption: while the region’s population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent. A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area’s population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

While Marin Water has discussed a potential moratorium on new water connections in response to the drought, this action has not yet been implemented. Even if a moratorium is implemented in the future, there is no indication that it would extend for the next ten years until the end of the RHNA planning period in 2031. Thus, at this time, there is no evidence that Tiburon is precluded from accommodating its RHNA allocation.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water

consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>12</sup>

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>13</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially water districts with a small or singular water supply portfolio.

## RECOMMENDED ACTION

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the Town of Tiburon to reduce its Draft RHNA Allocation by 103 units (from 639 units to 536 units).

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<sup>12</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>13</sup> See the [Drought Contingency Plan](#) for more information.

**ATTACHMENT(S):**

Attachment 1: Overview of Factor Score Calculations Using Unrounded Baseline

## Attachment 1: Overview of Factor Score Calculations Using Unrounded Baseline

In its appeal, the Town of Tiburon includes a recalculation of its factor scores (similar to what is shown in Appendix 4 of the Draft RHNA Plan) using the un-rounded baseline allocation. The following shows the results for the factor scores when using the unrounded baseline:

- For the **Access to High Opportunity Areas (AHOA)** factor, Tiburon's raw score is 100.0%; this becomes 1.5 when scaled to the 0.5-1.5 range. The scaled factor score (1.5) is multiplied with Tiburon's un-rounded baseline share (0.126382%) to result in 0.189572% for the AHOA factor. The sum of the factor scores for *all* jurisdictions in the region is 92.872889%, so a rescaling of all the factors to 100% is done as a last step, as follows:  $0.189572\% / 92.872889\% = 0.204120\%$ . This value is what is then used in the distribution of units for each income category for AHOA. This last adjustment was omitted in Tiburon's appeal.
- For the **Job Proximity - Auto (JPA)** factor, Tiburon's raw score is 4.756258; this becomes 0.6 when scaled to the 0.5-1.5 range with 1-digit precision. The calculation retains full floating-point precision, so the scaled factor score (0.645987) is multiplied with Tiburon's un-rounded baseline share (0.126382%) to result in 0.081641% for the JPA factor. The sum of the factor scores for *all* jurisdictions in the region is 103.624431%, so a rescaling of all the factors to 100% is done as a last step, as follows:  $0.081641\% / 103.624431\% = 0.078785\%$ . This value is what is then used in the distribution of units for each income category for AHOA. This last adjustment was omitted in Tiburon's appeal.
- For the **Job Proximity - Transit (JPT)** factor, Tiburon's raw score is 0.026970; this becomes 0.501852 when scaled to the 0.5-1.5 range. The scaled factor score (0.501852) is multiplied with Tiburon's un-rounded baseline share (0.126382%) to result in 0.063425% for the JPT factor. The sum of the factor scores for *all* jurisdictions in the region is 74.786074%, so a rescaling of all the factors to 100% is done as a last step, as follows:  $0.063425\% / 74.786074\% = 0.084808\%$ . This value is what is then used in the distribution of units for each income category for AHOA. This last adjustment was omitted in Tiburon's appeal.

The Town uses its own recalculated factor scores to show the impact of each factor on the jurisdiction's final allocation (similar to what is shown in Appendix 5 of the Draft RHNA Plan) and argues that use of the un-rounded baseline resulted in a total allocation of 593 units instead of 639 units. However, as noted in ABAG-MTC staff's response to Issue 1 in the appeal, the Town's calculations result in a different total allocation because they do not include the final step of adjusting the scaled factor scores for all jurisdictions to ensure they sum to 100%, which is necessary to ensure the methodology allocates the exact number of housing units in each income category in the RHND.



TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: County of Marin RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The County of Marin requests the reduction of its Draft RHNA Allocation by 1,288 units. The County of Marin's appeal was heard by the ABAG Administrative Committee on October 22, 2021, at a noticed public hearing. The County of Marin, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the County of Marin's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA

appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5189246&GUID=312F10E7-9C02-4B55-9BA7-563FB5703C4F&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9904746&GUID=7A0A5776-AB7C-414C-9A9C-3B52A5C0426C>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the County of Marin had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The County of Marin presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the County of Marin's appeal. The Administrative Committee considered the documents submitted by the County of Marin, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by County of Marin and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9611](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9611). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-day-5-morning-session-certifiedpdf> (morning session) and <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-hearing-day-5-afternoon-session-certifiedpdf> (afternoon session).

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the County of Marin, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- Regarding Issue #1 and #6: Existing Zoning and Land Use Regulations* – ABAG conducted the Local Jurisdiction Survey consistent with the requirements identified in Government Code Section 65584.04(b), so this argument is not a valid basis for an appeal. Statute requires ABAG to request information about all factors identified in Government Code Section 65584.04(e), which includes opportunities and constraints to development as well as county policies to preserve prime agricultural land. HCD’s comment letter on Bay Area jurisdictions’ RHNA appeals reiterated 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.” ABAG-MTC staff evaluated multiple alternative zoning schemes through the analyses that went into development of the Plan Bay Area 2050 Final Blueprint and Draft Environmental Impact Report.
- Regarding Issue #2: Lack of Available Land* – The development constraints named in this appeal are considered in the Plan Bay Area 2050 Final Blueprint, the baseline allocation for RHNA. The Final Blueprint also integrates strategies related to agricultural and open space preservation. Additionally, Government Code Section 65584.04(e)(2)(B) states that jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Furthermore, Marin County identifies the specific sites it will use to accommodate its RHNA. In doing so, it can choose locations and plan for densities that avoid developing on farmlands, grazing lands, conservation lands, and critical habitats. Importantly, HCD has the authority to determine if the RHNA methodology furthers the statutory objectives. HCD determined the RHNA methodology achieves the statutory objective to promote infill development and socio-economic equity through efficient development patterns that achieve greenhouse gas reduction targets. HCD noted that ABAG’s methodology allocates more RHNA to jurisdictions with more job access and lower vehicle miles traveled.
- Regarding Issue #3: Disproportionate RHNA Calculation* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. A valid appeal must show ABAG made an error in the application of the methodology in determining the jurisdiction’s allocation. Additionally, if land is included in a Growth Geography in the Final Blueprint, it does not necessarily mean future growth is forecasted on that land. The acreage included in a Growth Geography does not translate linearly to development. Importantly, RHNA must address both existing and future housing needs. The RHNA methodology accomplishes this by using total households in 2050 as the baseline allocation, incorporating both existing households and the forecasted growth in households from the Final Blueprint. The County’s draft allocation is larger than other jurisdictions in Marin County because the

unincorporated county has the highest number of existing households of any jurisdiction in the county.

- *Regarding Issue #4: Areas at Risk of Natural Hazards* – Hazard risk is generally not identified in Housing Element Law as a constraint to housing development. The County has not provided evidence that FEMA or the Department of Water Resources has determined the County's flood management infrastructure is inadequate to avoid the risk of flooding. The Final Blueprint, which is the RHNA methodology's baseline allocation, excludes areas with unmitigated high hazard risk from Growth Geographies. Given the variety of natural hazard risks in the Bay Area, it is not possible to address the region's housing needs and avoid planning for new homes in places at risk. Marin County has the authority to plan for housing in places with lower risk. Marin County does not provide evidence it is unable to consider underutilization of existing sites, increased densities, ADUs, and other planning tools to accommodate its assigned need.
- *Regarding Issue #5: Affirmatively Furthering Fair Housing* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD concluded ABAG's RHNA methodology achieves the statutory objective to affirmatively further fair housing. HCD commended the methodology's allocation of more RHNA to jurisdictions with higher access to resources. Importantly, moderate-and above moderate-income units represent nearly 60% of the housing needs assigned to the Bay Area by HCD. Allocating units at all income levels to high-resource communities helps ensure all communities do their "fair share" to provide more housing, which advances several key RHNA objectives.
- *Regarding Issue #7: Impacts of COVID-19* – HCD's comment letter on Bay Area jurisdictions' RHNA appeals indicates RHNA appeals based on changes caused by COVID-19 do not fall within the appeal criteria defined by statute. HCD states, "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." Additionally, the potential impacts of COVID-19, including the accelerated shift toward telecommuting and associated economic boom/bust cycle, are incorporated into the RHNA methodology through the integration of the Plan Bay Area 2050 Final Blueprint. Furthermore, impacts from COVID-19 are not unique to any single jurisdiction. The County's appeal does not indicate Marin County's housing need has been disproportionately impacted relative to the rest of the Bay Area. The pandemic is not cause for a reduction in RHNA for any particular jurisdiction.
- *Regarding Issue #8: Drought* – Government Code Section 65584.04(e)(2)(A) states that ABAG must consider opportunities and constraints to the development of housing due

to a "lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." Marin County has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider. HCD's comments on Bay Area jurisdictions' RHNA appeals note that "ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons." Drought poses significant challenges to Bay Area communities, but these issues do not affect one city or county in isolation. Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the County of Marin's appeal and finds that the County of Marin's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: County of Marin Appeal of Draft RHNA Allocation and Staff Response

DATE: October 22, 2021

## OVERVIEW

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**Jurisdiction:** County of Marin

**Summary:** County of Marin requests the decrease of its Draft RHNA Allocation by 1,288 units (36 percent) from 3,569 units to 2,281 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
  - County-city agreements to direct growth toward incorporated areas of county.
  - Affirmatively furthering fair housing.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
County of Marin	1,100	634	512	1,323	3,569

## Local Jurisdiction Survey

The County of Marin submitted 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, and there were 10 comments that specifically relate to the appeal filed by the County of Marin. All 10 comments oppose the County's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The County states ABAG indicates that appeals cannot identify limits on RHNA due to local zoning and other land use restrictions, but the Local Jurisdiction Survey requested information about local policies (e.g., policies to preserve agricultural land) and land use constraints to development.*

**ABAG-MTC Staff Response:** ABAG conducted the Local Jurisdiction Survey consistent with the requirements identified in Government Code Section 65584.04(b), so this argument is not a valid basis for an appeal. Government Code Section 65584.04(b) requires ABAG to request information about all factors identified in Government Code Section 65584.04(e), which includes opportunities and constraints to development [65584.04(e)(2)] and county policies to preserve prime agricultural land [65584.04(e)(2)(D)]. Government Code Section 65584.04(e)(2)(B) also specifically states:

*"The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions."*

**Issue 2:** *The County of Marin argues that ABAG did not adequately consider information submitted in the Local Jurisdiction Survey about development constraints and that the final RHNA methodology departs from the goals of Plan Bay Area 2050 and the RHNA Objectives that emphasize housing near job centers, infill development and resource protection.*

**ABAG-MTC Staff Response:** The final RHNA methodology adequately considers the potential development constraints described in the County of Marin's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information



about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast the County's share of the region's households in 2050, which is an input into its RHNA allocation.

Additionally, using the Plan Bay Area 2050 Final Blueprint as the RHNA baseline integrates several key strategies related to agricultural preservation. First, the growth pattern in the Final Blueprint is significantly driven by Strategy EN4 that maintains all existing urban growth boundaries, without any expansion, over the lifespan of the long-range plan. Existing urban growth boundaries, which take a variety of forms across the region but are relatively common in the Bay Area, help not only to protect prime agricultural lands from development, but also parks and open space. Second, this strategy is supported by Strategy EN5, which envisions \$15 billion in future funding for agricultural land preservation to acquire land for permanent agricultural use.

Though the growth forecasted in Plan Bay Area 2050 is constrained to reflect urban growth boundaries and environmental protections and focuses growth in areas of existing development, 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. 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>1</sup>

Accordingly, the Plan Bay Area 2050 Blueprint forecasts additional feasible growth within urban growth boundaries by increasing allowable residential densities and expanding housing into select areas currently zoned for commercial and industrial uses.

Importantly, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost

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<sup>1</sup> See [HCD's comment letter on appeals](#) for more details.

burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

Per Government Code Section 65584.04(e)(2)(B), the County of Marin must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. The County does not provide evidence that it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>2</sup> In developing its Housing Element, the County has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, it can choose locations and plan for densities that avoid developing on farmlands, grazing lands, conservation lands and critical habitats.

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>3</sup> Thus, the County's argument that RHNA fails to conform to the core principles of Government Code Section 65584 is not a valid basis for an appeal. Regarding the RHNA objective mentioned in the County's appeal, HCD made the following findings:

*"The draft ABAG methodology<sup>4</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers*

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<sup>2</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

<sup>3</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>4</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.

*(which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit.”*

**Issue 3:** *The County of Marin argues its draft allocation is too large because it received nearly 25% of the RHNA units allocated to Marin jurisdictions but it has only 15% of the total acres identified as Growth Geographies for Marin jurisdictions in the Plan Bay Area 2050 Final Blueprint.*

**ABAG-MTC Staff Response:** Although the County is presenting this argument under the appeal basis related to ABAG’s failure to adequately consider information provided in the Local Jurisdiction Survey, the argument 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.

Directing future growth to Growth Geographies is essential for addressing the policy priorities required for Plan Bay Area 2050 and RHNA, including promoting efficient development patterns, reducing greenhouse gas emissions, and affirmatively furthering fair housing. The County’s Growth Geographies are disproportionally along the US-101 corridor with greater access to frequent bus services compared to the Growth Geographies in other communities in Marin. It is important to note that identification of land as being *eligible* for growth or included in a Growth Geography in the Final Blueprint does not mean future growth is necessarily forecasted on that land; the acreage included in a potential growth area does not translate linearly to development. For example, parklands are assumed to be protected in perpetuity, even if they are included inside a Growth Geography.

Part of the reason the County’s draft allocation is larger than other jurisdictions, even though they have more acres of Growth Geographies, is because the County has the highest number of existing households (26,500) of any jurisdiction in the county. As noted previously, the RHNA must address both existing and future housing needs. The final RHNA methodology accomplishes this by using total households in 2050 as the baseline allocation because it incorporates both existing households and the forecasted growth in households from the Final Blueprint. Housing Element Law requires the RHNA allocation to affirmatively further fair housing, which means overcoming patterns of segregation and addressing disparities in access to opportunity. Incorporating existing housing patterns into the RHNA methodology ensures that the allocations further this objective in all communities, not just those expected to experience significant growth.

**Issue 4:** *The County argues ABAG did not adequately consider the effects of climate change as a constraint on housing development. The County specifically cites the drought in Marin County and areas within the county at risk of flooding, inundation from sea level rise and wildfires.*

**ABAG-MTC Staff Response:** The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands the County'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 identify areas at risk of natural hazards as a potential constraint to housing development."<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.<sup>6</sup> Ultimately, HMC members came to consensus that while 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.

The Final Blueprint Growth Geographies exclude CAL FIRE designated "Very High" fire severity areas in incorporated jurisdictions, and "High" and "Very High" fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. In Marin County, the WUIs defined by the County consistent with Marin County Board of Supervisors Ordinance No. 3454<sup>7</sup> were excluded from the unincorporated areas over which the County has land use authority. The only exception is for locally-nominated Priority Development Areas (PDAs), where ABAG-MTC included the PDA as proposed by the jurisdiction as a Growth Geography without any modifications. As a result, "Very High" and "High" fire severity zones are not excluded in the Urbanized Corridor PDA in Marin County.

Plan Bay Area 2050 assumes one foot of sea level rise by 2035 and two feet of rise in 2050. The adaptation solutions that are envisioned are targeted along portions of shoreline that have inundation with just two feet of rise, including locations in unincorporated Marin County. Importantly, scientific evidence produced by the State of California suggests it is very unlikely there will be sea level rise over the next few decades that is more extreme than the levels assumed in Plan Bay Area 2050. Plan Bay Area 2050 assumes a range of adaptation solutions will be needed, including restoring and adapting marshes, elevating roadways, and building grey and green shoreline protections ranging from traditional levees already employed around the shoreline as well as eco-tone levees that offer more opportunity for shoreline biodiversity. All of these solutions are included in Unincorporated Marin County, including efforts to restore and

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<sup>5</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>6</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

<sup>7</sup> See <https://www.marincounty.org/-/media/files/departments/fr/prevention/publications/ord3453uwi.pdf> for more details.

protect areas north and south of Gallinas Creek and areas on both ends of Bolinas Lagoon in part to protect key circulation infrastructure in West Marin, as well as to protect housing on the bayland side of Stinson Beach. Additionally, Plan Bay Area 2050 includes investments along the shoreline of Marin City and Tamalpais Valley to maintain access to US-101 and reduce flooding in existing communities and nearby Growth Geographies. While there may be additional areas at risk of flooding in the County of Marin, the County has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources that the flood management infrastructure is inadequate to avoid the risk of flooding, consistent with Government Code Section 65584.04(e)(2)(B).

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, the 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. In developing its Housing Element, the County of Marin has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the County can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

While the County of Marin asserts that it will be forced to build in areas of high hazard risk, it has not provided evidence that it cannot accommodate its RHNA in locations within the jurisdiction that are subject to lower risk of natural hazards. The County has not demonstrated that it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need, as required by Government Code Section 65584.04(e)(2)(B). The appeal also does not prove that ABAG failed to consider the availability of land suitable for urban development or for conversion to residential use.

See Issue 8 for ABAG-MTC Staff's response about drought.

***Issue 5:*** *The County of Marin asserts that ABAG did not adequately consider information submitted in the Local Jurisdiction Survey about affirmatively furthering fair housing. The County argues the final RHNA methodology does not affirmatively further fair housing, as required by Government Code Section 65584(d)(5). The County requests a reduction in its allocation of moderate- and above moderate-income units because it has met and exceeded its allocations for these types of units in previous RHNA cycles. Thus, adding more of these types of units would be contrary to the goals of affirmatively furthering fair housing.*

**ABAG-MTC Staff Response:** The County's argument again challenges the final RHNA methodology that was adopted by ABAG and approved by HCD, which falls outside the scope of

the appeals process. In its review of ABAG's RHNA methodology, HCD made the following findings regarding the RHNA objective related to affirmatively furthering fair housing:

*"HCD applauds the significant weighting of Access to High Opportunity Areas as an adjustment factor and including an equity adjustment in the draft methodology. ABAG's methodology allocates more RHNA to jurisdictions with higher access to resources on a per capita basis. Additionally, those higher-resourced jurisdictions receive even larger lower income RHNA on a per capita basis. For example, the high-resourced communities of Cupertino and Mountain View receive higher total allocations on a per capita basis. For lower resourced jurisdictions with high rates of segregation, such as East Palo Alto, their allocations – particularly lower income RHNA allocations – are much lower on a per capita basis."*

Regarding the County's concern about its allocation of above moderate-income units, it is important to note that moderate- and above moderate-income units represent nearly 60 percent of the housing needs assigned to the Bay Area by HCD. If these units were not allocated to areas like Marin County with high access to opportunity (which also tend to have a higher share of higher-income households), then they would be directed to communities with a higher share of lower-income households, which could increase displacement pressures in these communities. Allocating units at all income levels to high-resource communities helps ensure all communities do their "fair share" to provide more housing, which advances several key RHNA objectives.

