

REGIONAL HOUSING NEEDS ALLOCATION

Association of Bay Area Governments

2023-2031 Regional Housing Needs Assessment (RHNA) Appeal Request*Submit appeal requests and supporting documentation via DocuSign by 5:00 pm PST on July 9, 2021.****Late submissions will not be accepted.*** Send questions to rhna@bayareametro.govJurisdiction Whose Allocation is Being Appealed: City LarkspurFiling Party: ☐ HCD ☒ Jurisdiction: City of LarkspurContact Name: Neal Toft Title: Planning DirectorPhone: (415) 927-6713 Email: ntoft@cityoflarkspur.org**APPEAL AUTHORIZED BY:**Name: Neal ToftSignature: Date: 7/9/2021**PLEASE SELECT BELOW:**

- ☐ Mayor
- ☐ Chair, County Board of Supervisors
- ☐ City Manager
- ☐ Chief Administrative Officer
- ☒ Other: Planning Director

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: 236 ☐ 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 City of Larkspur hereby submits its appeal of the Association of Bay Area Governments (ABAG) Final Draft Regional Housing Needs Allocation (RHNA) assigned to the City of Larkspur for its 6th Cycle (2023-2031) Housing Element update.

The City bases its appeal of the Draft RHNA pursuant to Government Code Sections 65584.05(b)(2)

Grounds for Appeal

Government Code Section 95584.05(b)(2) states that an appeal may be made based on the circumstance whereby "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.

Subsection (e) of Section 65584.04 states:

(e) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources [emphasis added], each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

Thus, it is established that the local government has the right to appeal based on ABAG's failure to include information identified in Section 65584.04. In other words, the local government's appeal is not limited to only the information it provided in the local government survey.

Subsection (e) goes on to identify the factors that ABAG must include as it develops its RHNA methodology. Section 65584.04(e)(2) states that the council of governments must consider certain constraints to development of additional housing in each member jurisdiction, including the following factors:

(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 th

List of supporting documentation, by title and number of pages

1. Appeal Letter and Figures _____
2. _____
3. _____



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

Click here to
attach files

July 9, 2021

To Whom It May Concern,

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(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.

(B) 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. 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. 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.

Thus, the appeal is based on the following three grounds:

- ABAG failed to consider the availability of land suitable for urban development in Larkspur or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.

- ABAG failed to determine the share of the regional housing need in a manner that furthers, and does not undermine, the intent of the objectives listed in subdivision (d) of Section 65584.
- ABAG failed to consider the capacity of water service due to supply and distribution decisions made by a water service provider.

Constraints in availability in Land

The methodology utilized to determine the Draft RHNA for Larkspur undermines the objective in Government Code Section 65584(d)(2) to promote socioeconomic equity and the encouragement of efficient development patterns. As described in the below image (Figure 3) pulled from the ABAG template presentation materials for RHNA appeals, the methodology used to determine the Draft RHNA for Transit Rich High Resources Areas and High Opportunity Areas, significantly increased the number of housing units, primarily at the lower income levels, above Larkspur's baseline allocation. Currently Plan Bay Area 2050 remains in draft and is currently in public comment period.

The transit Rich High Resources Areas (TRAs) are identified in and around NW Larkspur around the Ferry Landing and SMART Station in Larkspur Landing and mixed residential / commercial areas and hillside neighborhoods located directly west of Highway 101. Further TRAs are located south of Corte Madera Creek in the Redwood Highway Industrial zone, East of Highway 101. High Resource Areas (HRAs) are located along the south side of Sire Francis Drake Boulevard and Generally along the East side of Magnolia Avenue, paralleling those two primary corridors.

While development of housing near transit is typically desirable to further housing goals and reduce VMT, the areas identified as TRAs are constrained by a combination of the Highway 101 Sir Francis Drake Interchange, the confluence of Corte Madera Creek and the Bay, along with Marshlands and areas of FEMA flood zone risk, as shown below in Marin County GIS database maps. It should be noted here that while it is not known at this time the amount of Sea Level Rise (SLR) that will occur during the RHNA 2023-2031 planning period, State guidance is to plan for 1.1 to 1.9 feet of SLR by 2050 and Plan Bay Area 2050 assumed 2 feet of permanent inundation and 3 feet of temporary inundation during storm and king tide events by 2050. Further maps demonstrate the combination of Moderate and High Fire Hazard zones and Wildland Urban Interface areas that should be excluded from the high-density development needed to fulfill the projected RHNA growth. The area is largely built-out and has only one undeveloped property of 10.7 acres that is encumbered by SLR and moderate hazard fire zone risk. All remaining parcels in these area are either built or undeveloped for purposes of being open space, water, protected lands.

