

**REGIONAL HOUSING NEEDS ALLOCATION**

Association of Bay Area Governments

**2023-2031 Regional Housing Needs Assessment (RHNA) Appeal Request***Submit appeal requests and supporting documentation via DocuSign by 5:00 pm PST on July 9, 2021.****Late submissions will not be accepted.*** Send questions to [rhna@bayareametro.gov](mailto:rhna@bayareametro.gov)Jurisdiction Whose Allocation is Being Appealed: Town of FairfaxFiling Party: ☐ HCD ☒ Jurisdiction: Town of FairfaxContact Name: Ben Berto Title: Planning and Building Services DirectorPhone: 415 458-2346 Email: bberto@townoffairfax.org**APPEAL AUTHORIZED BY:**Name: Garrett ToySignature: Date: 7/9/2021**PLEASE SELECT BELOW:**

- ☐ Mayor
- ☐ Chair, County Board of Supervisors
- ☐ City Manager
- ☐ Chief Administrative Officer
- ☒ Other: Town of Fairfax Town Council

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

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

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

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

☒ Decrease      Number of Units: 120      ☐ Increase      Number of Units: \_\_\_\_\_

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

The Town of Fairfax appreciates and supports efforts to address State and regional housing needs, particularly those relating to the shortage of affordable housing in our region. Our Town has in fact exceeded the current (5th cycle) RHNA housing numbers by over 50%, including fulfilling more than double our low-income housing allocation. Fairfax has and will continue to provide housing, including for our most vulnerable populations and to affirmatively further fair housing opportunities.

We believe that there are three criteria for doing so that are consistent with the RHNA appeals procedures listed by ABAG, as follows:

- 1) The Housing Element Site Selection (HESS) tool used by BayArea Metro as part of the RHNA process to identify available, potential, and constrained sites in Fairfax contains erroneous data that, once corrected, reassigns all areas of the Town that the HESS tool currently identifies as 'potential' (for housing sites) to 'constrained'.
- 2) The Draft RHNA fails to adequately consider the Town's jobs-housing relationship. The jobs-housing relationship has been presented as a primary justification for requiring significantly more housing to resolve the jobs-housing imbalance; however, this rationale does not bear up to scrutiny.
- 3) Lack of water supply is a major emerging issue. Marin Water, the utility district that provides all of Fairfax's water, is considering a moratorium on new water service connections, and is mandating water rationing. Marin obtains almost all of its water from its local watershed reservoirs, and the extreme 2-year drought the County (along with most of the State) is experiencing has severely limited water supplies to serve local users. While future events cannot be forecasted, given the current severe water shortfall situation it is not prudent to mandate as much growth in housing numbers as the Town has had in the last half century.