**Issue 6:** *The County argues that since Government Code Section 65584.04(e)(2) states that ABAG "may not" limit its consideration of land suitable for urban development to existing zoning and land use regulations, this language implies the statute does not entirely prohibit reliance on existing zoning. The County also states that staff has not seen evidence that ABAG conducted the analysis of alternative zoning schemes required by this statute.*

**ABAG-MTC Staff Response:** As noted previously, HCD's comment letter on submitted appeals reiterated 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." Consistent with what is outlined in the statute, ABAG-MTC staff considered information about local zoning and land use regulations when developing the draft RHNA allocations, but did not use that information as a *limit* on a jurisdiction's allocation. Additionally, ABAG-MTC staff considered the potential for increased residential development under alternative zoning ordinances and land use restrictions as required by the RHNA statutes through the multiple rounds of analyses that went into development of the Plan Bay Area 2050 Draft Blueprint, Final Blueprint, and Environmental Impact Report (EIR) Alternatives. For example, the Plan Bay Area 2050 EIR compared the growth forecasted in the Final

Blueprint to growth forecasted in three different alternatives to Plan Bay Area 2050: No Project Alternative, EIR Alternative 1 - Transit-Rich Area (TRA) Focus Alternative, and EIR Alternative 2 - High-Resource Area (HRA) Focus Alternative. Similar to prior iterations of the Blueprint, each featured unique land use strategies that yielded different distributions of growth within the region. Ultimately, household growth in Marin County as a whole ranged from approximately 22,000 households on the lower end in the No Project Alternative to the approximately 43,000 households on the higher end in EIR Alternative 1 due to these alternative zoning approaches.

**Issue 7:** *The County argues the COVID-19 pandemic represents a significant and unforeseen change in circumstances that merits a revision of information submitted as part of the Local Jurisdiction Survey. The County asserts ABAG did not adequately calibrate the regional distribution of housing units to account for changes to population, job growth, and housing from the pandemic.*

**ABAG-MTC Staff Response:** ABAG-MTC Staff appreciates the County's concerns about the significant economic and societal changes resulting from COVID-19. 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 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 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. The County of Marin has not

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

provided evidence to suggest that COVID-19 reduces the jurisdiction'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 jurisdiction'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 8:** *The unprecedented drought and potential limits placed on water supply for new development was not factored by ABAG when it finalized the methodology and distributed the draft RHNA.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period."

The arguments put forward by the County of Marin do not meet the requirements for a valid RHNA appeal because the County has not demonstrated that a water service provider has made a decision that precludes it from accommodating its RHNA allocation. Importantly, future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.<sup>9</sup>

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase

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<sup>9</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.



water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, “these issues do not affect one city, county, or region in isolation. ABAG’s allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts.”<sup>10</sup>

Action can be taken to efficiently meet the region’s future water demand, even in the face of additional periods of drought. Eight of the region’s largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>11</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area’s lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

## RECOMMENDED ACTION

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by County of Marin to reduce its Draft RHNA Allocation by 1,288 units (from 3,569 units to 2,281 units).

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<sup>10</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>11</sup> See the [Drought Contingency Plan](#) for more information.

Although ABAG-MTC staff is not recommending a reduction in the County of Marin's draft RHNA allocation, we understand the County's concerns about accommodating its RHNA in a way that fosters efficient infill and protection of agricultural and environmental resources. Housing Element Law recognizes some of the specific challenges unincorporated areas face by including provisions available only to counties that allow for a transfer of RHNA units to incorporated cities and towns in the county following adoption of the final RHNA allocation.<sup>12</sup> One option allowed by the statute is for the County and one or more jurisdictions to voluntarily agree on a transfer of units from the County to the city or town. A second option is for a County to transfer units following annexation of unincorporated land to a city.

By statute, voluntary transfers can be completed following ABAG's adoption of the final RHNA plan and prior to the Housing Element due date (January 2023) and transfers related to annexations can occur at any point during the RHNA cycle, as long as the request is submitted to ABAG within 90 days of the annexation. ABAG-MTC staff is prepared to work with jurisdictions in Marin County to come to agreement on a voluntary transfer as a way to advance the County's goals for city-centered growth, and to move forward with approval of the transfer expediently following adoption of the final RHNA in December 2021.

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<sup>12</sup> See [Government Code Section 65584.07](#) for more details.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Los Altos RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Los Altos requests the reduction of its Draft RHNA Allocation by at least 50%. The City of Los Altos's appeal was heard by the ABAG Administrative Committee on October 22, 2021, at a noticed public hearing. The City of Los Altos, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Los Altos's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA

appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5189247&GUID=D08E3680-0628-468A-858D-A6957814A34C&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9904746&GUID=7A0A5776-AB7C-414C-9A9C-3B52A5C0426C>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Los Altos had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Los Altos presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Los Altos's appeal. The Administrative Committee considered the documents submitted by the City of Los Altos, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Los Altos and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, Mayor Neysa Fligor recused herself from participating in consideration of the City of Los Altos's appeal.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9611](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9611). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-day-5-morning-session-certifiedpdf> (morning session) and <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-hearing-day-5-afternoon-session-certifiedpdf> (afternoon session).

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Los Altos, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee

denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Jobs-Housing Relationship* – The City’s argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG’s methodology does further the objectives. The RHNA methodology uses data about each jurisdiction’s jobs-housing relationship in the Plan Bay Area 2050 Final Blueprint and in factors related to Job Proximity, which measure job access based on commute shed to better capture the lived experience of accessing jobs irrespective of jurisdiction boundaries. Importantly, Housing Element Law requires the RHNA methodology to improve the *intraregional* relationship between jobs and housing—not the jobs-housing balance in any particular jurisdiction. The methodology must also consider the balance between the number of low-wage jobs and the number of affordable housing units in each jurisdiction. Census data shows Los Altos has 98 low-wage jobs per unit of rental housing affordable to low-wage workers. The City’s lower-income RHNA could enable many of these workers to live closer to their jobs, helping to improve the jobs-housing fit, reduce commute times, and lower greenhouse gas emissions.
- *Regarding Issues #2 and #3: Water and Sewer Capacity* – Los Altos has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water or sewer service providers, as required by Government Code Section 65584.04(e)(2)(A). Additionally, the appeal provides no evidence that the City of Palo Alto has determined there is insufficient sewer capacity to meet the needs of future development in Los Altos, or that Palo Alto is unable to expand its sewage treatment capacity in the future to meet additional demand. Furthermore, Valley Water has stated there will be enough water for Santa Clara County while water from Anderson Reservoir is unavailable. Differences in growth assumptions between RHNA and Urban Water Management Plans do not represent a determination that Los Altos lacks sufficient water capacity to meet RHNA targets.
- *Regarding Issue #4: Consistency with General Plan* – All jurisdictions are expected to update the Housing Elements of their General Plans to accommodate their RHNA allocations. Los Altos may need to update other elements of its General Plan in addition to the Housing Element to achieve General Plan consistency, but the RHNA methodology itself is not in violation of the statute requiring the General Plan to be an integrated and internally consistent document. The City’s need to revise its General Plan because of the 6th Cycle RHNA does not represent a valid basis for appeal as defined by statute.
- *Regarding Issue #5: Lack of Available Land* – Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit its consideration of suitable housing sites to a

jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Additionally, areas at risk of natural hazards are not identified in Housing Element Law as a constraint to housing except when FEMA or the Department of Water Resources has determined the flood management infrastructure to protect land is inadequate. Furthermore, while statutory changes have increased the analysis required to demonstrate development likelihood for certain Housing Element sites, statute does not preclude the consideration of non-vacant sites.

- *Regarding Issue #6: Growth Geography Designation* – ABAG-MTC staff determined the Growth Geography mapping in Los Altos is consistent with the Growth Geography definitions adopted by MTC/ABAG. Growth Geographies were determined based on transit service frequencies reported in January 2020, combined with any service improvements submitted by County Transportation Agencies. VTA Route 22 and Route 522 have bus stops within the City's boundary with a peak service frequency of 15 minutes or less, with the VTA frequency improvements featured in Plan Bay Area 2050. This qualifies the areas near these stops to be identified as a Transit-Rich Area. Additionally, Strategy T1 in Plan Bay Area 2050 restores service levels to pre-COVID conditions, and federal funding in 2020 and 2021 has been provided to transit operators to assist with accelerated service restoration.
- *Regarding Issue #7: VMT and GHG Reduction* – The RHNA Methodology considers opportunities to maximize transit use by incorporating the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The Final Blueprint emphasizes growth near job centers and in locations near transit. This land use pattern is developed with complementary transportation investments to ensure past and future transportation investments are maximized. Additionally, HCD concluded that the RHNA methodology encourages an efficient development pattern, allocates more RHNA to jurisdictions with more job access, and allocates more RHNA to jurisdictions with lower vehicle miles traveled.
- *Regarding Issue #8: Availability of Data for Review* – ABAG-MTC provided local jurisdiction staff with access to the underlying data for the Plan Bay Area 2050 Final Blueprint forecast that determines the RHNA methodology's baseline allocation. Local jurisdiction staff had several months to review and correct land use and development pipeline data. Additionally, jurisdictions could review the growth pattern for the Draft Blueprint in summer 2020 and prior to adoption of Final Blueprint in January 2021, with office hours to discuss the model inputs and forecasted growth from the Bay Area UrbanSim 2.0 model. Plan Bay Area 2050 modeling assumptions are also documented in the *Forecasting and Modeling Report*. All data and calculations for the RHNA

Methodology are available in the Draft RHNA Plan, including each jurisdiction's share of 2050 households, raw and scaled factor scores, and each factor's impact on each jurisdiction's baseline allocation, as well as the number of units, by income category, that result from each factor in the methodology.

- *Regarding Issues #9 and #10: Concerns That Are Not A Valid Basis For An Appeal* – Government Code Section 65584.04(g)(3) states that stable population numbers cannot be used as a justification for a reduction of a jurisdiction's RHNA. Furthermore, critiques of the RHND methodology itself fall outside the scope of the appeals process. Also, HCD's comment letter on appeals indicates RHNA appeals based on changes caused by COVID-19 do not fall within the appeal criteria defined by statute. Impacts from COVID-19 are not unique to any single jurisdiction, and the appeal does not indicate Los Altos's housing need has been disproportionately impacted relative to the rest of the Bay Area.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Los Altos's appeal and finds that the City of Los Altos's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).



TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Los Altos Appeal of Draft RHNA Allocation and Staff Response

DATE: October 22, 2021

## OVERVIEW

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**Jurisdiction:** City of Los Altos

**Summary:** The City of Los Altos requests the reduction of its Draft RHNA Allocation, without specifying the number of units that should be reduced. The City requests a reduction based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
  - Distribution of household growth assumed for Plan Bay Area 2050.
  - The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050.
- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Los Altos	501	288	326	843	1,958

## Local Jurisdiction Survey

The City of Los Altos did not 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 and there were two comments that specifically relate to the appeal filed by the City of Los Altos. Both comments oppose the City's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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The City of Los Altos has submitted an appeal based on Government Code Section 65584.05(b)(1), that ABAG "failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04" and Government Code Section 65584.05(b)(3), that a "significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted pursuant to subdivision (b) of Section 65584.04."

Government Code Section 65584.04(b) refers to the Local Jurisdiction Survey that ABAG conducted in January and February of 2020. However, Los Altos does not meet the statutory criteria for submitting an appeal, as described in Government Code Section 65584.05(b)(1), because the City did not submit a survey response to ABAG. Though the jurisdiction lacks a valid basis for appealing its draft allocation for these issues, ABAG-MTC staff responded to the issues raised in the jurisdiction's appeal. The City also appealed based on Government Code Section 65584.05(b)(2), claiming ABAG failed to determine the jurisdiction's Draft RHNA Allocation in accordance with the Final RHNA Methodology and in a manner that furthers the RHNA Objectives. ABAG's response below addresses these claims as well.

***Issue 1:*** *The City argues that ABAG failed to adequately consider Los Altos's jobs-housing relationship. The City states that Los Altos is a net provider of housing and adding more housing will exacerbate its existing jobs-housing imbalance. Consequently, the City believes Los Altos's RHNA is inconsistent with the statutory objective related to improving the intraregional jobs-housing relationship, as described in Government Code Section 65584(d)(3).*

**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>1</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:

*The draft ABAG methodology<sup>2</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 address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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 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

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<sup>1</sup> For more details, see [HCD’s letter](#) confirming the methodology furthers the RHNA objectives.

<sup>2</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.

Area's existing transit infrastructure, while the Job Proximity – Auto factor recognizes that most people in the region commute by automobile.

The factors in the RHNA methodology 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 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 Los Altos has one of the region's most imbalanced ratios between low-wage jobs and affordable housing units, with 98 low-wage jobs per unit of rental housing affordable to low-wage workers and their families.<sup>3</sup> Accordingly, the allocation of 789 units of lower-income RHNA assigned to Los Altos could enable many of the low-wage workers in Los Altos to live closer to their jobs, helping to improve the jobs-housing fit, reduce commute times, and lower GHG.

***Issue 2:*** *Los Altos argues sewer capacity is a constraint for additional development. The City states that its sewage treatment is provided by the City of Palo Alto and asserts Los Altos has no means to expand sewer capacity other than "buying" additional capacity from another willing jurisdiction.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." The arguments put forward by Los Altos do not meet the requirements for a valid RHNA appeal.

While Los Altos notes that it contracts with the City of Palo Alto for sewage treatment, the appeal submitted by Los Altos provides no evidence that the City of Palo Alto has determined there is insufficient sewer capacity to meet the needs of future development in Los Altos. Los Altos's appeal also does not demonstrate that the City of Palo Alto is unable to expand its sewage treatment capacity in the future to meet additional demand. Accordingly, the City has

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<sup>3</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Los%20Altos>.

not provided evidence that Los Altos lacks the necessary sewage capacity for future development during the 2023-2031 planning period.

**Issue 3:** *Los Altos argues that water availability is a constraint for additional development. The City asserts that its RHNA allocation is greater than the level of growth CalWater and Valley Water anticipated to accommodate. Los Altos also notes that the Anderson Reservoir is empty and unavailable for at least 10 years due to dam reconstruction and seismic retrofitting, which could limit Valley Water's water supply.*

**ABAG-MTC Staff Response:** As with sewer capacity, Government Code Section 65584.04(e)(2)(A) states that ABAG must consider a lack of water service due to regulations or distribution decisions made by a service provider other than the local jurisdiction that preclude the jurisdiction from providing the necessary infrastructure for additional development during the RHNA planning period. The arguments put forward by Los Altos do not meet the requirements for a valid RHNA appeal.

Although the City cites information from the California Water Service Urban Water Management Plan (UWMP), Los Altos has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by this water service provider. Los Altos indicates that the RHNA allocation exceeds the growth projected by the water service providers. However, this difference in assumptions about expected growth does not represent a determination that the City will not have sufficient water capacity in the future. Additionally, though the Anderson Reservoir will not be used for Santa Clara County's water supply for an estimated 10 years, the City has not demonstrated that it is precluded from accommodating its RHNA allocation for the entirety of the 2023-2031 RHNA period. Importantly, Valley Water has stated there will be enough water for Santa Clara County while water from Anderson Reservoir is unavailable, noting that they have "diverse water supplies, the ability to refill our groundwater aquifers and back-up plans to provide safe, clean water to Santa Clara County."

While ABAG appreciates the City's concerns about the ongoing drought and uncertainties about future water supply, population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.<sup>4</sup> A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only

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<sup>4</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.

one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>5</sup>

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>6</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in

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

<sup>6</sup> See the [Drought Contingency Plan](#) for more information.

past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

***Issue 4:*** *Los Altos argues its RHNA allocation is inconsistent with its General Plan, and the City states that this inconsistency violates Government Code Section 65300.5 and existing case law.*

***ABAG-MTC Staff Response:*** Though the City of Los Altos contends that its RHNA allocation is inconsistent with its General Plan, the RHNA process is a component of updates to the General Plan's Housing Element that local jurisdictions are required to complete every eight years. Therefore, all jurisdictions are expected to update the Housing Elements of their General Plans to accommodate their RHNA allocations. The statute cited by Los Altos (Government Code Section 65300.5) simply states, "In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency." The City may need to update other elements of its General Plan in addition to the Housing Element to achieve consistency, but the RHNA allocation to Los Altos is not in violation of this statute. The City's need to revise its General Plan because of the 6<sup>th</sup> Cycle RHNA does not represent a valid basis for appeal as defined by statute. Similarly, the case law cited by the City also does not have relevance to the RHNA appeals process.

***Issue 5:*** *Los Altos argues that the City has limited availability of land suitable for urban development or for conversion to multi-family residential use. The City asserts that it borders a Wildland-Urban Interface that is hilly and unsuitable for higher density development. The City also asserts that the majority of the land within its boundaries is zoned and developed for residential use, that much of the land originally zoned for commercial, retail, and office space has already been rezoned, and that further rezoning the sparse commercial land would affect city finances. The City further argues its draft RHNA fails to consider the implication of statutes governing Housing Element site identification requirements. The City argues that a combination of high land values, absence of vacant land, high construction costs, and lack of available labor work against redevelopment. Lastly, the City argues that it is subject to flooding from four creeks, which restricts the potential for development.*

***ABAG-MTC Staff Response:*** The final RHNA methodology adequately considers the potential development constraints described in Los Altos's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final

Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints (e.g., steep hillsides). These feasibility and cost assessments are used to forecast the Los Altos's share of the region's households in 2050, which is an input into its RHNA allocation.

Importantly, 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. 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>

Los Altos asserts that the RHNA methodology fails to consider the implications of the statutes governing Housing Elements, as the City believes Los Altos lacks adequate sites to plan for its RHNA. However, AB1397, one of the laws cited in Los Altos's appeal, reiterates the concepts from HCD's comment quoted above and sets forth Housing Element site inventories which specifically include non-vacant sites. ABAG acknowledges that AB 1397 modifies the Housing Element update process in Government Code Section 65583 and requires stronger justification for using certain types of sites to meet RHNA need, particularly non-vacant sites. While these statutory changes have increased the extent of analysis or supportive policy required to demonstrate development likelihood, they do not preclude the consideration of non-vacant sites.

ABAG-MTC staff also understands Los Altos's concerns about the potential for future growth in areas at risk of natural hazards, as the Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts. However, with only a small exception, Housing Element Law does not identify areas at risk of natural hazards as a potential constraint to housing development.<sup>8</sup>

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

<sup>8</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."



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.<sup>9</sup> Ultimately, HMC members 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.

The Final Blueprint Growth Geographies exclude CAL FIRE designated “Very High” fire severity areas in incorporated jurisdictions, and “High” and “Very High” fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Los Altos. While there may be areas at risk of flooding in Los Altos, it has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources that the flood management infrastructure is inadequate to avoid the risk of flooding, consistent with Government Code Section 65584.04(e)(2)(B).