Further, the Growth Strategy states that these areas do not include locally-adopted Wildland Urban Interface (WEI) Areas. However, the TRA includes a ½ mile area of land extending into WUI zone neighborhood in the hillside area of Greenbrae., a locally adopted WUI zone. It is uncertain what extent of housing is attributed to, or expected to occur, within the WUI zone that is separated from the transit stations by the Highway 101 corridor.

The HRAs along Magnolia Avenue are further impeded by areas of FEMA flood zone and potential sea Level rise. Portions of HRAs areas east of Magnolia Avenue are located within High Fire Hazard Severity Zones as shown below. Again, it is uncertain what extent of housing is project, or expected, within these areas.

Jobs Housing Balance and Socioeconomic Equity

The methodology utilized to determine the Draft RHNA for Larkspur undermines the objective in Government Code Section 65584(d)(3) to promote improved intraregional relationships between jobs and housing. Plan Bay Area 2050 projects that the Central and Southern Marin "superdistricts" will lose a significant number of jobs (18,000) and gain a significant number of households (31,000) by 2050. This projected jobs to housing shift reduces the jobs/housing ratio of these "superdistricts" to approximately .7 and .8 respectively, well below the region's average and, depending upon the makeup of the specific jobs expected to be lost and type of housing gained, is inconsistent with accepted planning standards for creating healthy development patterns and goals to reduce Vehicle Miles Traveled (VMT).

Based on the specific local factors in Larkspur, and the RHNA regulations in Government Code Section 65583.2(c)(2)(A), the application of these factors this has the unintended consequence of facilitating development of higher concentrations of affordable housing in the FEMA 100-year flood zone and areas vulnerable to the risks of SLR. The RHNA methodology approved by ABAG, therefore, undermines the promotion of socioeconomic equity in Larkspur, a key objective stated in Government Code Section 65584(d).

Based on the methodology used to determine the Draft RHNA, these same “superdistricts” are expected to add 12,315 households in just the eight-year period from 2023-2031. This portends an even greater reduction in the job/housing ratio than projected in Plan Bay Area by 2050, demonstrating that the methodology used to determine the Draft RHNA undermines the objective to promote an *improved* intraregional relationship between jobs and housing in Government Code Section 65884(d)(3). Further, it demonstrates that a reduction to the Draft RHNA for Larkspur would be consistent with the development pattern in the sustainable communities strategy (Plan Bay Area 2050 Final Blueprint).

Capacity of water service due to supply and distribution decisions made by a water service provider.