**List of supporting documentation, by title and number of pages**

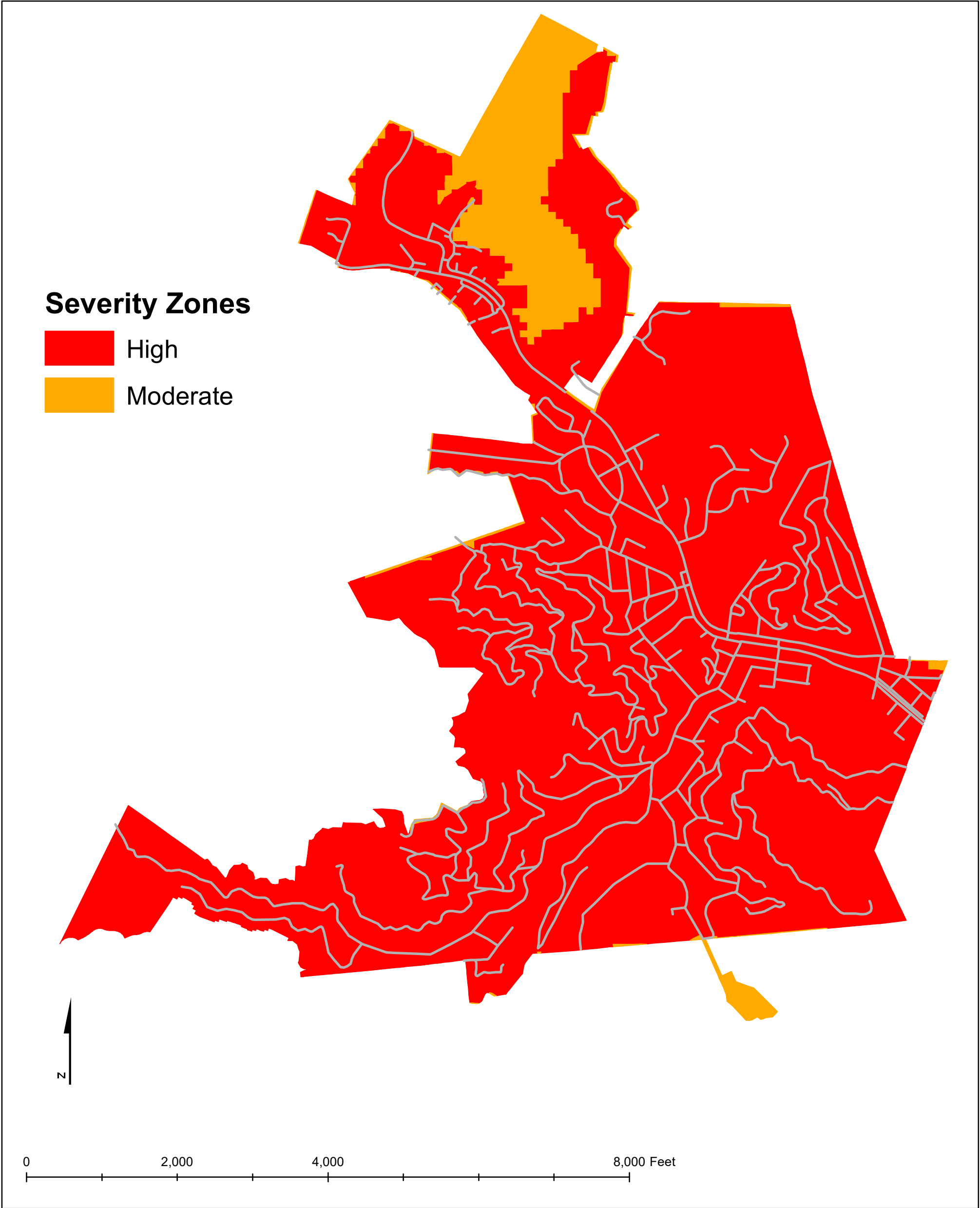
1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_