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, the 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. In developing its Housing Element, Los Altos has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the City can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

Per Government Code Section 65584.04(e)(2)(B), Los Altos must consider the availability of underutilized land, opportunities for infill development, and increased residential densities to accommodate its RHNA. The City does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>10</sup>

***Issue 6: Los Altos argues that no part of the jurisdiction should be designated as a Transit-Rich Area Growth Geography in Plan Bay Area 2050 due to the City’s limited transit service.***

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<sup>9</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

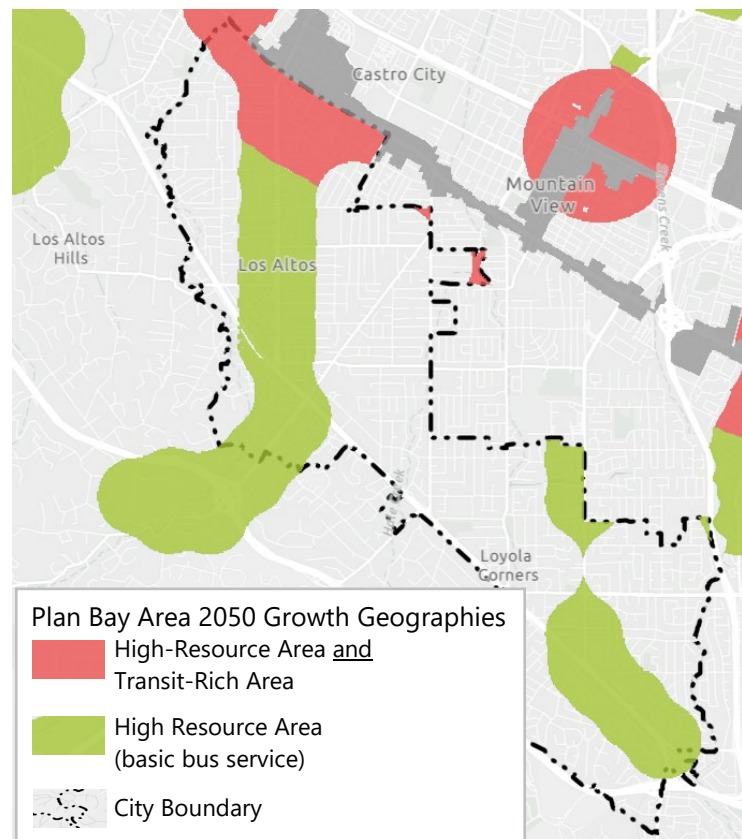
<sup>10</sup> See HCD’s [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

Accordingly, Los Altos believes that any part of its baseline allocation in the RHNA methodology stemming from these Growth Geography designations should be reduced. The City also asserts that transit service may not return to pre-COVID levels until after the 6<sup>th</sup> RHNA Cycle concludes, and thus RHNA allocations to Los Altos based on transit proximity should be reconsidered.

**ABAG-MTC Staff Response:** A portion of Los Altos along El Camino Real is identified as both a Transit-Rich and High-Resource Area in the Plan Bay Area 2050 Final Blueprint. Other portions of the City are identified as a High Resource Area based on metrics from the state's Opportunity Map Index as well as having basic bus service.<sup>11</sup> See Exhibit 1 below for a map of the Growth Geographies in Los Altos.

Staff has reviewed the Growth Geography mapping and has identified that it is accurate and consistent with the adopted Growth Geography definition established by MTC/ABAG in February 2020, September 2020, and January 2021. The Plan Bay Area 2050 Final Blueprint Growth Geographies were determined based on transit service frequencies reported in January 2020, combined with any service improvements submitted by County Transportation Agencies (CTAs) and included in the fiscally-constrained Transportation Element of Plan Bay Area 2050. In regard to the Transit-Rich Area in Los Altos, VTA Route 22 and Route 522 have bus stops within the City's boundary with a peak service frequency of 15 minutes or less, thanks to envisioned VTA frequency improvements featured in Plan Bay Area 2050. This qualifies the areas near these stops to be identified as a Transit-Rich Area.

**Exhibit 1. Plan Bay Area 2050 Growth Geographies in Los Altos**



While Los Altos argues that any aspect of its allocation based on transit proximity should be reconsidered due to cuts to transit service stemming from COVID, Strategy T1 in Plan Bay Area 2050 restores transit service levels to pre-COVID conditions. Additionally, federal funding in

<sup>11</sup> More information about the Opportunity Map Index can be found the California Tax Credit Allocation Committee's website: <https://www.treasurer.ca.gov/ctcac/opportunity.asp>.

2020 and 2021 has been provided to transit operators that can help to accelerate service restoration; MTC and ABAG will continue working with local transit operators in the coming months and years on this front. Furthermore, arguments related to COVID do not represent a valid basis for a RHNA appeal, as discussed in the response to Issue 8 below.

**Issue 7:** *Los Altos argues that the City's allocation will increase vehicle miles traveled (VMT) and greenhouse gas emissions (GHG) because the City lacks transit and most residents rely on automobiles to commute. Consequently, Los Altos believes that its RHNA should be adjusted so the City can meet its Climate Action Plan goals.*

**ABAG-MTC Staff Response:** The RHNA Methodology considers opportunities to maximize transit use by incorporating the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. As noted previously, the Final Blueprint emphasizes growth near job centers and in locations near transit, including high-resource areas, with the intent of reducing GHG. This land use pattern is developed with complementary transportation investments in an effort to ensure past and future transportation investments are maximized.

In its review of ABAG's RHNA methodology, HCD made the following findings regarding the RHNA objective related to "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 reductions targets provided by the State Air Resources Board pursuant to Section 65080":

*"The draft ABAG methodology<sup>12</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers*

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<sup>12</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.

*(which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit.”*

**Issue 8:** Los Altos argues that it is difficult to validate application of the methodology because it is not possible to assess the baseline allocation based on the Plan Bay Area 2050 Final Blueprint.

**ABAG-MTC Staff Response:** The City states it has not been possible to examine the underlying data for the Plan Bay Area 2050 Final Blueprint. However, both the land use modeling results and the inputs used to produce them have been made available to local staff.

In fall 2019 ABAG-MTC staff collected local development policy data (i.e., information about zoning and general plans) from local jurisdictions for use in Plan Bay Area 2050 forecasting and modeling.<sup>13</sup> Local jurisdiction staff had several months to review and correct their land use and development pipeline data.<sup>14</sup> Jurisdictions then had an opportunity to review the growth pattern for the Draft Blueprint in summer 2020 and prior to the adoption of the Final Blueprint in January 2021, with office hours available to local jurisdictions to discuss model inputs and forecasted growth from the Bay Area UrbanSim 2.0 model. Additionally, the modeling assumptions for Plan Bay Area 2050 are documented in the *Draft Forecasting and Modeling Report* published in May 2021 and the *Final Forecasting and Modeling Report* published in October 2021.<sup>15</sup> While only county and sub-county projections are used for the purposes of Plan Bay Area 2050, the jurisdiction-level totals of households in 2050 produced by the Final Blueprint forecast were then provided for use as the baseline allocation for the RHNA Methodology, in the Proposed Methodology report (October 2020), Draft Methodology report (February 2021), and the Draft RHNA Plan report (May 2021). Local jurisdictions, stakeholders, and the public at-large also had access to an online tool enabling them to compare RHNA baseline options, as well as factors and weights, during the Housing Methodology Committee (HMC) process to develop the RHNA methodology throughout 2020.

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<sup>13</sup> To learn more about these datasets, visit this website: <https://basis.bayareametro.gov/>.

<sup>14</sup> Communications to local staff about BASIS and review of Plan Bay Area 2050 baseline data included the following:

- Invitation to a webinar on August 6, 2019 about BASIS and how baseline information would be gathered for use in Plan Bay Area 2050.
- Email on August 26, 2019 asking staff to identify someone to review jurisdiction’s baseline data in fall 2019.
- [Videos](#) to assist local staff with the data review process were made available on YouTube.
- Email on October 4, 2019 to jurisdictions who had not identified a staff contact to review BASIS land use data.
- Email reminder on October 29, 2019 to local staff about the BASIS data review process.
- Email to Bay Area planning directors on July 10, 2020 about office hours where local staff could have a one-on-one consultation with ABAG-MTC staff to provide feedback on the Plan Bay Area 2050 Draft Blueprint or BASIS.
- Additional office hours were held in December 2020 to discuss Plan Bay Area 2050 Final Blueprint outcomes and the draft RHNA methodology.

<sup>15</sup> For more details, see the [Plan Bay Area 2050 Draft Forecasting and Modeling Report](#) and the [Plan Bay Area 2050 Final Forecasting and Modeling Report](#).

All relevant data and calculations for the RHNA Methodology are available in the [Draft RHNA Plan](#). Pages 15-21 of the report provide information about the data sources used and describe the steps in calculating the draft RHNA allocations. The specific information for each jurisdiction is shown in the report's appendices. As Plan Bay Area 2050 does not include growth forecasts at the jurisdiction level, the first column in Appendix 4 shows the information from the Plan Bay Area 2050 Final Blueprint that is relevant to the RHNA methodology, namely each jurisdiction's share of the region's total households in 2050 (baseline allocation). The other data in Appendix 4 shows the raw score for each factor, the scaled factor score for each factor, and the impact that each factor has on each jurisdiction's baseline allocation from the Plan Bay Area 2050 Final Blueprint.

Appendix 5 shows the number of units, by income category, that each jurisdiction receives as a result of each factor in the methodology. Although the numbers presented in these tables are rounded to a single decimal point, the calculations were done using un-rounded numbers. ABAG-MTC staff provided access to a jurisdiction's un-rounded baseline allocation through the public open-source RHNA calculations posted on GitHub.<sup>16</sup> Appendix 6 demonstrates how the Equity Adjustment is applied, and includes each jurisdiction's information for the adjustment's composite score.

**Issue 9:** *Los Altos argues that recent low population growth rates in California should result in ABAG revising the RHNA allocations, and the City also believes that these trends cast doubt on the Regional Housing Needs Determination (RHND) calculations from HCD. Los Altos also asserts the RHNA Methodology is flawed because HCD made an error in how it used vacancy rates in its calculation of the RHND.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(g)(3) states that stable population numbers cannot be used as a justification for a reduction of a jurisdiction's share of the regional housing need. Consistent with this statutory language, stable or declining population in a jurisdiction is not, by itself, evidence that there is not a need for additional homes in the community. It may instead be a sign of an unhealthy housing market where individuals and families lack affordable housing choices and must leave the jurisdiction to find housing elsewhere. In fact, a primary reason the Regional Housing Needs Determination (RHND) of 441,176 units was higher than the need assigned to the Bay Area in past RHNA cycles was because it included factors related to overcrowding, high housing cost burdens and a target vacancy rate as a way to address the region's challenges in meeting the housing needs of the existing population. Additionally, the City has not provided evidence to suggest that there will be long-term low population growth in the Bay Area or that there has been a reduction in the jurisdiction's housing need for the 2023-2031 RHNA planning period.

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<sup>16</sup> Source: [https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris\\_baselines.xlsx](https://github.com/BayAreaMetro/regional-housing-needs-assessment/blob/master/RHNA/data/juris_baselines.xlsx)

Additionally, the City's arguments challenge the RHND methodology and not the RHNA methodology. 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 RHND methodology itself falls outside the scope of the appeals process. As HCD noted in its comment letter on submitted appeals, "The council of government may file an objection within 30 days of HCD issuing the RNHD, per Government Code section 65584.01(c)(1). ABAG did not object to the RHND. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation. There are no further appeal procedures available to alter the ABAG region's RHND for this cycle."<sup>17</sup>

**Issue 10:** *Los Altos argues changes to jobs, transit, and commute patterns resulting from COVID-19 represent a change in circumstance meriting a revision of the City's RHNA allocation.*

**ABAG-MTC Staff Response:** ABAG-MTC Staff appreciates Los Altos's concerns about the significant economic and societal changes resulting from COVID-19. 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>18</sup>

Potential impacts of COVID-19, including 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 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.

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<sup>17</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>18</sup> See [HCD's comment letter on appeals](#) for more details.

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. Los Altos has not provided evidence to suggest that COVID-19 reduces the jurisdiction'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 jurisdiction'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.

### **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by the City of Los Altos to reduce its Draft RHNA Allocation.



TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Los Altos Hills RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.



On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The Town of Los Altos Hills requests the reduction of its Draft RHNA Allocation by 129 units. The Town of Los Altos Hills's appeal was heard by the ABAG Administrative Committee on October 22, 2021, at a noticed public hearing. The Town of Los Altos Hills, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the Town of Los Altos Hills's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal

during the RHNA appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5189248&GUID=5C3CCA96-824E-48A6-AF1B-13CA33A16AEB&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRlbSA2LCBIYW5kb3V0IFB1YmtpYyBDd21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9904746&GUID=7A0A5776-AB7C-414C-9A9C-3B52A5C0426C>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the Town of Los Altos Hills had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The Town of Los Altos Hills presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the Town of Los Altos Hills's appeal. The Administrative Committee considered the documents submitted by the Town of Los Altos Hills, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by Town of Los Altos Hills and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9611](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9611). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-day-5-morning-session-certifiedpdf> (morning session) and <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-hearing-day-5-afternoon-session-certifiedpdf> (afternoon session).

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the Town of Los Altos Hills, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Jobs-Housing Relationship* – The Town’s argument challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and this critique of the adopted methodology falls outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG’s methodology does further the objectives. The RHNA methodology uses data about each jurisdiction’s jobs-housing relationship in the Plan Bay Area 2050 Final Blueprint and in factors related to Job Proximity, which measure job access based on commute shed to better capture the lived experience of accessing jobs irrespective of jurisdiction boundaries. 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. Adding more housing in areas with easy access to jobs can lead to shorter commutes, helping to reduce vehicle miles travelled and greenhouse gas emissions.
- *Regarding Issue #2: Error in Application of Methodology* – The Town’s argument does not accurately reflect the mechanics of the adopted methodology, which appropriately recognizes Los Altos Hills’s limited access to jobs by transit. The Job Proximity-Transit (JPT) factor is placed on a scale to modify a jurisdiction’s baseline allocation in a range from 50% to 150%. This scaling approach helps distribute units throughout region by ensuring the even a jurisdiction with the lowest score gets an allocation from each factor. Relative to other jurisdictions in the region, Los Altos Hills has a small number of jobs that can be accessed within a 45-minute commute by transit, so the Town receives a scaled score of 0.5 on the JPT factor.
- *Regarding Issue #3: Lack of Available Land* – The development constraints in this appeal are considered in the Plan Bay Area 2050 Final Blueprint, which is the baseline allocation for the RHNA methodology. Additionally, areas at risk of natural hazards are not identified in Housing Element Law as a constraint to housing development. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region’s housing needs and avoid planning for new homes in places at risk. The Town has the authority to plan for housing in places with lower risk. Importantly, Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit its consideration of suitable housing sites to a jurisdiction’s existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing.
- *Regarding Issue #4: Impacts of COVID-19* – HCD’s comment letter on Bay Area jurisdictions’ RHNA appeals indicates that RHNA appeals based on changes caused by COVID-19 do not fall within the appeal criteria defined by statute. HCD states, “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.” Additionally, the potential impacts of COVID-19, including an accelerated shift toward telecommuting and the associated economic boom/bust cycle, are incorporated in the RHNA methodology through the integration of the Plan Bay Area 2050 Final Blueprint. Furthermore, impacts from COVID-19 are not unique to any single jurisdiction, and the appeal does not indicate Los Altos Hills’s housing need has been disproportionately impacted relative to the rest of the Bay Area. The pandemic is not cause for a reduction in RHNA for any particular jurisdiction.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the Town of Los Altos Hills’s appeal and finds that the Town of Los Altos Hills’s RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Los Altos Hills Appeal of Draft RHNA Allocation and Staff Response

## OVERVIEW

**Jurisdiction:** Town of Los Altos Hills

**Summary:** Town of Los Altos Hills requests the decrease of its Draft RHNA Allocation by 129 units (26 percent) from 489 units to 360 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

Following adoption of the Final RHNA Methodology on May 20, 2021, the Town of Los Altos Hills received the following draft RHNA allocation on May 25, 2021:

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Town of Los Altos Hills	125	72	82	210	489

### Local Jurisdiction Survey

The Town of Los Altos Hills submitted 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 and there were two comments that specifically relate to the appeal filed by the Town of Los Altos Hills. Both comments support the Town's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The Town asserts that ABAG fails to adequately consider the jobs-housing relationship in Los Altos Hills. The Town disputes the use of job proximity factors in the methodology instead of the number of jobs within a jurisdiction. The Town also argues that it has sufficient affordable housing units relative to the number of low-wage jobs in the jurisdiction.*

**ABAG-MTC Staff Response:** This argument by the Town 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>1</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:

*The draft ABAG methodology<sup>2</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.*

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<sup>1</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>2</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.

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 address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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.

The factors in the RHNA methodology 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 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.

***Issue 2:*** *The Town argues that ABAG made an error in applying RHNA methodology. The Town asserts that Los Altos Hills has limited transit, and that there should be no units allocated from Job Proximity-Transit (JPT) factor.*

***ABAG-MTC Staff Response:*** The Town's argument that ABAG made an error in applying the RHNA methodology by allocating Los Altos Hills units using the JPT factor does not accurately reflect the mechanics of the adopted RHNA methodology. In fact, the methodology appropriately recognizes the limited access to jobs by transit in this jurisdiction. In the RHNA

methodology, the JPT factor is based on the number of jobs that can be accessed within a 45-minute transit commute from a jurisdiction. The factor in the RHNA methodology is placed on a scale so it can modify a jurisdiction's baseline allocation in the range from 50% to 150%. Thus, jurisdictions scoring at the top for the region will get baseline share times 1.5, while jurisdictions scoring at the bottom for the region will get baseline share times 0.5. This scaling approach helps distribute RHNA units throughout the region by ensuring that even a jurisdiction with a low score gets an allocation from each factor and placing a limit on how many units can be assigned to a jurisdiction with a high score. Relative to other jurisdictions in the region, Los Altos Hills has a small number of jobs that can be accessed within a 45-minute commute. As a result of its low score, the Town receives a scaled score of 0.5 on the JPT factor.

***Issue 3:*** *The Town argues that the RHNA Methodology fails to adequately consider the limited land available for development in Los Altos Hills. The Town asserts that 39% of properties rely on septic systems and only low-density development with an ADU is viable on these lots. The Town further states that wildfire, landslides, and seismic hazards limit the potential for development. Additionally, the Town claims that most of the jurisdiction is in a High Fire Hazard Severity Zone, and the Town believes the costs for mitigation would prevent development of affordable housing.*

***ABAG-MTC Staff Response:*** The RHNA methodology adequately considers the potential development constraints described in Government Code Section 65584.04(e)(2), which the Town references in its appeal, by integrating data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast Los Altos Hills's share of the region's households in 2050, which is an input into its RHNA allocation.

However, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Final Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

Importantly, 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. 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>3</sup>

While the Town argues that properties on septic systems represent sewer and wastewater constraints preventing additional development, Government Code Section 65584.04(e)(2)(A) states that ABAG must consider constraints to development of additional housing due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." The conditions noted within the Town's appeal do not fall within the definition of sewer and water constraints as defined by statute, as the Town has not demonstrated that is precluded from accommodating its RHNA allocation due to lack of sewer capacity stemming from federal/state laws or decisions made by a sewer or water service provider.

ABAG-MTC staff understands Los Altos Hills's concerns about the potential for future growth in areas at risk of natural hazards, as the Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts. However, with only a small exception, Housing Element Law does not identify areas at risk of natural hazards as a potential constraint to housing development."<sup>4</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.<sup>5</sup> Ultimately, 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

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<sup>3</sup> View a copy of HCD's comment letter on appeals at <https://mtcdrive.box.com/s/1jud9atcfpa3bovt6ph7mlisj39qeciz>.

<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 the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

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, the 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. In developing its Housing Element, Los Altos Hills has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the Town can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard by choosing strategies related to the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density or by increasing building standards for sites within at-risk areas to cope with the hazard.

Per Government Code Section 65584.04(e)(2)(B), the Town must consider the availability of underutilized land, opportunities for infill development, and increased residential densities to accommodate its RHNA. Los Altos Hills does not provide evidence it is unable to consider underutilization of sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>6</sup>

***Issue 4:*** *The Town argues that COVID-19 is significantly impacting population, housing and jobs estimates which affects RHNA directly.*

***ABAG-MTC Staff Response:*** ABAG-MTC Staff appreciates the Town's concerns about the significant economic and societal changes resulting from COVID-19. 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>7</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 information available on future impacts related to telecommuting, locational preferences, and

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<sup>6</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

<sup>7</sup> View a copy of the letter at <https://mtcdrive.box.com/s/1jud9atcfpa3bovt6ph7mlisj39qeciz>.

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. The Town of Los Altos Hills has not provided evidence to suggest that COVID-19 reduces the jurisdiction'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 jurisdiction'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.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by Town of Los Altos Hills to reduce its Draft RHNA Allocation by 129 units (from 489 units to 360 units).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Monte Sereno RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Monte Sereno requests the reduction of its Draft RHNA Allocation by 97 units. The City of Monte Sereno's appeal was heard by the ABAG Administrative Committee on October 22, 2021, at a noticed public hearing. The City of Monte Sereno, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Monte Sereno's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the

RHNA appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5189249&GUID=2BBB0DDE-E3F2-4BDD-8DD2-713719C26E83&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N= SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBD b21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9904746&GUID=7A0A5776-AB7C-414C-9A9C-3B52A5C0426C>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Monte Sereno had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Monte Sereno presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Monte Sereno's appeal. The Administrative Committee considered the documents submitted by the City of Monte Sereno, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Monte Sereno and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9611](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9611). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-day-5-morning-session-certifiedpdf> (morning session) and <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-hearing-day-5-afternoon-session-certifiedpdf> (afternoon session).

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Monte Sereno, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issues #1 and #6: Jobs-Housing Relationship* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG’s methodology does further the objectives. Additionally, the RHNA methodology uses data about each jurisdiction’s jobs-housing relationship in the Plan Bay Area 2050 Final Blueprint and in factors related to Job Proximity, which measure job access based on commute shed to better capture lived experience of accessing jobs irrespective of jurisdiction boundaries. Housing Element Law requires the RHNA methodology to improve the *intraregional* relationship between jobs and housing—not jobs-housing balance in any particular jurisdiction. The methodology must also consider the balance between the number of low-wage jobs and the number of affordable housing units in each jurisdiction. Census data shows Monte Sereno has 94 low-wage jobs and few units of rental housing affordable to low-wage workers. The City’s lower-income RHNA could enable many of these workers to live closer to their jobs, helping to improve the jobs-housing fit, reduce commute times, and lower greenhouse gas emissions.
- *Regarding Issues #2 and #7: Transit Access* – The RHNA methodology considers opportunities to maximize transit use by incorporating the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The Final Blueprint emphasizes growth near job centers and in locations near transit with the intent of reducing greenhouse gas emissions. The inclusion of the Job Proximity –Transit factor in the methodology directs more housing to jurisdictions with the most jobs that can be accessed with a 45-minute commute by transit. Monte Sereno’s limited transit service is reflected in the fact that application of the Job Proximity –Transit factor results in a smaller allocation for the City. Furthermore, HCD determined RHNA methodology achieves the statutory objective to promote infill development and socio-economic equity through efficient development patterns that achieve GHG reduction targets. HCD noted that ABAG’s methodology allocates more RHNA to jurisdictions with more job access and lower vehicle miles traveled.
- *Regarding Issue #3: Lack of Available Land* – The development constraints in the City’s appeal are considered in the Plan Bay Area 2050 Final Blueprint, the baseline allocation for RHNA. Additionally, the HESS Tool plays no role in RHNA, and it evaluates sites based on *existing* local development policies. Furthermore, Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit its consideration of suitable housing sites to a jurisdiction’s existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. Given the variety of natural hazard risks the Bay Area faces, it is not possible

to address the region's housing needs and avoid planning for new homes in places at risk. Monte Sereno has the authority to plan for housing in places with lower risk of hazards. Monte Sereno does not provide evidence it is unable to consider underutilization of sites, increased densities, ADUs, and other planning tools to accommodate its assigned need.

- *Regarding Issues #4 and #9: Drought and Water Capacity* – Government Code Section 65584.04(e)(2)(A) states that ABAG must consider opportunities and constraints to development of housing due to “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.” Monte Sereno has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider. HCD's comments on Bay Area RHNA appeals note that “ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons.” Drought poses significant challenges to Bay Area communities, but these issues do not affect one city or county in isolation. Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought.
- *Regarding Issues #5 and #10: Concerns That Are Not A Valid Basis For An Appeal* – There are no further appeal procedures available to alter the ABAG region's Regional Housing Needs Determination (RHND) for this cycle, and critiques of the RHND methodology fall outside the scope of the RHNA appeals process. Government Code Section 65584.03 describes the process by which jurisdictions within a county or multiple counties can form a subregion, and the subregion can then create its own methodology for distributing RHNA units to its jurisdictions. Santa Clara County jurisdictions had the opportunity to form a subregion and declined to do so. Santa Clara County jurisdictions' decision not to form a subregion is not one of the bases for appealing RHNA as defined by statute.
- *Regarding Issue #8: Change in Circumstances due to Fire Hazard* – HCD's comment letter on Bay Area RHNA appeals notes that wildfire hazards “do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts.” Furthermore, increasing fire hazard alone does not directly correlate to increasing fire risk. Risk is a function of hazard, susceptibility, consequence, and adaptive capacity. The State of California and local governments have begun to take more aggressive actions to reduce



susceptibility and consequences, which in turn may keep overall wildfire risk constant during the coming RHNA cycle.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Monte Sereno's appeal and finds that the City of Monte Sereno's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Monte Sereno Appeal of Draft RHNA Allocation and Staff Response

DATE: October 22, 2021

## OVERVIEW

**Jurisdiction:** City of Monte Sereno

**Summary:** City of Monte Sereno requests the decrease of its Draft RHNA Allocation by 97 units (50 percent) from 193 units to 96 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Monte Sereno	53	30	31	79	193

### Local Jurisdiction Survey

The City of Monte Sereno submitted 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 and there were no comments that specifically relate to the appeal filed by the City of Monte Sereno. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The City of Monte Sereno argues that ABAG failed to adequately consider that Monte Sereno lacks the jobs to support its RHNA, as the City has 0.37 jobs per resident worker. The City states that Monte Sereno was chartered to be a residential-only district with no commercial or mixed-use developments to be rezoned. The City also claims that ABAG's methodology does not further the statutory objective to improve the intraregional relationship between jobs and housing, as Monte Sereno lacks jobs and exports workers to other cities.*

**ABAG-MTC Staff Response:** This argument by Monte Sereno 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>1</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:

*The draft ABAG methodology<sup>2</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, and when exporting data about total households in 2050 for the RHNA baseline, appropriate jurisdiction boundaries were used. The Final Blueprint emphasizes growth near job centers and in locations near transit, including in high-resource areas, with the intent of reducing

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<sup>1</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>2</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.

greenhouse gas (GHG) emissions. It includes strategies related to increased housing densities and office development subsidies to address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments 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 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.

The factors in the RHNA methodology 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 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 Monte Sereno has an imbalanced ratio between low-wage jobs and affordable housing units, with 94 low-wage jobs and few units of rental housing affordable to low-wage workers and their families.<sup>3</sup> Accordingly, the allocation of 83 units of lower-income RHNA assigned to Monte Sereno could enable many of the low-wage workers in Monte Sereno to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower GHG.

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<sup>3</sup> For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Monte%20Sereno>.

**Issue 2:** *The City argues that ABAG failed to adequately consider transit access in Monte Sereno. The City states that Monte Sereno lacks transit, and claims that adding more housing to the City where there is a lack of local jobs and transit will lead to increased VMT and GHG.*

**ABAG-MTC Staff Response:** The RHNA Methodology considers opportunities to maximize transit use by incorporating the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. As noted previously, the Final Blueprint emphasizes growth near job centers and in locations near transit, including high-resource areas, with the intent of reducing GHG. This land use pattern is developed with complementary transportation investments in an effort to ensure past and future transportation investments are maximized.

Additionally, the inclusion of job proximity by transit as a factor in the Final RHNA Methodology directs more housing to the jurisdictions with the most jobs that can be accessed with a 45-minute commute by transit. The three factors in the RHNA methodology are placed on the same scale so a factor can modify a jurisdiction's baseline allocation in the range from 50% to 150%. Thus, jurisdictions scoring at the top for the region will get baseline share times 1.5, while jurisdictions scoring at the bottom for the region will get baseline share times 0.5. This scaling approach helps distribute RHNA units throughout the region by ensuring that even a jurisdiction with a low score gets an allocation from each factor and placing a limit on how many units can be assigned to a jurisdiction with a high score. Relative to other jurisdictions in the region, Monte Sereno has a small number of jobs that can be accessed within a 45-minute commute. As a result of its low score, the City receives a scaled score of 0.5 on the Job Proximity – Transit factor, which means few units are allocated to Monte Sereno based on this factor compared to other jurisdictions in the region.

In its review of ABAG's RHNA methodology, HCD made the following findings regarding the RHNA objective related to *"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 reductions targets provided by the State Air Resources Board pursuant to Section 65080:"*

*"The draft ABAG methodology<sup>4</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

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<sup>4</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.

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit."*

**Issue 3:** *Monte Sereno argues that the City has limited land available for development. The City uses data from the ABAG-MTC Housing Element Site Selection (HESS) Tool to argue there are limited vacant sites suitable for development in Monte Sereno. The City also asserts that 50% of Monte Sereno is in a very high fire hazard area with limited evacuation routes, while 75% of the City's area has high potential for earthquake induced landslides, both of which limit the availability of land suitable for urban development or for conversion to residential use.*

**ABAG-MTC Staff Response:** The final RHNA methodology adequately considers information about land available for housing development through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast Monte Sereno's share of the region's households in 2050, which is an input into its RHNA allocation.

Importantly, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects existing and future housing demand in the Bay Area.

The City of Monte Sereno uses information from the Housing Element Site Selection (HESS) Tool to argue it does not have sufficient developable land available to accommodate its RHNA. The HESS Tool is a web-based mapping tool developed by ABAG-MTC staff to assist Bay Area jurisdictions with preparing the sites inventory required for their Housing Element updates. The

HESS Tool is not used as an input in the RHNA methodology, and thus played no role in determining Monte Sereno's RHNA. When Monte Sereno activated its HESS account, the City received an email noting that the tool was under active development and the data presented was preliminary. ABAG anticipates releasing version 1.0 of the HESS Tool this month. Local jurisdictions will be able to review this data and submit corrections directly to ABAG for future iterations of the HESS Tool. Even with the updates in version 1.0, the HESS Tool still plays no role in RHNA.

It is also important to note that the HESS Tool evaluates potential sites based on *existing* local development policies. Housing Element Law specifically prohibits ABAG from limiting RHNA based on the existing zoning or land use restrictions that are shown in the HESS Tool. 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. 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>5</sup>

As such, the City must consider other opportunities for development, such as use of underutilized land, infill development and increased residential densities. Furthermore, accessory dwelling units can play a role to accommodating housing growth in a jurisdiction with limited vacant land.

In addition to considering non-vacant sites, sites identified in the HESS Tool as "environmentally constrained" may still be developable. The HESS Tool designates sites as environmentally constrained if they possess hazard risks or other restrictive environmental conditions such as critical habitats and California protected areas. Local jurisdictions are generally advised to avoid locating new housing on these sites where possible. However, local jurisdictions may find that siting housing on sites with hazards is unavoidable in order to accommodate their housing need, in which case appropriate mitigation measures should be considered. For additional

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

guidance on how to integrate resilience into the Sites Inventory and the Housing Element more broadly, refer to ABAG's Resilient Housing Instruction Guide and associated resources.<sup>6</sup>

The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands Monte Sereno'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 identify areas at risk of natural hazards as a potential constraint to housing development."<sup>7</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.<sup>8</sup> Ultimately, HMC members 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.

The Final Blueprint Growth Geographies exclude CAL FIRE designated "Very High" fire severity areas in incorporated jurisdictions, and "High" and "Very High" fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Monte Sereno.<sup>9</sup>

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, the 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. In developing its Housing Element, Monte Sereno has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the City can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

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<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>.

<sup>7</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>8</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

<sup>9</sup> The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.



Per Government Code Section 65584.04(e)(2)(B), the City must consider the availability of underutilized land, opportunities for infill development, and increased residential densities to accommodate its RHNA. Monte Sereno does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>10</sup>

**Issue 4:** *The City argues that ABAG failed to adequately consider its water capacity. Monte Sereno also asserts its ability to provide water supplies to new residential development has become progressively constrained, representing a change in circumstances that merits a reduction in its RHNA.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to “Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.”

The arguments put forward by the City of Monte Sereno do not meet the requirements for a valid RHNA appeal because the City has not demonstrated that a water service provider has made a decision that precludes it from accommodating its RHNA allocation. Importantly, future population growth does not necessarily mean a similar increase in water consumption: while the region’s population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.<sup>11</sup> A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area’s population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water

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<sup>10</sup> See HCD’s [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

<sup>11</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.

supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>12</sup>

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>13</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan

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<sup>12</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>13</sup> See the [Drought Contingency Plan](#) for more information.

will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

**Issue 5:** *Monte Sereno cites an Embarcadero Institute report and argues that the statewide methodology for calculating RHND is flawed and that HCD overestimates statewide housing need.*

**ABAG-MTC Staff Response:** As HCD noted in its comment letter on submitted appeals, “The council of government may file an objection within 30 days of HCD issuing the RNHD, per Government Code section 65584.01(c)(1). ABAG did not object to the RHND. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation. There are no further appeal procedures available to alter the ABAG region’s RHND for this cycle.”<sup>14</sup>

**Issue 6:** *Monte Sereno argues that the RHNA methodology fails to meet the jobs/housing RHNA objective.*

**ABAG-MTC Staff Response:** See the response under Issue 1.

**Issue 7:** *Monte Sereno argues that the RHNA methodology fails to account for lack of access to transit.*

**ABAG-MTC Staff Response:** See the response under Issue 2.

**Issue 8:** *The City argues there is increased fire hazard potential in Monte Sereno because of ongoing drought, and this increased hazard represents a change in circumstances requiring a reduction in its RHNA.*

**ABAG-MTC Staff Response:** As HCD notes in its comment letter on appeals that identified increased wildfire risk as an issue, “these issues do not affect one city, county, or region in isolation. ABAG’s allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts.”<sup>15</sup> Wildfire hazard in California is increasing, but the increasing fire hazard alone does not directly correlate to increasing fire risk. Risk is a function of hazard, susceptibility, consequence, and adaptive capacity. The hazard has been increasing over time while the response was constant for many years. However, recently the State of California and local governments have begun to take more aggressive actions to reduce susceptibility and

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<sup>14</sup> See [HCD’s comment letter on appeals](#) for more details.

<sup>15</sup> See [HCD’s comment letter on appeals](#) for more details.

consequences, which in turn may keep overall wildfire risk constant during the coming RHNA cycle.

**Issue 9:** *Monte Sereno argues drought conditions represent a change in circumstances because the City identified water supply as an “opportunity” in its Local Jurisdiction Survey, but with the continuing drought, water supply has become a constraint to housing development.*

**ABAG-MTC Staff Response:** See the response under Issue 4.

**Issue 10:** *Monte Sereno argues that the housing allocation to each jurisdiction does not satisfy intent of Government Code Section 65584(a)(2). The City asserts that units should be allocated to Santa Clara County (i.e., the region), then units assigned to Monte Sereno could be allocated to other cities in the county that can accommodate them.*

**ABAG-MTC Staff Response:** Government Code Section 65584.03 describes the process by which jurisdictions within a county or multiple counties can form a subregion, and the subregion can then create its own methodology for distributing RHNA units to its jurisdictions. For the 6<sup>th</sup> Cycle RHNA, the jurisdictions in Solano County formed the only subregion in the Bay Area. Santa Clara County jurisdictions had the opportunity to form a subregion and declined to do so prior to the deadline for making this decision. As a result, the City of Monte Sereno’s RHNA is determined by ABAG’s Final RHNA Methodology rather than a subregional methodology. Santa Clara County jurisdictions’ decision not to form a subregion does not represent one of the bases for appeal established by statute, and thus the absence of a subregion in Santa Clara County does not merit a reduction in RHNA for the City of Monte Sereno.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by City of Monte Sereno to reduce its Draft RHNA Allocation by 97 units (from 193 units to 96 units).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Palo Alto RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Palo Alto requests the reduction of its Draft RHNA Allocation by 1,500 units. The City of Palo Alto's appeal was heard by the ABAG Administrative Committee on October 22, 2021, at a noticed public hearing. The City of Palo Alto, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Palo Alto's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals

comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5189250&GUID=10CC5C5C-B043-490B-823F-755CBCAB9C11&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9904746&GUID=7A0A5776-AB7C-414C-9A9C-3B52A5C0426C>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Palo Alto had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Palo Alto presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Palo Alto's appeal. The Administrative Committee considered the documents submitted by the City of Palo Alto, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Palo Alto and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9611](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9611). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-day-5-morning-session-certifiedpdf> (morning session) and <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-hearing-day-5-afternoon-session-certifiedpdf> (afternoon session).