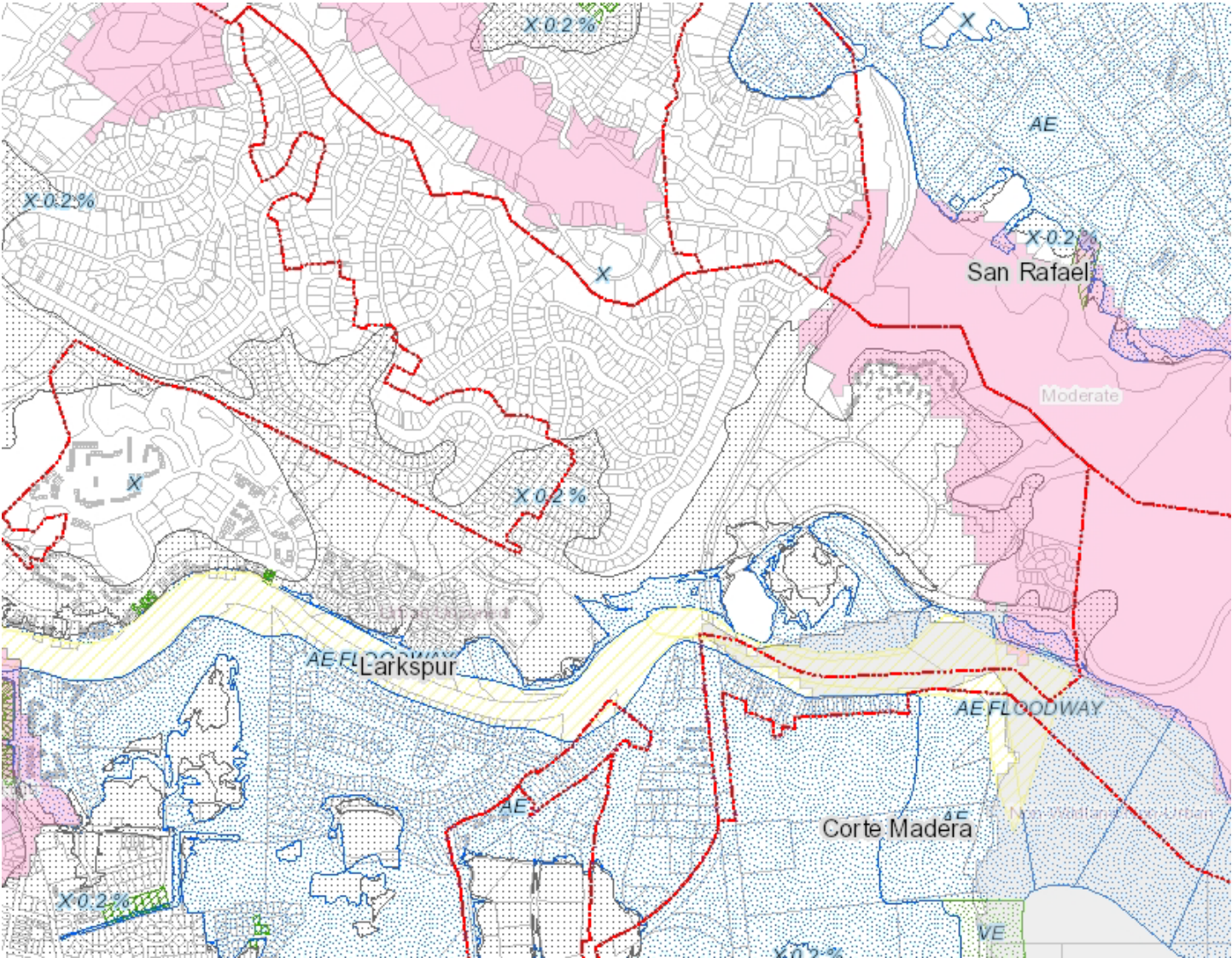
The Marin Municipal Water District (MMWD) provides water to the City of Larkspur as well as the incorporated cities and towns of San Rafael, Mill Valley, Fairfax, San Anselmo, Ross, Larkspur, Corte Madera, Tiburon and Sausalito and an estimated 76% percent of the population living in unincorporated areas of Marin County. MMWD’s primary water supply is local surface water obtained solely from rainfall collected from a watershed with six reservoirs. The District receives a supplemental water supply from the Sonoma County Water Agency.

On June 15, the MMWD Board of directors adopted the [2020 Urban Water Management Plan](#) (UWMP). The UWMP determined that there is adequate supply to meet demand for a projected service population of 211,961 in 2045, an increase of 20,692 people from the 2020 level. ABAG’s RHNA allocation, however, anticipates much greater population growth for MMWD’s service area. Table 3 shows the RHNA allocated to each jurisdiction in the MMWD service area and the corresponding population growth assuming the current 2.38 persons per household rate (Department of Finance, E-5 Report, 2021). The population growth associated with ABAG’s RHNA allocation exceeds the growth analyzed in the UWMP by 6,578 people, or 32%. Table 3 also shows a RHNA allocation that would be consistent with the growth projected in the UWMP. Larkspur’s RHNA allocation should not exceed 740 units in order to ensure adequate water supplies for the projected population growth.