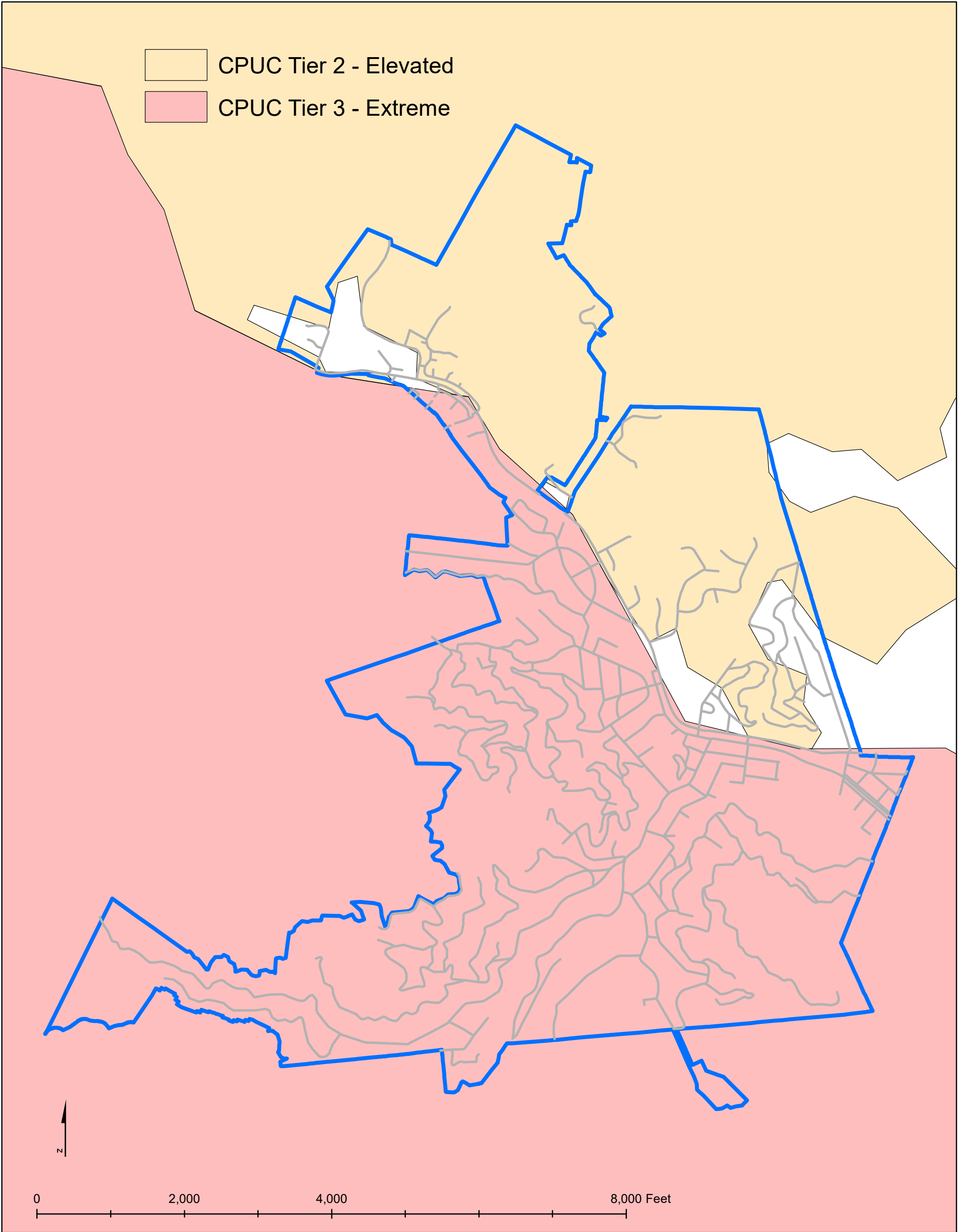
The maximum file size is 25MB. To submit larger files, please contact [rhna@bayareametro.gov](mailto:rhna@bayareametro.gov).