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Palo Alto, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- Regarding Issue #1: Issues with Final Blueprint Growth Pattern* – Households on the parcels in question are all related to Final Blueprint baseline data from the baseline analysis year of 2015, and no growth is forecasted on any of the parcels between 2015 and 2050. Because year 2015 conditions are confirmed at the jurisdiction level, the location of the approximately 27,000 existing households within the city has no impact on the jurisdiction's total households in 2015. The Bay Area has millions of parcels and identifying a potential data issue on specific parcels is not a valid case for a RHNA appeal. The RHNA allocation is at the jurisdiction level and does not dictate where a jurisdiction sites housing. While the City's arguments fall outside the scope of a RHNA appeal, ABAG-MTC staff reviewed each of them to better understand the specifics of the eight sites in the Final Blueprint. For Site 1, Palo Alto identified 77 housing units at Herbert Hoover Elementary School. ABAG-MTC staff review indicates that the units are not located on the school site, but rather are located on a parcel adjacent to the school. For Site 2, Palo Alto identified 16 housing units at Frank Greene Middle School and argues these units represent an error since Palo Alto lacks jurisdictional control of this site. These units should have been located elsewhere in Palo Alto but do not affect the jurisdiction's total households, and thus have no impact on the City's RHNA as described previously. For Sites 3 to 8, Palo Alto identified six more sites which it argues have unrealistic numbers of units in 2050 based on the size of the parcels. Although these households might be attributed to the wrong parcel – or in some cases, assigned to single parcel instead of being distributed across multiple adjacent parcels – it does not change the total number of 2015 households or Palo Alto's RHNA.
- Regarding Issue #2: Jobs-Housing Relationship* – This argument challenges the Plan Bay Area 2050 Final Blueprint land use forecasting methodology, and critiques of the Plan Bay Area 2050 land use forecasting methodology fall outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG's methodology does further the objectives. ABAG-MTC staff incorporated Palo Alto's office cap in forecasting assumptions for the Plan Bay Area 2050 Final Blueprint. The land use modeling for Plan Bay Area 2050 showed that some sites that were not available for office development because of the cap would still be attractive to developers for residential use instead. While ABAG-MTC staff recognize how the City's office development cap can help make headway on the City's jobs-housing imbalance by limiting job growth, the Final RHNA Methodology would enable further headway on this key policy issue by requiring the City to identify sites to increase housing opportunities for persons at all income levels.
- Regarding Issue #3: RHNA-Plan Bay Area Consistency* – The RHNA Methodology considers both the distribution of household growth assumed for regional transportation plans as well as opportunities to maximize use of public transportation by incorporating the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the



baseline allocation. Housing Element Law requires RHNA to be consistent with the Plan Bay Area 2050 development pattern, but statute does not specify how to determine consistency, giving ABAG discretion to define its own approach. The approach used throughout the RHNA methodology development compares RHNA allocations to Final Blueprint growth forecasts adopted at the county and subcounty (i.e., superdistrict) levels. Using this approach, RHNA is consistent with Plan Bay Area 2050 if the 8-year growth from RHNA does not exceed the Plan's 35-year housing growth at the county or subcounty levels. This evaluation shows RHNA is consistent with Plan Bay Area 2050, including in the Northwest Santa Clara County and North Santa Clara County superdistricts where Palo Alto is located.

- *Regarding Issue #4: Impacts of COVID-19* – HCD's comment letter on Bay Area jurisdictions' appeals indicates RHNA appeals based on changes caused by COVID-19 do not fall within the appeal criteria defined by statute. HCD states, "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." Additionally, potential impacts of COVID-19, including an accelerated shift toward telecommuting and associated economic boom/bust cycle, are incorporated into the RHNA methodology through integration of the Plan Bay Area 2050 Final Blueprint. Impacts from COVID-19 are not unique to any single jurisdiction, and the appeal does not indicate Palo Alto's housing need has been disproportionately impacted relative to the rest of the Bay Area. The pandemic is not cause for a reduction in RHNA for any particular jurisdiction. Furthermore, critiques of the Plan Bay Area 2050 land use forecasting methodology fall outside the scope of RHNA appeals process.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Palo Alto's appeal and finds that the City of Palo Alto's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Palo Alto Appeal of Draft RHNA Allocation and Staff Response

DATE: October 22, 2021

## OVERVIEW

**Jurisdiction:** City of Palo Alto

**Summary:** City of Palo Alto requests the decrease of its Draft RHNA Allocation by 1,500 units (25 percent) from 6,086 units to 4,586 units based on the following issues:

- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Palo Alto	1,556	896	1,013	2,621	6,086

### Local Jurisdiction Survey

The City of Palo Alto did not 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, and there were seven that specifically relate to the appeal filed by the Town of Corte Madera. All seven comments oppose the City's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *Palo Alto argues that errors in the modeling for the Plan Bay Area 2050 Final Blueprint result in an allocation that is inconsistent with the adopted RHNA methodology. Specifically, Palo Alto asserts the Final Blueprint forecasts housing on parcels that are outside the City's jurisdictional control and that there are several sites that have unrealistic projections based on parcel size.*

**ABAG-MTC Staff Response:** Households on the parcels in question are all related to Final Blueprint baseline data from the baseline analysis year of 2015, and no growth is forecasted on any of the parcels between 2015 and 2050. When developing the Final Blueprint, ABAG-MTC staff used data from the California Department of Finance (DOF) to confirm the total number of housing units, as well as households, in each county and city in 2015. It is possible that, in some cases, these households are placed on an incorrect parcel in the UrbanSim model in the baseline year.

However, because year 2015 conditions are confirmed at the jurisdiction level, the location of the approximately 27,000 existing Palo Alto households *within* the city has no impact on the jurisdiction's *total* households in 2015. Since the Final Blueprint does not forecast household growth on these sites, the fact that the model assigned households to these sites has no impact on Palo Alto's total households in 2050 (the baseline allocation for RHNA) and thus no impact on Palo Alto's draft RHNA allocation.

While these arguments fall outside the scope of a RHNA appeal since they do not have any impact on the City's allocation, ABAG-MTC staff reviewed each of them to better understand the specifics of each site in the Final Blueprint:

- Palo Alto identified 77 housing units at Herbert Hoover Elementary School and argues these units represent an error since Palo Alto lacks jurisdictional control of this site. The 77 units that Palo Alto states are located at the Herbert Hoover Elementary address are *not* located on the school site. Instead, these units are on a parcel occupied by Stevenson House, an existing affordable senior housing development adjacent to the school.
- Palo Alto identified 16 housing units at Frank Greene Middle School and argues these units represent an error since Palo Alto lacks jurisdictional control of this site. These units should have been located elsewhere in Palo Alto but do not affect the jurisdiction's total households, and thus have no impact on the City's RHNA.
- Palo Alto identified six more sites which it argues have unrealistic numbers of units in 2050 based on the size of the parcels. As noted above, the households on these sites were included in the baseline data for 2015. Although these households might be attributed to the wrong parcel – or in some cases, assigned to single parcel instead of being distributed across multiple adjacent parcels – it does not change the total number of households in Palo Alto in 2015. Thus, there is no impact on the City's RHNA allocation.

Ultimately, the region has millions of parcels and identifying a potential issue on one or more specific parcels does not constitute a valid case for a RHNA appeal, as the allocation is at the jurisdiction level and the jurisdiction could find alternative parcels for accommodating its RHNA. The forecasted development for a parcel in Plan Bay Area 2050's land use modeling does not dictate where a local jurisdiction sites housing. The jurisdiction can instead use full discretion in its Housing Element update to determine the sites for future development. Palo Alto has not sufficiently demonstrated that these parcel-level issues have a substantive impact on the RHNA allocation or the jurisdiction's ability to identify sites.

**Issue 2:** *Palo Alto argues that ABAG-MTC's treatment of the Palo Alto office development caps in Plan Bay Area 2050 Final Blueprint resulted in more housing projected for the City. Palo Alto states that this outcome does not further the statutory objective to improve the intraregional relationship between jobs and housing.*

**ABAG-MTC Staff Response:** This argument by Palo Alto challenges the Plan Bay Area 2050 Final Blueprint land use forecasting methodology. A valid appeal must show ABAG made an error in the application of the RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD in determining the jurisdiction's allocation; a critique of the Plan Bay Area 2050 land use forecasting methodology falls outside the scope of the appeals process.

Based upon information from the City of Palo Alto related to its office development cap, ABAG-MTC staff specifically incorporated the cap in the forecasting assumptions for the Plan Bay Area 2050 Final Blueprint to reflect existing land use policies. In its appeal, the City argues that a limit on additional job growth should have reduced its RHNA allocation. However, the land use modeling for Plan Bay Area 2050 showed that some sites that were not available for office development because of the cap would still be attractive to developers but for residential use instead. While ABAG-MTC staff recognize how the City's office development cap can help make headway on the City's jobs-housing imbalance by limiting job growth, the Final RHNA Methodology would enable further headway on this key policy issue by requiring the City to identify sites to increase housing opportunities for persons at all income levels.

Furthermore, 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>1</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:

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<sup>1</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

*The draft ABAG methodology<sup>2</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.*

**Issue 3:** *Palo Alto argues that the RHNA methodology does not adequately consider 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,” as described in Government Code Section 65584.04(e)(3). Specifically, the City states that its forecasted household growth from the Plan Bay Area 2050 Blueprint is 12,809 households, and the City contends its draft RHNA is inconsistent with the Plan Bay Area 2050 growth forecast since Palo Alto’s eight-year RHNA allocation represents almost half of its 35-year forecasted growth from Plan Bay Area 2050.*

**ABAG-MTC Staff Response:** The statutory factor cited in the City’s argument centers on whether the RHNA Methodology considers the distribution of household growth from regional plans like Plan Bay Area 2050 as well as opportunities to maximize transit use. The Final RHNA Methodology addresses this statutory requirement because the methodology directly incorporates the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation.

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. This land use pattern is developed with complementary transportation investments in an effort to ensure past and future transportation investments are maximized. Additionally, the inclusion of job proximity by transit as a factor in the Final RHNA Methodology directs more housing to the jurisdictions with the most jobs that can be accessed with a 45-minute commute by transit. The Job Proximity – Transit factor encourages growth that capitalizes on the Bay Area’s existing transit infrastructure.

While Government Code Statute 65584.04(m) requires that the RHNA plan allocate units consistent with the development pattern included in the Sustainable Community Strategy, the statute does not specify how to determine consistency. In the absence of statutory direction,

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<sup>2</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.

ABAG has discretion to identify the framework to be used for establishing that RHNA is consistent with Plan Bay Area 2050.

Plan Bay Area 2050 includes adopted growth forecasts at the county and subcounty levels, not the jurisdiction level where RHNA is statutorily focused.<sup>3</sup> Therefore, staff developed an approach for determining consistency between RHNA and Plan Bay Area 2050 that received support from the Housing Methodology Committee, the Regional Planning Committee, and the Executive Board. This approach compares the 8-year RHNA allocations to the 35-year housing growth from the Plan Bay Area 2050 Final Blueprint at the county and subcounty geographies used in the plan. If the 8-year growth level from RHNA does not exceed the 35-year housing growth level at either of these geographic levels, then RHNA and Plan Bay Area 2050 are determined to be consistent. Staff evaluated the draft RHNA allocations using this approach and found the RHNA allocations are fully consistent with Plan Bay Area 2050, including the allocations to the Northwest Santa Clara County (which encompasses most of Palo Alto) and North Santa Clara County superdistricts (where the remainder of Palo Alto is located). See Table 1 below for more details.

**Table 1. Superdistrict Forecasted Growth in Final Blueprint Compared to Draft RHNA\***

Superdistrict	County	Superdistrict Name	Blueprint Final 2015- 2050 Growth	Draft RHNA
<b>8</b>	Santa Clara	Northwest Santa Clara County	28,000	18,039
<b>9</b>	Santa Clara	North Santa Clara County	212,000	23,355

*\* The Northwest Santa Clara County superdistrict contains the following jurisdictions: Los Altos Hills, Los Altos, Palo Alto (partial), Mountain View (partial), and portions of unincorporated Santa Clara County. The North Santa Clara County superdistrict contains the following jurisdictions: Sunnyvale, Santa Clara (partial), Mountain View (partial), Milpitas (partial), San Jose (partial), Palo Alto (partial), and portions of unincorporated Santa Clara County.*

RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. The factors in the RHNA methodology – Access to High Opportunity Areas and Job Proximity – adjust a jurisdiction’s baseline allocation from the Final Blueprint to emphasize near-term growth during the 8-year RHNA period in locations with the most access to resources (to affirmatively further fair housing) and jobs (to improve the intraregional relationship between jobs and housing). Palo Alto’s high share

<sup>3</sup> View the table of 35-year household growth at [https://www.planbayarea.org/sites/default/files/pdfs\\_referenced/FinalBlueprintRelease\\_December2020\\_GrowthPattern\\_Jan2021Update.pdf](https://www.planbayarea.org/sites/default/files/pdfs_referenced/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf)

of existing households living in areas designated as Highest Resource or High Resource on the State's Opportunity Map<sup>4</sup> and access to a significant share of the region's jobs relative to other jurisdictions in the region adjusts its baseline allocation upward, resulting in more RHNA units.

**Issue 4:** *Palo Alto argues that the impacts of COVID-19 represent a significant change in circumstances meriting a reduction in its RHNA. The City asserts that high rates of telecommuting will result in decreased demand for housing in and near Palo Alto. The City also states that changes to Strategy EN7 in the Plan Bay Area 2050 Final Blueprint were not sufficient to capture the impact of telecommuting, arguing that a telecommuting rate higher than 17% should be assumed in the Plan Bay Area 2050 Final Blueprint.*

**ABAG-MTC Staff Response:** ABAG-MTC Staff appreciates Palo Alto's concerns about the significant economic and societal changes resulting from COVID-19. 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>5</sup>

Potential impacts of COVID-19, including 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 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.

Palo Alto's argument that Plan Bay Area 2050 should assume a higher rate of telecommuting challenges the Final Blueprint land use forecasting methodology. A valid appeal must show ABAG made an error in the application of the RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD in determining the jurisdiction's allocation; a

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<sup>4</sup> For more information about the Opportunity Map, visit <https://www.treasurer.ca.gov/ctcac/opportunity/2020.asp>.

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

critique of the Plan Bay Area 2050 land use forecasting methodology falls outside the scope of the RHNA appeals process.

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. Palo Alto has not provided evidence to suggest that COVID-19 reduces the jurisdiction'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 jurisdiction'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.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by City of Palo Alto to reduce its Draft RHNA Allocation by 1,500 units (from 6,086 units to 4,586 units).



TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Saratoga RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The City of Saratoga requests the reduction of its Draft RHNA Allocation by 856 units. The City of Saratoga's appeal was heard by the ABAG Administrative Committee on October 22, 2021, at a noticed public hearing. The City of Saratoga, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the City of Saratoga's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA appeals

comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5189251&GUID=78BB5B70-DA95-4A85-80A1-63FB125B761A&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9904746&GUID=7A0A5776-AB7C-414C-9A9C-3B52A5C0426C>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the City of Saratoga had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The City of Saratoga presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the City of Saratoga's appeal. The Administrative Committee considered the documents submitted by the City of Saratoga, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by City of Saratoga and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9611](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9611). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-day-5-morning-session-certifiedpdf> (morning session) and <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-hearing-day-5-afternoon-session-certifiedpdf> (afternoon session).

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the City of Saratoga, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Jobs-Housing Relationship and Lack of Available Land* – The City of Saratoga’s argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. The development constraints described in the City’s appeal are considered in the Plan Bay Area 2050 Final Blueprint, which is the baseline allocation in the RHNA methodology. Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit its consideration of suitable housing sites to a jurisdiction’s existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. The City does not provide evidence it is unable to consider underutilized sites, increased densities, accessory dwelling units, and other planning tools to accommodate its assigned need.
- *Regarding Issue #2: Transit-Rich Area Designation* – VTA Route 57 has bus stops within the City with peak service of 15 minutes or less based on VTA frequency improvements in Plan Bay Area 2050, which meets the definition for a Transit-Rich Area Growth Geography. Directing growth to Growth Geographies is essential to addressing priorities required of Plan Bay Area 2050 and RHNA: promoting efficient development patterns, reducing greenhouse gas emissions, and affirmatively furthering fair housing. HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG’s methodology does further the objectives.
- *Regarding Issue #3: Areas at Risk of Natural Hazards* – Areas at risk of natural hazards are largely not identified in Housing Element Law as a constraint to housing. Given the variety of natural hazard risks the Bay Area faces, it is not possible to address the region’s housing needs and avoid planning for new homes in places at risk. The City has the authority to plan for housing in places with lower risk. Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit its consideration of suitable housing sites to a jurisdiction’s existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. The City has not provided evidence that it cannot accommodate its RHNA in locations within the jurisdictions that are subject to lower risk of natural hazards.
- *Regarding Issue #4: Drought* – Government Code Section 65584.04(e)(2)(A) states that ABAG must consider opportunities and constraints to development of housing due to “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.” HCD

notes in its comment letter on appeals that identified drought as an issue, “these issues do not affect one city, county, or region in isolation.” There is no indication that the current mandatory reduction instituted by Santa Clara Valley Water would extend for the next ten years until the end of the RHNA planning period in 2031. Saratoga has not demonstrated that a water service provider has made a decision that precludes it from accommodating its RHNA allocation.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the City of Saratoga’s appeal and finds that the City of Saratoga’s RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: City of Saratoga Appeal of Draft RHNA Allocation and Staff Response

DATE: October 22, 2021

## OVERVIEW

**Jurisdiction:** City of Saratoga

**Summary:** The City of Saratoga requests the reduction of its Draft RHNA Allocation by 856 units (50 percent) from 1,712 units to 856 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - Existing and projected jobs and housing relationship.
  - Availability of land suitable for urban development or for conversion to residential use.
  - The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Saratoga	454	261	278	719	1,712

### Local Jurisdiction Survey

City of Saratoga submitted 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 and there were 12 comments that specifically relate to the appeal filed by the City of Saratoga. Eleven comments support the City's appeal, and one opposes it. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The City of Saratoga argues the RHNA methodology fails to consider the jobs-housing relationship and the availability of land for housing development in Saratoga. The City asserts it will have to rezone limited commercial land for housing to accommodate its RHNA, which would lead to a reduction in services and jobs within the jurisdiction and a consequent increase in commutes and personal trips for current and future residents. The City argues that these outcomes directly conflict with the RHNA objective to reduce greenhouse gas emissions (GHG).*

**ABAG-MTC Staff Response:** This argument by the Town 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>1</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:

*The draft ABAG methodology<sup>2</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, and when exporting data about total households in 2050 for the RHNA baseline, appropriate jurisdiction boundaries were used. The Final Blueprint emphasizes growth near job centers and in locations near transit, including in high-resource areas, with the intent of reducing

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<sup>1</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

<sup>2</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.

greenhouse gas (GHG) emissions. 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 RHNA methodology also adequately considers the availability of land suitable for urban development in Saratoga. As noted above, the Final RHNA Methodology integrates data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, such as steep hillsides. These feasibility and cost assessments are used to forecast Saratoga's share of the region's households in 2050, which is an input into its RHNA allocation.