Click here to  
attach files

# B. CalFire Fire Hazard Severity Zones Diagram



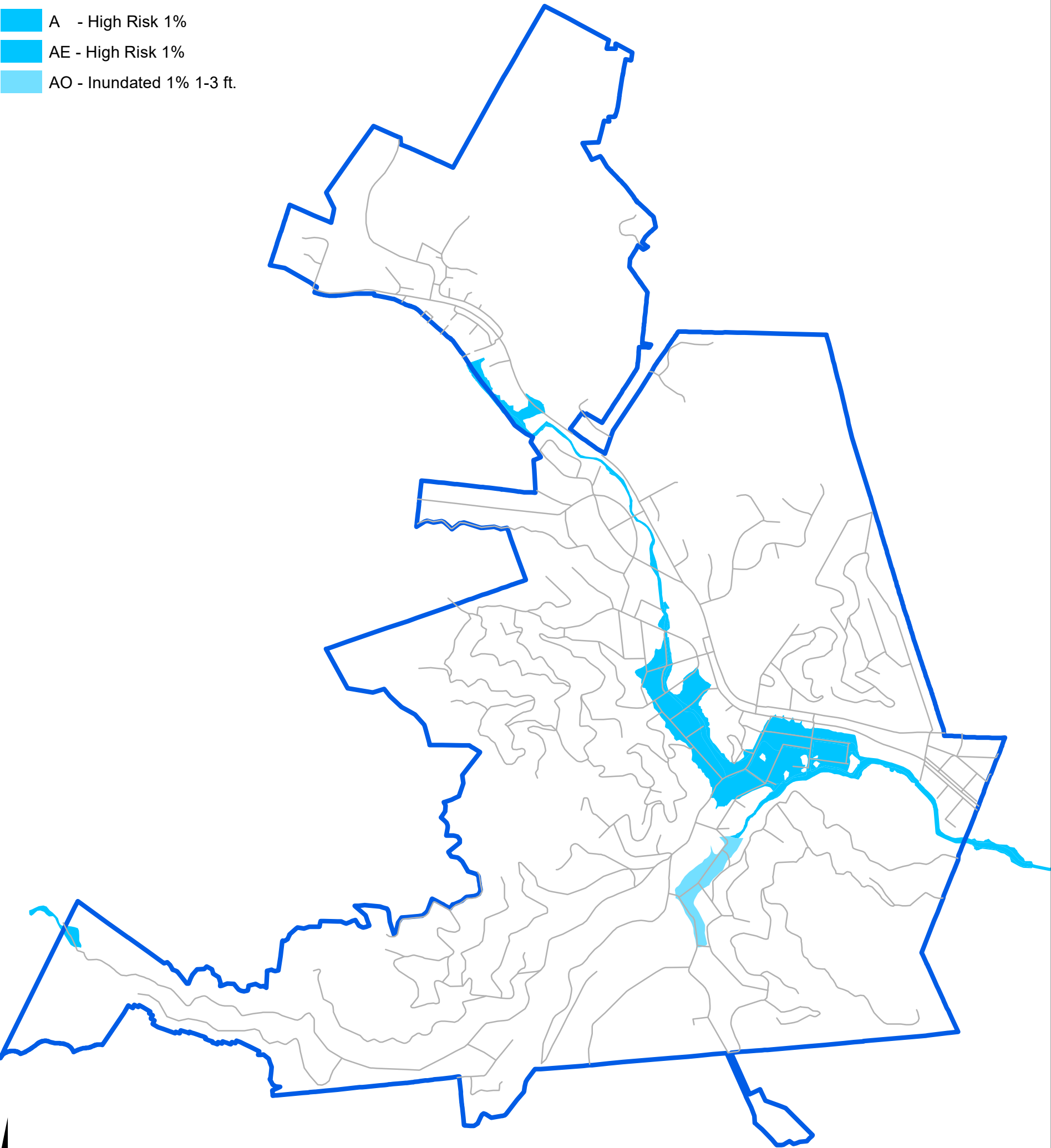
# D. California Public Utilities Commission (CPUC) Fire Risk Diagram



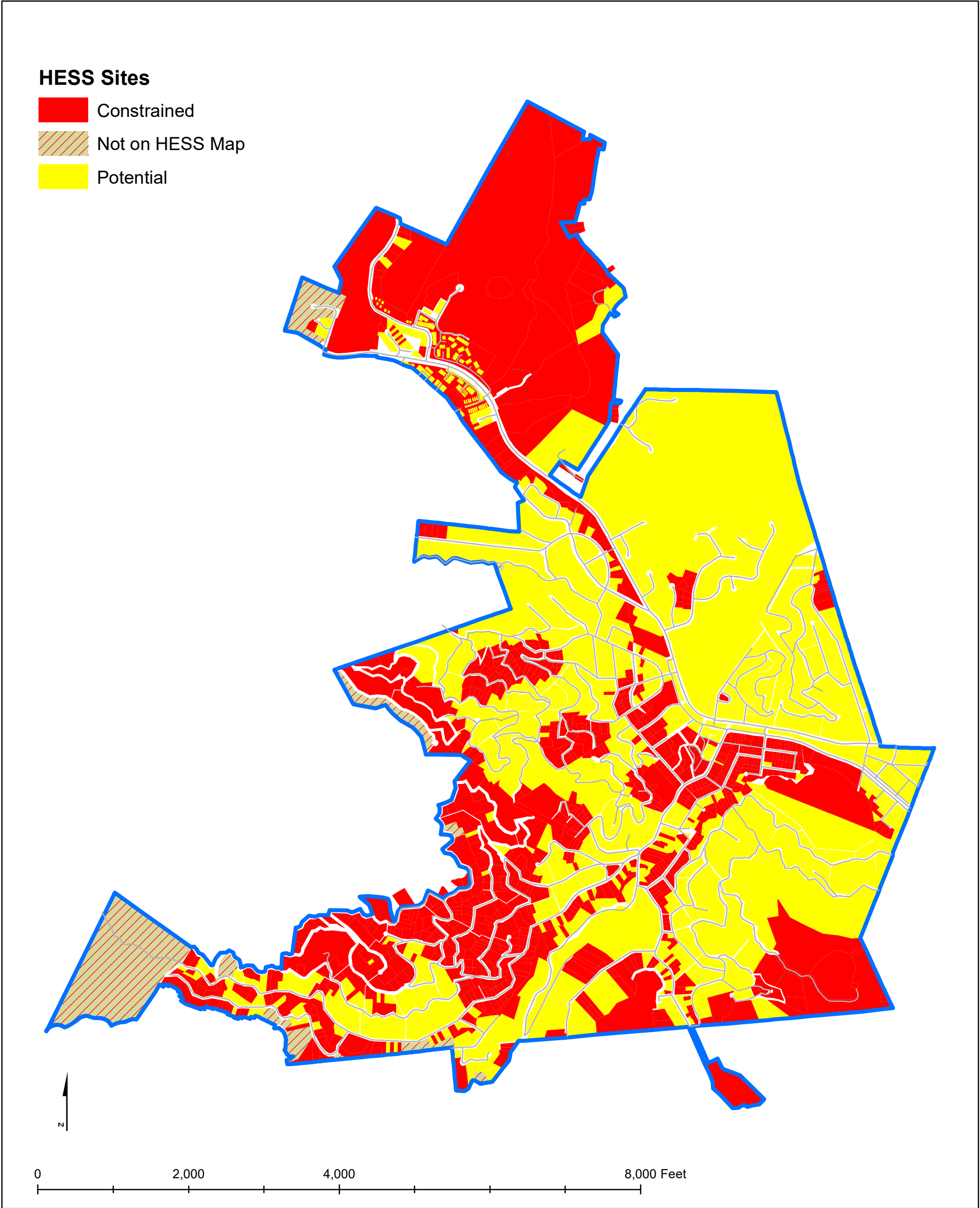
# E. FEMA Flood Hazard Zones Diagram

**Flood Hazard Zones**

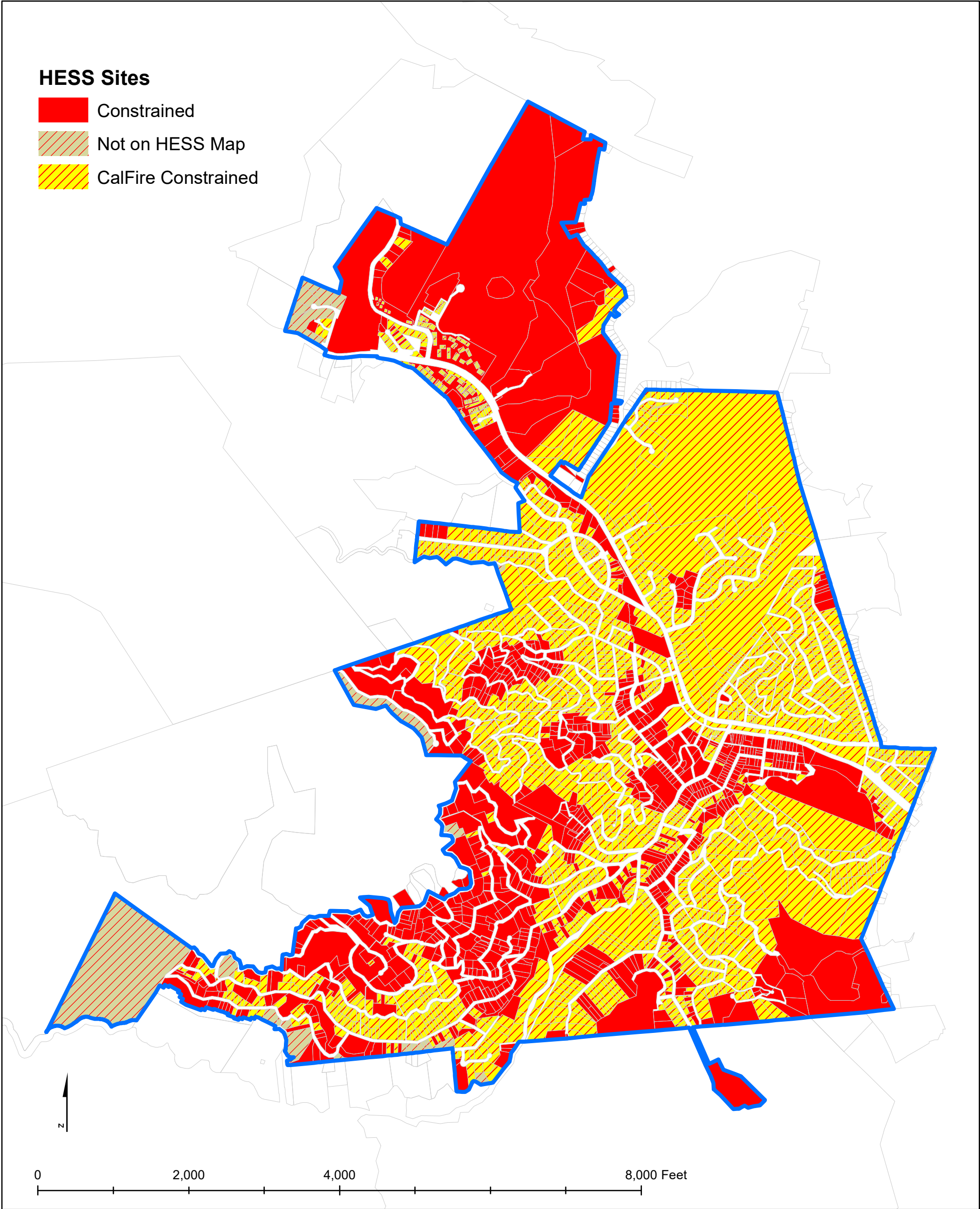
- A - High Risk 1%
- AE - High Risk 1%
- AO - Inundated 1% 1-3 ft.



# A. Housing Element Site Selection (HESS) Diagram



# C. HESS Constrained Sites (per CalFire High Fire Hazard Overlay) diagram





## TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930  
(415) 453 - 1584 / FAX (415) 453 - 1618

July 7, 2021

Association of Bay Area Governments/Bay Area Metro

On behalf of the Town Council of Fairfax, I am registering an appeal of the 490 housing units assigned to Fairfax in the draft Regional Housing Needs Allocation (RHNA).

The Town of Fairfax appreciates and supports efforts to address State and regional housing needs, particularly those relating to the shortage of affordable housing in our region. Our Town has in fact exceeded the current (5<sup>th</sup> cycle) RHNA housing numbers by over 50%, including fulfilling more than double our low-income housing allocation. Fairfax has and will continue to provide housing, including for our most vulnerable populations and to affirmatively further fair housing opportunities.

As noted in the Town's previous (October 13, 2020) letter to ABAG Board President Jessie Arreguin about the early preliminary RHNA housing numbers, the Town of Fairfax looks forward to creatively planning for a reasonable number of housing units that address the need for housing (particularly affordable) and is responsive to community concerns. However, the 6<sup>th</sup> cycle draft RHNA allocation exceeds what is reasonable and realistic. The Town will cite three criteria for appealing this allocation consistent with the criteria set forth in the 2023-2031 RHNA Cycle Appeals Procedures

As has been noted in prior discussions on housing in this area, communities such as Fairfax with high property values and stable populations for an extended period of time tend to have already achieved a 'natural' limit to growth. Furthermore, Fairfax's population is aging, which naturally would result in a lower population. Vacant parcels, where present, tend to have severe, inherent land use limitations on development such as steep, unstable slopes. Here in Fairfax, whether it is such slopes, endangered species, historic register listing, or a general lack of vacant land, the reality is that readily developable land has already long been spoken for. The draft 6<sup>th</sup> cycle RHNA housing numbers and State regulations demand that Fairfax plan for as much housing in the next eight years as has occurred in the last half century. This is not reasonable or realistic.