Importantly, 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. 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>3</sup>

RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects current and future housing demand in the Bay Area.

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<sup>3</sup> See [HCD's comment letter on appeals](#) for more details.



Per Government Code Section 65584.04(e)(2)(B), the City of Saratoga must consider other opportunities for development. This includes the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density. While the City asserts it is built out and has little urban land available for development, it does not provide evidence it is unable to consider underutilization of sites, increased densities, accessory dwelling units, and other planning tools to accommodate its assigned need.<sup>4</sup>

**Issue 2:** *Saratoga argues it has been incorrectly identified as a Transit-Rich Area. The City asserts that this designation is counterproductive to greenhouse gas reduction goals, as Saratoga residents need to drive as a result of the limited public transportation options.*

**ABAG-MTC Staff Response:** As noted by the City, a portion of Saratoga is identified as a Transit-Rich and High-Resource Area in the Plan Bay Area 2050 Final Blueprint. Staff has reviewed the mapping and has identified that it is accurate and consistent with the adopted Growth Geography definition established by MTC/ABAG in February 2020, September 2020, and January 2021. The Plan Bay Area 2050 Blueprint Growth Geographies were determined based on transit service frequencies reported in January 2020, combined with any service improvements submitted by County Transportation Agencies (CTAs) and included in the fiscally-constrained Transportation Element of Plan Bay Area 2050. Specifically, VTA Route 57 has bus stops within the City's boundary with a peak service frequency of 15 minutes or less, thanks to envisioned VTA frequency improvements featured in Plan Bay Area 2050. This qualifies the areas near these stops to be identified as a Transit-Rich Area.

Directing growth to these types of Growth Geographies is an essential component to addressing the policy priorities required for Plan Bay Area 2050 and RHNA, including promoting efficient development patterns, reducing greenhouse gas emissions, and affirmatively furthering fair housing. As noted earlier, HCD affirmed that the RHNA methodology furthers these statutory objectives. In regard to the objective related to encouraging efficient development patterns and achieving greenhouse gas emissions reduction targets, HCD stated:

*The draft ABAG methodology<sup>5</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

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<sup>4</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

<sup>5</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.

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit."*

**Issue 3:** *Saratoga states that approximately half of the city is in a Wildland Urban Interface (WUI) and at high or very high risk for wildfires, including downtown. Saratoga argues that areas like WUI cannot sustain increased housing density, and that planning for RHNA allocation outside the WUI is unrealistic given the financial realities of residential construction.*

**ABAG-MTC Staff Response:** 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 identify areas at risk of natural hazards as a potential constraint to housing development."<sup>6</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.<sup>7</sup> Ultimately, HMC members 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.

The Final Blueprint Growth Geographies exclude CAL FIRE designated "Very High" fire severity areas in incorporated jurisdictions, and "High" and "Very High" fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Saratoga.

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<sup>6</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>7</sup> See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

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, the 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. In developing its Housing Element, Saratoga has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the City can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard by choosing strategies related to the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density or by increasing building standards for sites within at-risk areas to cope with the hazard.

The City asserts that areas inside the Wildland Urban Interface cannot sustain increased housing density, and the City also argues that planning for the addition of more than 1,700 new homes in other sections of Saratoga that are outside of the Wildland Urban Interface is unrealistic given the financial realities of residential construction. However, the City has not provided evidence that it cannot accommodate its RHNA in locations within the jurisdiction that are subject to lower risk of natural hazards.

***Issue 4:*** *The City of Saratoga states that Santa Clara Valley Water recently instituted a mandatory reduction in water use and argues that the City cannot accommodate an increased demand for water.*

***ABAG-MTC Staff Response:*** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to “Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.”

However, the arguments put forward by the City of Saratoga do not meet the requirements for a valid RHNA appeal. While the City notes there is currently a 15% reduction in water use mandated by Santa Clara Valley Water, there is no indication that restrictions would extend for the next ten years until the end of the RHNA planning period in 2031. Accordingly, the City has not provided evidence indicating that a lack of water capacity precludes Saratoga from accommodating its RHNA allocation for the entirety of the 2023-2031 Cycle 6 RHNA.

Furthermore, future population growth does not necessarily mean a similar increase in water consumption: while the region’s population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent. A review by ABAG-MTC staff of 54 Urban Water Management Plans (UWMPs) from 2015 and 2020 produced by water retailers that

cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>8</sup>

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused

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

basis.<sup>9</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all.

## RECOMMENDED ACTION

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by City of Saratoga to reduce its Draft RHNA Allocation by 856 units (from 1,712 units to 856 units).

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<sup>9</sup> See the [Drought Contingency Plan](#) for more information.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: County of Santa Clara RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The County of Santa Clara requests the reduction of its Draft RHNA Allocation by 2,000 units. The County of Santa Clara's appeal was heard by the ABAG Administrative Committee on October 22, 2021, at a noticed public hearing. The County of Santa Clara, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the County of Santa Clara's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this



appeal during the RHNA appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5189252&GUID=78AB3ABA-B3E8-4ACF-AE01-FA7DB30E672E&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9904746&GUID=7A0A5776-AB7C-414C-9A9C-3B52A5C0426C>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the County of Santa Clara had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The County of Santa Clara presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the County of Santa Clara's appeal. The Administrative Committee considered the documents submitted by the County of Santa Clara, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by County of Santa Clara and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, Supervisor Otto Lee recused himself from participating in consideration of the County of Santa Clara's appeal.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9611](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9611). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-day-5-morning-session-certifiedpdf> (morning session) and <https://abag.ca.gov/tools-resources/digital-library/10-22-21-rhna-appeals-hearing-day-5-afternoon-session-certifiedpdf> (afternoon session).

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the County of Santa Clara, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative



Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Lack of Available Land* – The County's draft allocation is consistent with Housing Element Law that assigns responsibility for RHNA units to the jurisdiction with land use authority. Statute allows unincorporated county to transfer RHNA responsibility to city/town when land is annexed, or to enter into voluntary agreement to reduce RHNA. The development constraints described in the County of Santa Clara's appeal are considered in the Plan Bay Area 2050 Final Blueprint, which is the baseline allocation in the RHNA methodology. Final Blueprint growth is constrained by the County's Urban Service Areas as a *de facto* Urban Growth Boundary. Government Code Section 65584.04(e)(2)(B) states ABAG may not limit its consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions and jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. The County does not provide evidence that it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.
- *Regarding Issue #2: Methodology Does Not Further RHNA Objective 2* – The County's argument challenges the Final RHNA Methodology adopted by ABAG and approved by HCD, which falls outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG's methodology does further the objectives. As HCD notes, ABAG's methodology allocates "nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis... Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT." Additionally, the HESS Tool plays no role in determining RHNA, and evaluates sites using *existing* local development policies.

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the County of Santa Clara's appeal and finds that the County of Santa Clara's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee

DATE: October 22, 2021

FR: Deputy Executive Director, Policy

RE: County of Santa Clara Appeal of Draft RHNA Allocation and Staff Response

## OVERVIEW

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**Jurisdiction:** County of Santa Clara**Summary:** County of Santa Clara requests the decrease of its Draft RHNA Allocation by 2,000 units (64 percent) from 3,125 units to 1,125 units based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
  - County policies to preserve prime agricultural land.
  - County-city agreements to direct growth toward incorporated areas of county.
- 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.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

Following adoption of the Final RHNA Methodology on May 20, 2021, the County of Santa Clara received the following draft RHNA allocation on May 25, 2021:

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
County of Santa Clara	828	477	508	1,312	3,125

### Local Jurisdiction Survey

The County of Santa Clara submitted 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, and there were 401 comments that specifically relate to the appeal filed by the County of Santa Clara. 400 comments support the County's appeal and 1 comment opposes it. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The County argues that ABAG failed to adequately consider information on the availability of land suitable for urban development; lands preserved or protected from urban development to protect open space, farmland, environmental habitats; and agreements between the County and cities to direct growth toward incorporated areas of the county.*

**ABAG-MTC Staff Response:** In its appeal, the County of Santa Clara argues that ABAG did not adequately consider information provided in the Local Jurisdiction Survey related to agreements between the County and cities to direct growth toward incorporated areas of the county. However, the County's draft allocation was determined in accordance with Housing Element Law, which assigns responsibility for RHNA units to the jurisdiction with land use authority. The County's approach to site identification of allowing cities and towns to include sites located in the unincorporated county in their Housing Element site inventories is different than the standard practice outlined in Housing Element Law where an unincorporated county retains land use authority over an area until it is annexed by a city or town. The expectation that an unincorporated county will plan for housing in an area until it is annexed is the rationale for the provisions in Housing Element Law that allow a county to transfer responsibility for RHNA units to a city or town when an area is annexed.<sup>1</sup> Housing Element Law also recognizes some of the specific challenges unincorporated areas face by including a provision available only to counties that allows for the County and one or more jurisdictions to voluntarily agree on a transfer of units from the County to the city or town.<sup>2</sup>

The final RHNA methodology adequately considers the potential development constraints described in the County of Santa Clara's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast the County's share of the region's households in 2050, which is an input into its RHNA allocation.

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<sup>1</sup> See [Government Code Section 65584.07\(d\)](#).

<sup>2</sup> See [Government Code Section 65584.07\(a\)](#).

Additionally, using the Plan Bay Area 2050 Final Blueprint as the RHNA baseline integrates several key strategies related to agricultural preservation. First, the growth pattern in the Final Blueprint is significantly driven by Strategy EN4 that maintains all existing urban growth boundaries, without any expansion, over the lifespan of the long-range plan. After much discussion with Santa Clara County staff in 2020, the Plan Bay Area 2050 Final Blueprint used Urban Service Areas as the de facto urban growth boundary in Santa Clara County as part of Strategy EN4. Existing urban growth boundaries help not only to protect prime agricultural lands from development, but also parks and open space. Second, this strategy is supported by Strategy EN5, which envisions \$15 billion in future funding for agricultural land preservation to acquire land for permanent agricultural use.

Though the growth forecasted in Plan Bay Area 2050 is constrained to reflect the County's Urban Service Areas and environmental protections and is focused in areas of existing development, 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. 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>3</sup>

Accordingly, the Plan Bay Area 2050 Blueprint forecasts additional feasible growth within the County's Urban Service Areas by increasing allowable residential densities and expanding housing into select areas currently zoned for commercial and industrial uses through strategies such as Strategy H3, Strategy H6, and Strategy H8.

Part of the reason the County's draft allocation is larger than other jurisdictions in Santa Clara County is because the County has the sixth highest number of existing households (26,300) in the county. Importantly, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. The final RHNA methodology accomplishes this by using total households in 2050 as the baseline allocation

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<sup>3</sup> See [HCD's comment letter on appeals](#) for more details.

because it incorporates both existing households and the forecasted growth in households from the Final Blueprint.

Housing Element Law requires the RHNA allocation to affirmatively further fair housing, which means overcoming patterns of segregation and addressing disparities in access to opportunity. Incorporating existing housing patterns into the RHNA methodology ensures that the allocations further this objective in all communities, not just those expected to experience significant growth. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

The County of Santa Clara's appeal does not provide evidence that ABAG failed to adequately consider information provided in the Local Jurisdiction Survey nor that ABAG failed to determine the jurisdiction's draft allocation in accordance with the adopted final RHNA methodology. Per Government Code Section 65584.04(e)(2)(B), the County of Santa Clara must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. The County does not provide evidence that it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need. In developing its Housing Element, the County has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, it can choose locations and plan for densities that avoid developing on farmlands, grazing lands, conservation lands and critical habitats.

***Issue 2:*** *The County argues that the RHNA methodology does not meet the RHNA objective to promote infill development and socioeconomic equity, protect environmental and agricultural resources, encourage efficient development patterns, and achieve greenhouse gas reduction targets. Specifically, the County argues it will have to identify sites outside of the Urban Service Areas, which will increase vehicle miles traveled and greenhouse gas emissions and loss of rural and agricultural lands.*

**ABAG-MTC Staff Response:** This argument by the County 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>4</sup> Regarding the RHNA objective mentioned in the County's appeal, HCD made the following findings:

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<sup>4</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

*“The draft ABAG methodology<sup>5</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG’s largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG’s Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit.”*

The County of Santa Clara indicates it used the Housing Element Site Selection (HESS) Tool to evaluate potential sites for accommodating its RHNA. Per Government Code Section 65584.05(b), this is not a valid basis for an appeal, because the HESS Tool played no role in determining the County’s RHNA. The HESS Tool is a web-based mapping tool developed by ABAG-MTC staff to assist Bay Area jurisdictions with preparing the sites inventory required for their Housing Element updates. The data from the HESS Tool cited in the County’s appeal comes from a beta version of the HESS Tool that was still under development. When the County activated its HESS account, it received an email noting that the tool was under active development and the data presented was preliminary. ABAG anticipates releasing version 1.0 of the HESS Tool this month. Local jurisdictions will be able to review this data and submit corrections directly to ABAG for future iterations of the HESS Tool. Even with the updates in version 1.0, the HESS Tool still plays no role in RHNA.

The County states in its appeal that it evaluated the share of parcels in unincorporated Santa Clara County within Transit-Rich Areas and High Resource Areas using the beta version of the HESS Tool. Particularly relevant to this part of the County’s appeal, the spatial extent of the Transit-Rich Area and High Resource Area layers included in this version of the HESS Tool are defined differently compared to the Plan Bay Area 2050 Growth Geographies.<sup>6</sup> It is also important

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<sup>5</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.

<sup>6</sup> The adopted Growth Geography criteria—which includes the criteria for Transit-Rich and High-Resource Areas—can be found in ABAG Resolution No 03-2020, and MTC Resolution No. 4410.

to note that the HESS Tool evaluates potential sites based on **existing** local development policies. Housing Element Law specifically prohibits ABAG from limiting RHNA based on the existing zoning or land use restrictions that are shown in the HESS Tool. The County of Santa Clara is welcome to follow up with ABAG-MTC about questions related to the HESS data.

The purpose of the HESS Tool is to provide jurisdictions with contextual information as they work to identify sites for future housing. While the HESS Tool intends to encourage jurisdictions to locate new housing in locations near transit or high-resource neighborhoods where feasible to meet climate and equity goals, accommodation of RHNA is not restricted to these areas by Housing Element law. In developing its Housing Element, the County can choose locations for future growth that have the most access to jobs and areas of opportunity. 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 and other amenities can lead to shorter trips, helping to reduce vehicle miles travelled (VMT) and GHG.

## RECOMMENDED ACTION

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by County of Santa Clara to reduce its Draft RHNA Allocation by 2,000 units (from 3,125 units to 1,125 units).

Although ABAG-MTC staff is not recommending a reduction in the County of Santa Clara's draft RHNA allocation, we understand the County's concerns about accommodating its RHNA in a way that fosters efficient infill and protection of agricultural and environmental resources. As noted previously, Housing Element Law recognizes some of the specific challenges unincorporated areas face by including provisions available only to counties that allow for a transfer of RHNA units to incorporated cities and towns in the county following adoption of the final RHNA allocation.<sup>7</sup> One option allowed by the statute is for the County and one or more jurisdictions to voluntarily agree on a transfer of units from the County to the city or town. A second option is for a County to transfer units following annexation of unincorporated land to a city.

By statute, voluntary transfers can be completed following ABAG's adoption of the final RHNA plan and prior to the Housing Element due date (January 2023) and transfers related to annexations can occur at any point during the RHNA cycle, as long as the request is submitted to ABAG within 90 days of the annexation. ABAG-MTC staff is prepared to work with jurisdictions in Santa Clara County to come to agreement on a voluntary transfer as a way to advance the County's goals for city-centered growth, and to move forward with approval of the transfer expediently following adoption of the final RHNA in December 2021.

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<sup>7</sup> See [Government Code Section 65584.07](#) for more details.

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: County of Sonoma RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.



On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The County of Sonoma requests the reduction of its Draft RHNA Allocation by 1,971 units. The County of Sonoma's appeal was heard by the ABAG Administrative Committee on October 29, 2021, at a noticed public hearing. The County of Sonoma, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the County of Sonoma's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA

appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5196708&GUID=3F8E67B7-DE4C-4EBD-B773-39519AE2C21D&Options=&Search=>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=RXRlbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9904746&GUID=7A0A5776-AB7C-414C-9A9C-3B52A5C0426C>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the County of Sonoma had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The County of Sonoma presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the County of Sonoma's appeal. The Administrative Committee considered the documents submitted by the County of Sonoma, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by County of Sonoma and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, Supervisor David Rabbitt recused himself from participating in consideration of the County of Sonoma's appeal.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9665](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9665). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/sites/default/files/documents/2021-11/10-29-21%20RHNA%20Appeals%20Day%206-%20CERTIFIED.pdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the County of Sonoma, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative

Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1 and #3: Lack of Available Land, Water/Sewer Capacity* – The development constraints named in this appeal were considered in Plan Bay Area 2050 Final Blueprint, the baseline allocation for RHNA. The Final Blueprint integrates strategies related to agricultural/open space preservation and limiting development to urban growth boundaries; using Urban Service Areas would have allowed growth in more areas. Some growth is forecasted outside the urban growth boundary in the County's Airport Priority Development Area (PDA) near the SMART station. Government Code Section 65584.04(e)(2)(B) states that jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing.
- *Regarding Issue #2: Areas at Risk of Natural Hazards* – Areas at risk of natural hazards are generally not identified in Housing Element Law as a constraint to housing development. The County has not provided evidence that FEMA or the Department of Water Resources has determined the County's flood management infrastructure is inadequate to avoid risk of flooding. Given the variety of natural hazard risks in the Bay Area, it is not possible to address the region's housing needs and avoid planning for new homes in places at risk. The County has the authority to plan for housing in places with lower risk. Government Code Section 65584.04(e)(2)(B) states that ABAG may not limit consideration of suitable housing sites to a jurisdiction's existing zoning and land use restrictions and must consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. Jurisdictions must consider underutilized land, opportunities for infill development, and increased residential densities as a component of available land for housing. The County does not provide evidence it is unable to consider underutilization of existing sites, increased densities, ADUs, and other planning tools to accommodate its assigned need.
- *Regarding Issue #4: Affirmatively Furthering Fair Housing* – This argument challenges the final RHNA methodology adopted by ABAG and approved by HCD, and thus falls outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD concluded ABAG's RHNA methodology achieves the statutory objective to promote affirmatively furthering fair housing. The County has authority over where it sites lower-income RHNA in its Housing Element update. The RHNA methodology does not dictate where lower-income units are located within unincorporated Sonoma County. ABAG-MTC staff commends the County's commitment to siting lower-income housing away from areas at risk of hazards. However, some housing in hazard risk areas may be necessary, and the County can choose locations at lower risk. With modern building standards, residents in new housing are likely to be safer from hazards. Similarly, the County is to be commended for

focusing lower-income housing in areas with the most access to opportunity. However, affirmatively furthering fair housing can also include providing affordable housing in areas where low-income residents of disadvantaged communities are most vulnerable to displacement.