The Town of Fairfax is aware of the limited criteria on which appeals to the draft 6<sup>th</sup> cycle RHNA methodology can be based. We believe that there are three criteria for doing so that are consistent with the RHNA appeals procedures listed by ABAG, as follows:

1) The Housing Element Site Selection (HESS) tool used by BayArea Metro as part of the RHNA process to identify available, potential, and constrained sites in Fairfax contains erroneous data that, once corrected, reassigns all areas of the Town that the HESS tool currently identifies as 'potential' (for housing sites) to 'constrained'.

As can be seen from the three attached diagrams (Attachments A-C), the HESS diagram (Attachment A) currently identifies the majority of the Town's area as falling into the 'potential' category for housing. However, the underlying HESS tool criteria for determining whether sites should be considered 'constrained' lists areas which fall into a high fire hazard severity zone, and therefore are not suitable for higher-density, multifamily development.

Attachment B is the State CalFire map which shows that virtually all of Fairfax is located in the high fire hazard severity zone classification. Attachment C combines the HESS map and the CalFire map to show that all of the sites which the HESS map mistakenly shows as "potential" housing sites are actually 'constrained.'

Furthermore, the Marin Wildfire Prevention Authority is currently conducting an evacuation study for every Marin jurisdiction and the results are expected to show that Fairfax is among the most adversely affected jurisdictions with respect to having many areas with only *one* path of egress, a significant hazard in the event of a wildland fire.

The State of California has previously allowed extensive housing development in areas with high fire hazard and constrained evacuation, with the unfortunate but foreseeable loss by wildfire of hundreds of lives and thousands of homes. Last year alone, close to 5 million acres burned in this state, with accompanying devastating loss of lives, livelihoods, and housing. Climate change and the current unprecedented drought not only result in water shortages (see no. 3 below) but the specter of even more damaging fires.

Another State fire hazard assessment tool, the California Public Utilities Commission (CPUC) Fire Risk firemap (see Attachment D), shows that 69% of the Town is in its highest (extreme) fire risk tier, and 30% is in its elevated fire risk tier.

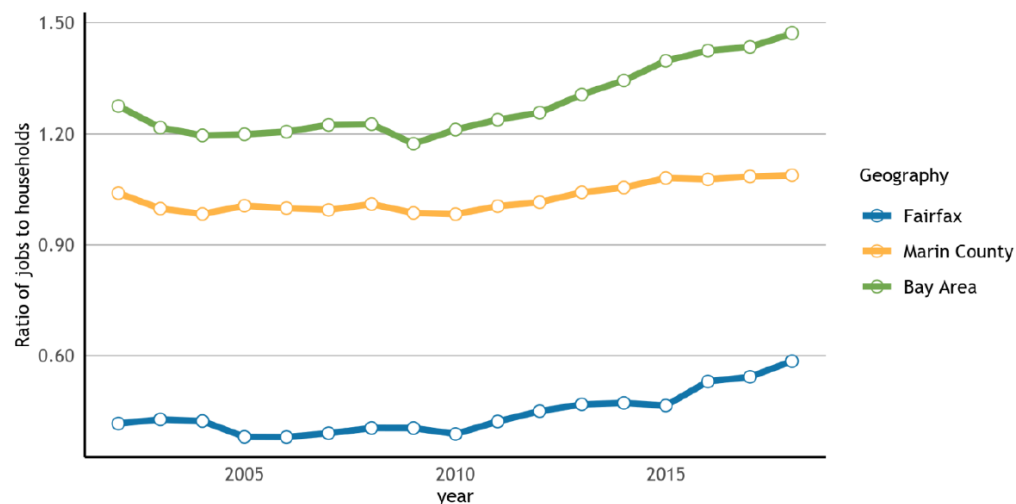
The State appears to be trying to avoid repeating these tragic housing development mistakes. Requiring a Safety Element update to accompany the Housing Element update is an example of planning to avoid putting development in harm's way. It therefore doesn't make sense for the State to mandate the planning and development of hundreds of new homes in Fairfax - an eight-fold increase over the current RHNA housing numbers - in a high fire risk, constrained evacuation jurisdiction. The Town's hope is the numbers are at least partially based on erroneous HESS data. With the HESS correction the Town notes, the number of new homes

mandated for Fairfax in the draft 6<sup>th</sup> cycle RHNA should be substantially reduced, preferably to the number of units which the Town in its commitment to housing is already achieving in the current RHNA cycle.