- *Regarding Issues #5, #6, #7, and #8: Methodology Does Not Further RHNA Objectives* – These arguments challenge the Final RHNA Methodology adopted by ABAG and approved by HCD, and thus fall outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG’s methodology does further the objectives.
- *Regarding Issue #9: Drought* – Government Code Section 65584.04(e)(2)(A) states that ABAG must consider opportunities and constraints to development of housing due to a “lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.” The County has not demonstrated it is precluded from accommodating its RHNA allocation because of a decision by its water service provider. HCD’s comments on Bay Area jurisdictions’ RHNA appeals note that “ABAG’s allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons.” Drought poses significant challenges to Bay Area communities, but these issues do not affect one city or county in isolation. Action can be taken to efficiently meet the region’s future water demand, even in the face of additional periods of drought.
- *Regarding Issue #10: Change in Circumstances - Annexation* – The four annexed parcels have no households in 2050 in the Plan Bay Area 2050 Final Blueprint. These parcels do not contribute to 2050 households (the baseline allocation in the RHNA methodology) for either the County of Sonoma or Cloverdale. Thus, the annexation by Cloverdale has no impact on the RHNA for either jurisdiction, and the annexation does not represent a change in circumstances meriting a revision of the County’s allocation. ABAG-MTC staff is available to assist Sonoma County and the City of Cloverdale with a transfer of units in accordance with Government Code Section 65584.07(a).

## **Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the County of Sonoma’s appeal and finds that the County of Sonoma’s RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: County of Sonoma Appeal of Draft RHNA Allocation and Staff Response

DATE: October 29, 2021

## OVERVIEW

**Jurisdiction:** County of Sonoma

**Summary:** The County of Sonoma submitted two separate RHNA appeals. ABAG-MTC staff has provided a consolidated response to all issues raised in both appeals. The first appeal requests a decrease of the County's Draft RHNA Allocation by 1,971 units (51 percent) from 3,881 units to 1,910 units and the second appeal requests a transfer of 60 units to the City of Cloverdale based on an annexation that occurred in May 2021. The County's appeal request is based on the following issues:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey related to:
  - 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.
  - County policies to preserve prime agricultural land.
  - Affirmatively furthering fair housing.
- 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.
- A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted in the Local Jurisdiction Survey.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
County of Sonoma	1,036	596	627	1,622	3,881

## Local Jurisdiction Survey

The County of Sonoma submitted 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, and there were 12 comments that specifically relate to the appeal filed by the County of Sonoma. Ten comments oppose the County's appeal and two support it. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The County of Sonoma argues that ABAG failed to adequately consider information provided in the Local Jurisdiction Survey related to the availability of land suitable for urban development or residential use. Specifically, the County asserts that ABAG failed to consider the County's Urban Service Areas and Community Separators in the modeling for the Plan Bay Area 2050 Final Blueprint.*

**ABAG-MTC Staff Response:** The final RHNA methodology adequately considers the potential development constraints described in the County of Sonoma's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast the County's share of the region's households in 2050, which is an input into its RHNA allocation.

Additionally, using the Plan Bay Area 2050 Final Blueprint as the RHNA baseline integrates several key strategies related to agricultural preservation. First, the growth pattern in the Final Blueprint is significantly driven by Strategy EN4 that maintains all existing urban growth boundaries, without any expansion, over the lifespan of the long-range plan. Existing urban growth boundaries, which take a variety of forms across the region but are relatively common in the Bay Area, help not only to protect prime agricultural lands from development, but also parks and open space. Second, this strategy is supported by Strategy EN5, which envisions \$15 billion in future funding for agricultural land preservation to acquire land for permanent agricultural use.

As mentioned in the County's appeal, ABAG-MTC staff met with County of Sonoma staff about the data and modeling assumptions used in the Final Blueprint. In response to these discussions,

ABAG-MTC staff considered using the County's Urban Service Areas as a "de facto" urban growth boundary in Sonoma County in the Final Blueprint. However, Urban Service Areas in Sonoma County are geographically larger than the urban growth boundaries. Therefore, using Urban Service Areas instead of city and town urban growth boundaries would have allowed future growth to occur in more areas within the unincorporated county. In effect, the use of urban growth boundaries as delineated in Strategy EN4 to constrain growth within the Plan Bay Area 2050 Final Blueprint forecasting is more restrictive than using the Urban Service Areas. The use of the urban growth boundaries also ensures that household growth is not forecasted in the areas identified by the County as Community Separators, as Community Separators lie outside of the urban growth boundaries.

Though the growth forecasted in Plan Bay Area 2050 is constrained to reflect urban growth boundaries and environmental protections and focuses growth in areas of existing development, 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. 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>1</sup>

Accordingly, the Plan Bay Area 2050 Final Blueprint forecasts additional feasible growth within urban growth boundaries by increasing allowable residential densities and expanding housing into select areas currently zoned for commercial and industrial uses through strategies such as Strategy H3, Strategy H6, and Strategy H8. While Plan Bay Area 2050 strategies largely do not result in additional growth outside of urban growth boundaries, a notable exception is when a locally-nominated Priority Development Area (PDA) is located in part or in full outside of existing urban growth boundaries. Such is the case for Sonoma County, which nominated the Airport PDA in the vicinity of the Sonoma County Airport SMART station. As a result, three new developments are forecasted in the Final Blueprint, totaling approximately 650 units, on public lands within walking distance of SMART. While not within the County's urban growth boundary, these development sites remain within the

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<sup>1</sup> See [HCD's comment letter on appeals](#) for more details.

Urban Service Area. These public lands sites represent critical locations in the region for walkable transit-oriented development.

Importantly, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

Per Government Code Section 65584.04(e)(2)(B), the County of Sonoma must consider the availability of underutilized land, opportunities for infill development and increased residential densities to accommodate its RHNA. The County does not provide evidence that it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.<sup>2</sup> In developing its Housing Element, the County has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, it can choose locations and plan for densities that avoid developing on farmlands, grazing lands, conservation lands and critical habitats.

***Issue 2:*** *The County of Sonoma argues that ABAG failed to adequately consider information about FEMA flood areas in the County in considering land available for urban development.*

***ABAG-MTC Staff Response:*** ABAG-MTC staff understands the County of Sonoma's concerns about the potential for future growth in areas at risk of flooding. However, with only a small exception, Housing Element Law does not identify areas at risk of natural hazards as a potential constraint to housing development."<sup>3</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. Ultimately, 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

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<sup>2</sup> See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

<sup>3</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."



Blueprint excludes areas with unmitigated high hazard risk from Growth Geographies. While there may be areas at risk of flooding in the jurisdiction, the County of Sonoma has not provided evidence that it cannot accommodate its RHNA allocation due to a determination by FEMA or the Department of Water Resources consistent with the requirements of Government Code Section 65584.04(e)(2)(B).

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. The RHNA methodology does not dictate where new housing is located within unincorporated Sonoma County. In developing its Housing Element, the County of Sonoma has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the County can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard. By considering appropriate mitigation measures, the County can appropriately site housing in locations throughout Sonoma County. Notably, the 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. For additional guidance on how to integrate resilience into the Sites Inventory and the Housing Element more broadly, refer to ABAG's Resilient Housing Instruction Guide and associated resources.<sup>4</sup>

**Issue 3:** *The County argues that ABAG failed to adequately consider information provided in the Local Jurisdiction Survey related to the availability and adequacy of water and sewer services to allow the urban development of unincorporated land. The County asserts it has limited land with sewer service and expansion outside designated Urban Service Areas is prohibited by state and local regulations.*

**ABAG-MTC Staff Response:** As noted in the response to Issue 1, the final RHNA methodology adequately considers the potential development constraints described in the County of Sonoma's appeal through use of data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The growth pattern in the Final Blueprint maintains all existing urban growth boundaries, without any expansion, over the lifespan of the long-range plan. These urban growth boundaries are more restrictive than the County's Urban Service Areas in the areas where potential future growth can occur.

**Issue 4:** *The County argues that ABAG's failure to consider information submitted in the Local Jurisdiction Survey results in an allocation to the County of Sonoma that will force it to locate*

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<sup>4</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>.

*lower-income units in disadvantaged communities with higher exposure to flooding, which fails the statutory requirement to affirmatively further fair housing.*

**ABAG-MTC Staff Response:** As discussed in the responses to Issues 1 and 2 above, the RHNA methodology adequately considers the development constraints and other information provided in the County of Sonoma's response to the Local Jurisdiction Survey. Additionally, this argument by the County 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. 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>5</sup> Regarding the RHNA objective noted in the County's appeal, HCD made the following findings:

*"HCD applauds the significant weighting of Access to High Opportunity Areas as an adjustment factor and including an equity adjustment in the draft methodology. ABAG's methodology allocates more RHNA to jurisdictions with higher access to resources on a per capita basis. Additionally, those higher-resourced jurisdictions receive even larger lower income RHNA on a per capita basis. For example, the high-resourced communities of Cupertino and Mountain View receive higher total allocations on a per capita basis. For lower resourced jurisdictions with high rates of segregation, such as East Palo Alto, their allocations – particularly lower income RHNA allocations – are much lower on a per capita basis."*

Furthermore, in developing its Housing Element, the County has the opportunity to identify the specific sites it will use to accommodate its lower-income RHNA. The RHNA methodology does not dictate where lower-income units are located within unincorporated Sonoma County. ABAG-MTC staff understands the County's commitment to siting its lower-income RHNA away from areas at risk of flooding and wildfire. However, many Bay Area jurisdictions may find that siting housing in areas with some hazard risk is unavoidable to accommodate their housing need, including the need for lower-income housing. By considering appropriate mitigation measures, the County can appropriately site lower-income housing in locations throughout Sonoma County. As noted above in the response to Issue 2, the residents of new development (both affordable and market-rate) 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.

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<sup>5</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

Similarly, ABAG-MTC staff commends the County's commitment to affirmatively furthering fair housing by trying to site its lower-income RHNA in areas with the highest access to opportunity. However, meeting the statutory obligations to affirmatively furthering fair housing does not mean that the County cannot site any of its lower-income RHNA in economically disadvantaged communities. In fact, HCD's Affirmatively Furthering Fair Housing Guidance Memo states that the identification of sites should be informed by an analysis of disproportionate housing needs, which include cost burden, overcrowding, and displacement.<sup>6</sup> As low-income residents of disadvantaged communities are most vulnerable to displacement, building new affordable housing in these communities can enable these residents to avoid displacement and maintain stability. Building new affordable housing in these communities also helps to address the cost burden and overcrowding experienced by many low-income residents. While ABAG-MTC staff agrees that the County should seek to site much of its lower-income RHNA in communities with the most access to opportunity, the County can also further fair housing by enabling new units of high-quality affordable housing in economically disadvantaged neighborhoods where low-income residents currently live.

**Issue 5:** *The County of Sonoma argues that the RHNA Methodology fails to further RHNA objective 1, related to increasing the housing supply in all jurisdictions in the region in an equitable manner, because the County is not a "major Growth Geography" and does not have major transit facilities or job centers, nor a high degree of divergence from regional norms. However, the County has one of the highest percentages of RHNA increase in the entire Bay Area.*

**ABAG-MTC Staff Response:** This argument by the County again challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD and thus falls outside the scope of the appeals process. Regarding the RHNA objective noted in the County's appeal, HCD made the following findings:

*"On a per capita basis, the methodology allocates larger shares of RHNA to higher income jurisdictions, resulting in an allocation larger than their existing share of households. Jurisdictions with more expensive housing units – an indicator of higher housing demand – receive larger allocations on a per capita basis. For example, Palo Alto and Menlo Park have some of the highest housing costs in the region, according to American Community Survey Data. Both jurisdictions receive a share of the regional RHNA that is larger than their share of the region's population, putting them in the top 15 per capita allocations. Additionally, jurisdictions with higher rates of home ownership and single-family homes receive slightly larger lower-income allocations as a percentage of their total RHNA (supporting a mix of housing types)."*

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<sup>6</sup> For more information, see page 49 of HCD's Affirmatively Furthering Fair Housing Guidance Memo: [https://www.hcd.ca.gov/community-development/affh/docs/affh\\_document\\_final\\_4-27-2021.pdf](https://www.hcd.ca.gov/community-development/affh/docs/affh_document_final_4-27-2021.pdf).

Part of the reason the County's draft allocation is the second highest for the jurisdictions in Sonoma County, even though other jurisdictions may have more acres of Growth Geographies, is because the County has the second highest number of existing households (54,400) in the county. Furthermore, compared to other jurisdictions across the Bay Area, the amount of household growth the County would experience as a result of its draft RHNA allocation is only 7% from its total households in 2020. This household growth rate is significantly lower than the 16% growth rate that the Bay Area will experience as a result of the 2023-2031 RHND assigned by HCD.

As noted previously, the RHNA must address both existing and future housing needs. The final RHNA methodology accomplishes this by using total households in 2050 as the baseline allocation because it incorporates both existing households and the forecasted growth in households from the Final Blueprint. Housing Element Law requires the RHNA allocation to affirmatively further fair housing, which means overcoming patterns of segregation and addressing disparities in access to opportunity. Incorporating existing housing patterns into the RHNA methodology ensures that the allocations further this objective in all communities, not just those expected to experience significant growth.

**Issue 6:** *The County of Sonoma argues that the RHNA methodology fails to further RHNA Objective 2 because it fails to protect environmental and agricultural resources and encourages sprawl rather than infill development.*

**ABAG-MTC Staff Response:** This argument by the County again challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and thus falls outside the scope of the appeals process. Regarding the RHNA objective noted in the County's appeal, HCD made the following findings:

*"The draft ABAG methodology<sup>7</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per*

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<sup>7</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.

*capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit."*

As noted previously, using the Plan Bay Area 2050 Final Blueprint as the RHNA baseline allocation integrates several key strategies related to agricultural preservation. This includes Strategy EN4 that maintains all existing urban growth boundaries, without any expansion, over the lifespan of the long-range plan. This strategy is also supported by Strategy EN5, which envisions \$15 billion in future funding for agricultural land preservation to acquire land for permanent agricultural use.

**Issue 7:** *The County argues the RHNA methodology does not further RHNA objective 4, related to balancing disproportionate household income distributions. The County argues it will be forced to zone for a disproportionately high concentration of its lower-income population in areas on the outskirts of cities, where poverty rates are highest and socioeconomic outcomes are lowest.*

**ABAG-MTC Staff Response:** This argument by the County again challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and thus falls outside the scope of the appeals process. Regarding the RHNA objective noted in the County's appeal, HCD made the following findings:

*"On average, cities with a larger existing share of lower income units receive smaller allocations of low- and very-low income units as a percentage of their total RHNA. For example, East Palo Alto's current percentage of households that are lower income is the highest in the ABAG region and it receives the lowest lower income allocation as a percentage of its total RHNA. San Pablo's percentage of households that are lower income is the second highest in the region and its lower income allocation as a percentage of its total RHNA is lower than 92% of other jurisdictions. Cities with smaller shares of existing lower income units receive larger allocations of low- and very low-income units as a percentage of their total RHNA."*

Importantly, the argument the County of Sonoma makes in its appeal is not directly related to the statutory objective it cites. The objective described in Government Code Section 65584(d)(4) relates to allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category. HCD affirms that the RHNA Methodology furthers this objective, as noted above.

**Issue 8:** *The County of Sonoma argues that the RHNA Methodology fails to further RHNA objective 5, related to affirmatively furthering fair housing. The County asserts it will be forced to concentrate sites for lower-income units in areas that are already under-resourced or at risk of flooding.*

**ABAG-MTC Staff Response:** See response to Issue 4 above.

**Issue 9:** *The County of Sonoma cites a change in circumstances because the drought has constrained surface water supplies in Sonoma County and the Russian River watershed. The County argues this necessitates a reduction in the County's RHNA allocation.*

**ABAG-MTC Staff Response:** Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction due to "Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period." However, the arguments put forward by the County of Sonoma do not meet the requirements for a valid RHNA appeal, as the County has not demonstrated that it is precluded from accommodating its RHNA allocation because of a decision by this water service provider.

Furthermore, future population growth does not necessarily mean a similar increase in water consumption: while the region's population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.<sup>8</sup> A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area's population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing

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<sup>8</sup> San Francisco Bay Area Integrated Regional Water Management Plan, 2019.

and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "these issues do not affect one city, county, or region in isolation. ABAG's allocation methodology encourages more efficient land-use patterns which are key to adapting to more intense drought cycles and wildfire seasons. The methodology directs growth toward infill in existing communities that have more resources to promote climate resilience and conservation efforts."<sup>9</sup>

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.<sup>10</sup> The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

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<sup>9</sup> See [HCD's comment letter on appeals](#) for more details.

<sup>10</sup> See the [Drought Contingency Plan](#) for more information.

**Issue 10:** *The County of Sonoma requests a transfer of 60 units from the County to Cloverdale due to annexation of unincorporated land by Cloverdale that was approved by LAFCO and officially recorded in May 2021. The County asserts this annexation represents a significant and unforeseen change in circumstance that merits a revision of Sonoma County's allocation, and the County also argues that this transfer of units to Cloverdale furthers the statutory objectives of RHNA.*

**ABAG-MTC Staff Response:** This annexation has no impact on the County of Sonoma's total households in 2050 in the Plan Bay Area 2050 Final Blueprint, which is the baseline allocation for the final RHNA methodology. Therefore, this annexation also has no effect on the draft allocation for Sonoma County.

As noted in Sonoma County's appeal, the annexation affected four parcels: APN 117-040-053, APN 117-040-084, APN 117-040-086, and APN 117-040-087. There are no households on any of these parcels in 2050 in the Plan Bay Area 2050 Final Blueprint, as the regional plan focuses more growth in Growth Geographies with greater access to jobs, transit, and other destinations. Consequently, whether these parcels are assigned to Cloverdale or Sonoma County has no impact on the number of households in 2050 forecasted for either jurisdiction in the Final Blueprint, and thus the annexation also has no impact on the RHNA allocation for either jurisdiction.

While ABAG-MTC staff recommends denying this appeal since the annexation does not impact either jurisdiction's draft RHNA allocation, staff is available to assist Sonoma County and the City of Cloverdale if they choose to pursue a voluntary transfer of units, in accordance with Government Code Section 65584.07(a).

ABAG-MTC staff understands the County's concerns about accommodating its RHNA in a way that fosters efficient infill and protection of agricultural and environmental resources. Housing Element Law recognizes some of the specific challenges unincorporated areas face by including provisions available only to counties that allow for a transfer of RHNA units to incorporated cities and towns in the county following adoption of the final RHNA allocation.<sup>11</sup> One option allowed by the statute is for the County and one or more jurisdictions to voluntarily agree on a transfer of units from the County to the city or town. A second option is for a County to transfer units following annexation of unincorporated land to a city.

By statute, voluntary transfers can be completed following ABAG's adoption of the final RHNA plan and prior to the Housing Element due date (January 2023) and transfers related to annexations can occur at any point during the RHNA cycle, as long as the request is submitted to ABAG within 90 days of the annexation. ABAG-MTC staff is prepared to work with jurisdictions in Sonoma County to come to agreement on a voluntary transfer as a way to advance the

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<sup>11</sup> See [Government Code Section 65584.07](#) for more details.



County's goals for city-centered growth, and to move forward with approval of the transfer expediently following adoption of the final RHNA in December 2021.

### **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by County of Sonoma to reduce its Draft RHNA Allocation by 2,031 units (from 3,881 units to 1,850 units).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Windsor RHNA Appeal Final Determination

DATE: November 12, 2021

## **RHNA Background**

The [Regional Housing Needs Allocation \(RHNA\)](#) is the state-mandated process to identify the number of housing units (by affordability level) that each jurisdiction must accommodate in the Housing Element of its General Plan. The California Department of Housing and Community Development (HCD) determined Bay Area communities must plan for 441,176 new housing units from 2023 to 2031.

ABAG convened an ad hoc [Housing Methodology Committee \(HMC\)](#) from October 2019 to September 2020 to advise staff on the methodology for allocating a share of the region's total housing need to every local government in the Bay Area. The allocation must meet the [statutory objectives](#) identified in Housing Element Law and be consistent with [Plan Bay Area 2050](#). The HMC included local elected officials and staff as well as regional stakeholders to facilitate sharing of diverse viewpoints across multiple sectors.

The ABAG Executive Board approved the Proposed RHNA Methodology in October 2020 and held a [public comment period](#) from October 25 to November 27 and conducted a public hearing at the November 12, 2020 meeting of the ABAG Regional Planning Committee. After considering comments received, the ABAG Executive Board approved the Draft RHNA Methodology in January 2021. As required by law, ABAG submitted the Draft RHNA Methodology to HCD for its review. On April 12, 2021, [HCD sent ABAG a letter](#) confirming the Draft RHNA Methodology furthers the RHNA objectives.

On May 20, 2021, the ABAG Executive Board approved the final RHNA Methodology and draft allocations, which are described in detail in the [Draft RHNA Plan](#). Release of the draft RHNA allocations in May 2021 initiated the [appeals phase of the RHNA process](#).

## **ABAG RHNA Appeals Process**

At its meeting on May 20, 2021, the ABAG Executive Board approved the [ABAG 2023-2031 RHNA Appeals Procedures](#). The Appeals Procedures provide an overview of existing law and the statutory procedures and bases for an appeal, as outlined in [Government Code Section 65584.05](#), and outline ABAG's policies for conducting the required public hearing for considering appeals. The ABAG Executive Board also delegated authority to the ABAG Administrative Committee to conduct the public hearing and to make the final determinations on the RHNA appeals.

On May 25, 2021, ABAG notified the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public about the adoption of the draft RHNA allocations and the initiation of the appeals period. The email to jurisdictions included a link to the *ABAG 2023-2031 RHNA Appeals Procedures* on the ABAG website.

ABAG received 28 appeals from Bay Area jurisdictions during the 45-day appeals period from May 25, 2021 to July 9, 2021. On July 16, 2021, ABAG posted all [appeal materials received from local jurisdictions](#) on its website and distributed them to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public consistent with Government Code Section 65584.05(c).

During the public comment period from July 16, 2021 to August 30, 2021, ABAG received nearly 450 comments from local jurisdictions, HCD, regional stakeholders, and members of the public on the 28 appeals submitted. On September 1, ABAG posted [all comments received during the comment period](#) on its website and distributed them along with the public hearing schedule to the city/town manager or county administrator and planning or community development director of each local jurisdiction, HCD, and members of the public. This notification ensured that each jurisdiction that submitted an appeal was provided notice of the schedule for the public hearing at least 21 days in advance, consistent with Government Code Section 65584.05(d). Between August 29, 2021 and September 3, 2021, legal notices were posted on the ABAG website and published in multiple languages in newspapers in each of the nine counties of the Bay Area, announcing the dates of the public hearing.

The ABAG Administrative Committee conducted the public hearing to consider the RHNA appeals at six meetings on the following dates:

- [September 24, 2021](#)
- [September 29, 2021](#)
- [October 8, 2021](#)
- [October 15, 2021](#)
- [October 22, 2021](#)
- [October 29, 2021](#).

### **ABAG Administrative Committee Hearing and Review**

The Town of Windsor requests the reduction of its Draft RHNA Allocation by 342 units. The Town of Windsor's appeal was heard by the ABAG Administrative Committee on October 29, 2021, at a noticed public hearing. The Town of Windsor, HCD, other local jurisdictions, and the public had the opportunity to submit comments related to the appeal. The materials related to the Town of Windsor's appeal, including appeal documents submitted by the jurisdiction, the ABAG-MTC staff response, and public comments received about this appeal during the RHNA

appeals comment period, are available on the MTC Legistar page at <https://mtc.legistar.com/LegislationDetail.aspx?ID=5196709&GUID=6F3F6B89-BAAD-4C30-8FA9-CFF4CC1FD44F>. Additional comments on RHNA Appeals are available at:

- <https://mtc.legistar.com/View.ashx?M=F&ID=9824315&GUID=7E48C1E6-441A-4AFE-B464-2CA74C73B5B4>
- <https://mtc.legistar.com/View.ashx?M=AO&ID=106683&GUID=11d21ca8-c7fe-42b2-b6d2-bf4125769321&N=SXRIbSA2LCBIYW5kb3V0IFB1YmxpYyBDb21tZW50>
- <https://mtc.legistar.com/View.ashx?M=F&ID=9890312&GUID=A565A11F-A38F-40CC-A3BE-1FA306F1CA05>

Per ABAG's adopted 2023-2031 RHNA Appeals Procedures, the Town of Windsor had an opportunity to present the bases for its appeal and information to support its arguments to the committee. The Town of Windsor presentation was followed by a response from ABAG-MTC staff, consistent with the information provided in its written staff report (**Attachment 1**). Then, the applicant could respond to the arguments or evidence that ABAG-MTC staff presented.

After these presentations, members of the public had an opportunity to provide oral comments prior to discussion by members of the Administrative Committee. Following their deliberations, members of the committee took a preliminary vote on the Town of Windsor's appeal. The Administrative Committee considered the documents submitted by the Town of Windsor, the ABAG-MTC staff report, testimony of those providing public comments prior to the close of the hearing and comments made by Town of Windsor and ABAG staff prior to the close of the hearing, and written public comments, which are incorporated herein by reference.

Video of this day of the public hearing is available at:

[http://baha.granicus.com/MediaPlayer.php?view\\_id=1&clip\\_id=9665](http://baha.granicus.com/MediaPlayer.php?view_id=1&clip_id=9665). A certified transcript of the proceedings from this day of the public hearing is available at: <https://abag.ca.gov/sites/default/files/documents/2021-11/10-29-21%20RHNA%20Appeals%20Day%206-%20CERTIFIED.pdf>.

### **ABAG Administrative Committee Decision**

Based upon ABAG's adoption of the final RHNA methodology and the 2023-2031 RHNA Appeals Procedures and the process that led thereto; all testimony and all documents and comments submitted by the Town of Windsor, HCD, other local jurisdictions, and the public prior to the close of the hearing; and the ABAG-MTC staff report, the ABAG Administrative Committee denies the appeal on the bases set forth in the staff report. The key arguments are summarized as follows:

- *Regarding Issue #1: Equity Adjustment* – This argument challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, and

thus falls outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives, and HCD found that ABAG's methodology does further the objectives. There were six publicly noticed meetings between September 2020 and January 2021 in which the information related to an Equity Adjustment was included in the agenda packet, which was posted online. Local jurisdiction staff, elected officials, and residents had the opportunity to comment on the equity adjustment at these meetings. The ABAG Regional Planning Committee and ABAG Executive Board determined the additional equity gains produced by the equity adjustment merited this additional step in the methodology. The appeals process cannot be used to undo the decisions of the Executive Board on the methodology itself.

- *Regarding Issue #2: Concerns That Are Not A Valid Basis For An Appeal - Population Decline* – Government Code Section 65584.04(g)(3) states that stable population numbers cannot be used as a justification for a reduction of a jurisdiction's share of the regional housing need. Stable or declining population in a jurisdiction is not, by itself, evidence there is no need for additional homes in the community. The population decline cited occurred over only two years, one of which was heavily impacted by COVID. Windsor has not provided evidence its population will continue to decline long-term or that there has been a reduction in the jurisdiction's need for housing during the 2023-2031 RHNA period.
- *Regarding Issue #3: Past Performance in Approving Development* – This argument challenges the final RHNA methodology that was adopted by the ABAG Executive Board and approved by HCD, which falls outside the scope of the appeals process. A valid appeal must show ABAG made an error in the application of the methodology in determining the jurisdiction's allocation. Jurisdictions had multiple opportunities to comment as the methodology was developed and adopted between October 2019 and May 2021.
- *Regarding Issue #4: Methodology Does Not Encourage Efficient Development Patterns (Objective 2)* – This argument challenges the Final RHNA Methodology adopted by ABAG and approved by HCD, which falls outside the scope of the appeals process. HCD has the authority to determine if the RHNA methodology furthers the statutory objectives and, HCD found that ABAG's methodology does further the objectives. As HCD notes, ABAG's methodology allocates "nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. . . Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT." Furthermore, 50 percent of the region's RHNA units are allocated to the ten largest jurisdictions in the Bay Area.

**Conclusion**

For the foregoing reasons and based on the full record before the ABAG Administrative Committee at the close of the public hearing (which the Committee has taken into consideration in rendering its decision and conclusion), the ABAG Administrative Committee hereby denies the Town of Windsor's appeal and finds that the Town of Windsor's RHNA allocation is consistent with the RHNA statute pursuant to Section 65584.05(e)(1).

TO: ABAG Administrative Committee  
FROM: Therese W. McMillan, Executive Director  
SUBJECT: Town of Windsor Appeal of Draft RHNA Allocation and Staff Response

DATE: October 29, 2021

## OVERVIEW

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**Jurisdiction:** Town of Windsor

**Summary:** Town of Windsor requests the decrease of its Draft RHNA Allocation by 342 units (34 percent) from 994 units to 652 units based on the following issues:

- 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.

**Staff Recommendation:** Deny the appeal.

## BACKGROUND

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### Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Town of Windsor	385	222	108	279	994

### Local Jurisdiction Survey

The Town of Windsor submitted 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, and there were nine comments that specifically relate to the appeal filed by the Town of Windsor. All comments oppose the Town's appeal. [All comments received](#) are available on the ABAG website.

## ANALYSIS

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**Issue 1:** *The Town of Windsor argues that the final RHNA methodology does not further the statutory objective related to "increasing the housing supply and the mix of housing types, tenure*

*and affordability in all cities and counties within the region in an equitable manner” because the process ABAG used to approve the Equity Adjustment as part of the methodology was flawed.*

**ABAG-MTC Staff Response:** This argument by the Town 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. 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>1</sup> Regarding the RHNA objective noted in the City’s appeal, HCD made the following findings:

*“On a per capita basis, the methodology allocates larger shares of RHNA to higher income jurisdictions, resulting in an allocation larger than their existing share of households. Jurisdictions with more expensive housing units – an indicator of higher housing demand – receive larger allocations on a per capita basis. For example, Palo Alto and Menlo Park have some of the highest housing costs in the region, according to American Community Survey Data. Both jurisdictions receive a share of the regional RHNA that is larger than their share of the region’s population, putting them in the top 15 per capita allocations. Additionally, jurisdictions with higher rates of home ownership and single-family homes receive slightly larger lower-income allocations as a percentage of their total RHNA (supporting a mix of housing types).”*

Development of the equity adjustment and the decision to include it in the RHNA methodology occurred over the course of several public meetings:

- Housing Methodology Committee (HMC) meeting on September 4, 2020: Staff received a memo from several HMC members on August 31, and staff prepared [materials for the September 4 meeting](#) that explained the equity adjustment and provided data on its potential impacts on the methodology.
- HMC meeting on September 18, 2020: A [memo](#) included in the agenda packet that presented potential methodology options discussed the equity adjustment in detail. The [meeting materials](#) also included several appendices with in-depth data analysis and maps showing the impact of including the equity adjustment. Ultimately, the HMC did not reach a consensus to include the equity adjustment, and so the equity adjustment was not a component of their recommended methodology.
- Regional Planning Committee meeting on October 1, 2020: A [memo](#) included in the agenda packet that presented the HMC’s recommended methodology discussed the

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<sup>1</sup> For more details, see [HCD’s letter](#) confirming the methodology furthers the RHNA objectives.



equity adjustment as a key topic that had been reviewed during the methodology development process.

- Executive Board meeting on October 15, 2020: A [memo](#) included in the agenda packet presented the Executive Board with two alternative methodology proposals in addition to the HMC's recommended methodology, and one of these proposals incorporated the equity adjustment. Another [document included in the meeting materials](#) provided an in-depth review of this alternative methodology proposal with the equity adjustment. The Executive Board voted to adopt the HMC's recommended methodology, which did not include the equity adjustment.
- Regional Planning Committee meeting on January 14, 2021: A [summary of comments received during the official public comment period](#) noted there had been comments advocating for the inclusion of the equity adjustment in the methodology. After much discussion, the Regional Planning Committee voted to adopt a Draft Methodology that included the equity adjustment.
- Executive Board meeting on January 21, 2021: A [memo](#) included in the agenda packet presented the Executive Board with the Regional Planning Committee's recommendation for the Draft Methodology, and this memo discussed the addition of the equity adjustment. The [meeting materials](#) also included several appendices with in-depth data analysis and maps showing the impact of including the equity adjustment. The Executive Board voted to approve the Regional Planning Committee's Draft Methodology recommendation that included the equity adjustment.

All materials related to the equity adjustment were included in agenda packets for these meetings and posted online, and local jurisdiction staff, elected officials, and residents had the opportunity to comment on the equity adjustment at these meetings.

During the HMC process, ABAG-MTC staff did not recommend including the equity adjustment because staff's analysis suggested the proposed methodology met the obligation to affirmatively further fair housing without the equity adjustment, and staff felt inclusion of the equity adjustment could introduce additional complexity. However, staff did not state the equity adjustment would hinder the RHNA methodology from furthering statutory objectives. In the end, the Regional Planning Committee and Executive Board determined that the additional equity gains produced by the equity adjustment merited this additional step in the methodology and associated RHNA calculations.

ABAG's draft RHNA methodology was approved by HCD in April 2021 and then adopted as the final RHNA methodology by the Executive Board in May 2021.<sup>2</sup> The Executive Board has the authority to adopt a RHNA methodology that differs from the recommendation made by the

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<sup>2</sup> For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

HMC, and this appeals process cannot be used to undo the decisions of the Executive Board on the methodology itself.

Ultimately, the equity adjustment included in the Final RHNA Methodology helps ABAG make even greater progress towards its obligation to affirmatively further fair housing. HCD commended the methodology's use of the equity adjustment in its April 2021 letter affirming that ABAG's RHNA Methodology successfully furthers all statutory objectives, including the mandate to affirmatively further fair housing. This adjustment ensures that the 49 jurisdictions identified as exhibiting racial and socioeconomic demographics that differ from the regional average receive a share of the region's lower-income RHNA units that is at least proportional to the jurisdiction's share of existing households. Most of these 49 jurisdictions receive allocations that meet this proportionality threshold based on the final RHNA methodology's emphasis on access to high opportunity areas. However, the equity adjustment ensures that 18 jurisdictions that might exhibit racial and economic exclusion but do not have significant shares of households living in high opportunity areas also receive proportional allocations.

***Issue 2: Windsor argues the RHNA process did not consider current population trends, including a population decline in the Town since 2019.***

***ABAG-MTC Staff Response:*** As the Town noted in its appeal, Government Code Section 65584.04(g)(3) states that stable population numbers cannot be used as a justification for a reduction of a jurisdiction's share of the regional housing need. Consistent with this statutory language, stable or declining population in a jurisdiction is not, by itself, evidence that there is not a need for additional homes in the community. It may instead be a sign of an unhealthy housing market where individuals and families lack affordable housing choices and must leave the jurisdiction to find housing elsewhere. In fact, a primary reason the Regional Housing Needs Determination (RHND) of 441,176 units was higher than the need assigned to the Bay Area in past RHNA cycles was because it included factors related to overcrowding, high housing cost burdens and a target vacancy rate as a way to address the region's challenges in meeting the housing needs of the existing population. In addition, the Town cites a population decline that has occurred over only two years, including the year impacted by COVID-19. The Town of Windsor has not provided evidence to suggest that its population will continue to decline long-term or that there has been a reduction in the jurisdiction's housing need for the 2023-2031 RHNA planning period.

***Issue 3: Windsor argues the RHNA process did not consider the Town's past RHNA performance, which demonstrates the Town has entitled residential projects that have not been built.***

***ABAG-MTC Staff Response:*** ABAG-MTC staff commends the Town of Windsor's track record in entitling and permitting new homes. However, the Town's argument that developers are not building housing in Windsor does not represent one of the grounds for appeal defined by

statute. While Windsor asserts the Town's past performance in approving development should have been considered during the RHNA process, this argument 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.

**Issue 4:** *Windsor argues the RHNA methodology does not further the RHNA objective related to encouraging efficient development patterns. The Town asserts the RHNA process did not consider the need for city-centered growth because more urban jurisdictions saw reductions in their RHNA from the 5th Cycle to the 6th Cycle, which is contrary to the intent of Plan Bay Area 2050.*

**ABAG-MTC Staff Response:**

This appeal argument by Windsor again challenges the Final RHNA Methodology that was adopted by ABAG and approved by HCD, which falls outside the scope of the appeals process. As noted previously, 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. Regarding the RHNA objective related to "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 reductions targets provided by the State Air Resources Board pursuant to Section 65080," HCD made the following findings:

*"The draft ABAG methodology<sup>3</sup> encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.*

*Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit*

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<sup>3</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.

*ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit."*

The Draft RHNA Plan's emphasis on city-centered growth is demonstrated by the fact that 50 percent of the region's RHNA units are allocated to the ten largest jurisdictions in the Bay Area.

## **RECOMMENDED ACTION**

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ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by Town of Windsor to reduce its Draft RHNA Allocation by 342 units (from 994 units to 652 units).