Flooding is another major hazard impacting a significant portion of the Town's flatland area, including its multi-family zoned district, where higher-density housing is or would theoretically be located. The Town is learning from mistakes of the past and has worked cooperatively with the San Anselmo Flood Risk Reduction (SAFRR) project, including installation of a flood detention basin in Town, to reduce flood hazards in Fairfax and the Ross Valley. Developed improvements to date have not provided protection from 100-year floods, much of which is floodway that can result in especially hazardous urban swiftwater flooding and rescue. The attached map documents the extent to which the Town is constrained by flooding hazards.

2) The Draft RHNA fails to adequately consider the Town's jobs-housing relationship. The jobs-housing relationship has been presented as a primary justification for requiring significantly more housing to resolve the jobs-housing imbalance; however, this rationale does not bear up to scrutiny.

The diagram below is taken from the Housing Needs Data Report for Fairfax prepared by ABAG/MTC, and illustrates Fairfax's unique circumstances with respect to jobs versus housing.



**Figure 8: Jobs-Household Ratio**

As can be seen from Figure 8, the Fairfax ratio of jobs to housing is far lower than either Marin County or the Bay Area overall. Fairfax's latest local jobs versus household ratio is only approximately one-half that of Marin County overall, and one-third of the greater Bay Area. Fairfax continues to have far lower local jobs-housing ratio than either Marin or the Bay Area throughout the entire survey period. The latest statistics show Fairfax as having 0.6 jobs per housing unit. In contrast, Marin County has 1.15 jobs per housing unit, and the overall Bay Area has 1.5 jobs per housing unit.

Plan Bay Area 2050 projects that while the Central Marin “superdistrict” (of which Fairfax is a part) is proposed to be required to increase households by 22,000, or 50%, it will also lose 14,000 jobs, a 23% decrease (see Attachment E). Thus, while Fairfax already has the lowest jobs to housing ratio in Marin and is far below the Bay Area’s ratio, the decrease in jobs in our area shows that ratio will become even more imbalanced. More RHNA-mandated housing in Fairfax will only exacerbate this imbalance.

The takeaway is while the Bay Area overall needs more housing to address the jobs-housing imbalance, Fairfax doesn’t need more housing, it needs more local jobs. Many of the people living in new Fairfax housing will be forced to commute to the surplus jobs relative to housing elsewhere in the region. The jobs-housing ratio doesn’t address the shortage of affordable housing. However, it demonstrates that more housing in Fairfax will exacerbate traffic rather than relieve it, running directly counter to RHNA goal of reducing Vehicle Miles Traveled (VMT).

As noted previously, Fairfax has and will continue to plan for and provide affordable housing as a priority. However, the large number of housing units assigned to Fairfax in the proposed draft 6<sup>th</sup> cycle RHNA will worsen, not improve, the jobs-housing imbalance.

3) Lack of water supply is a major emerging issue. Marin Water, the utility district that provides all of Fairfax’s water, is considering a moratorium on new water service connections, and is mandating water rationing. Marin obtains almost all of its water from its local watershed reservoirs, and the extreme 2-year drought the County (along with most of the State) is experiencing has severely limited water supplies to serve local users. While future events cannot be forecasted, given the current severe water shortfall situation it is not prudent to mandate as much growth in housing numbers as the Town has had in the last half century.

The Town of Fairfax recognizes the challenges faced in developing appropriate allocation numbers. However, we continue to believe the proposed 6<sup>th</sup> cycle RHNA housing numbers far exceed what is realistic and reasonable. Fairfax remains committed to equity for very low and low income households, and looks forward to constructively planning for future housing. Thank you for your time and consideration.

Sincerely,

*Garrett Toy*

GARRETT TOY  
Town Manager