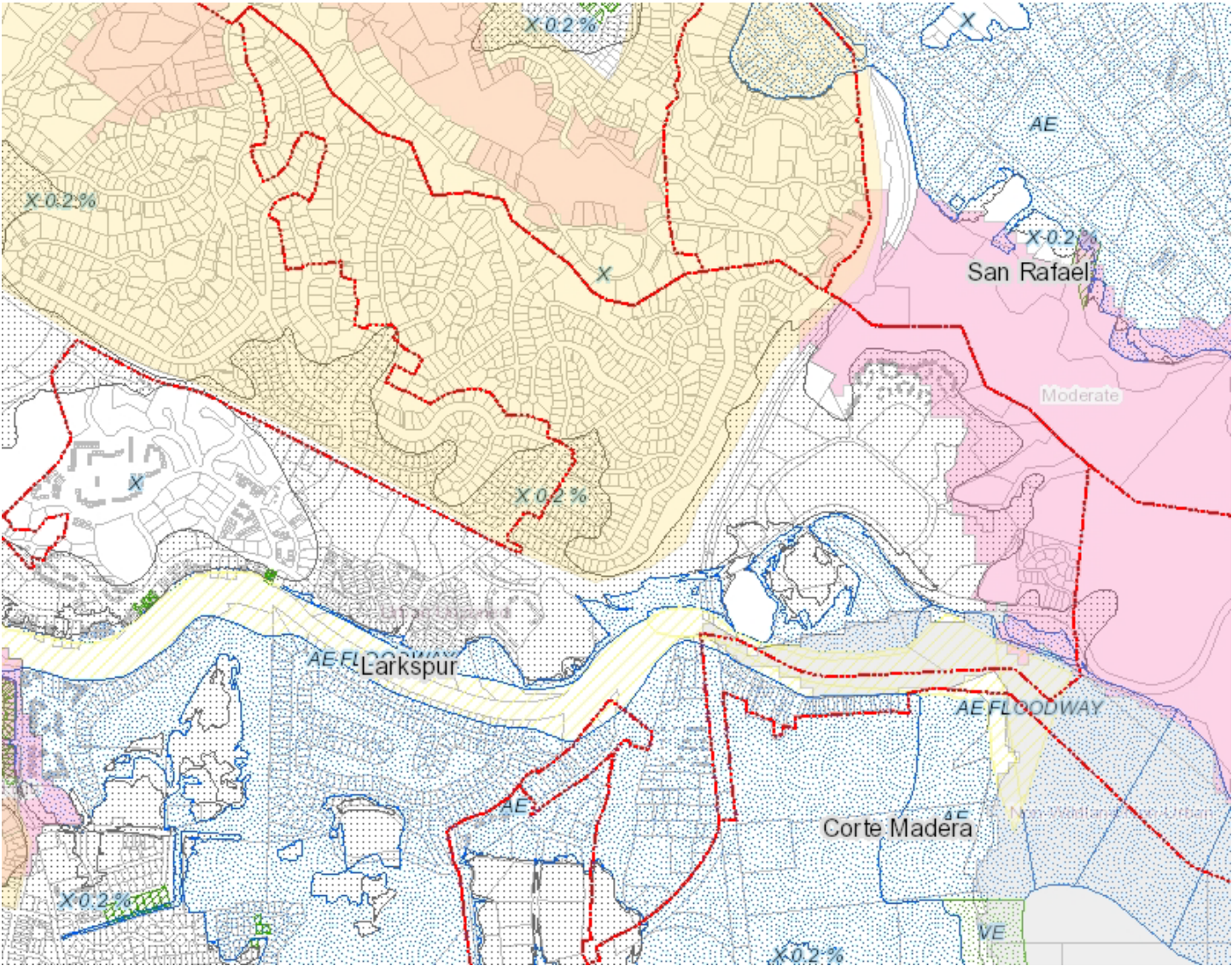
Table 3: RHNA and Population Growth in the MMWD Service Area

Jurisdiction	ABAG’s RHNA Allocation		Revised RHNA Allocation Consistent with the UWMP	
	Units	Population Growth	Units	Population Growth
Belvedere	160	381	121	289
Corte Madera	725	1,726	550	1,309
Fairfax	490	1,166	372	885
Larkspur	979	2,330	743	1,768
Mill Valley	865	2,059	656	1,562
Ross	111	264	84	200
San Anselmo	833	1,983	632	1,504
San Rafael	3,220	7,664	2,443	5,815
Sausalito	724	1,723	549	1,307
Tiburon	639	1,521	485	1,154
Unincorporated Marin (76% of 3,569)	2,712	6,455	2,058	4,898
Total	11,458	27,270	8,694	20,692

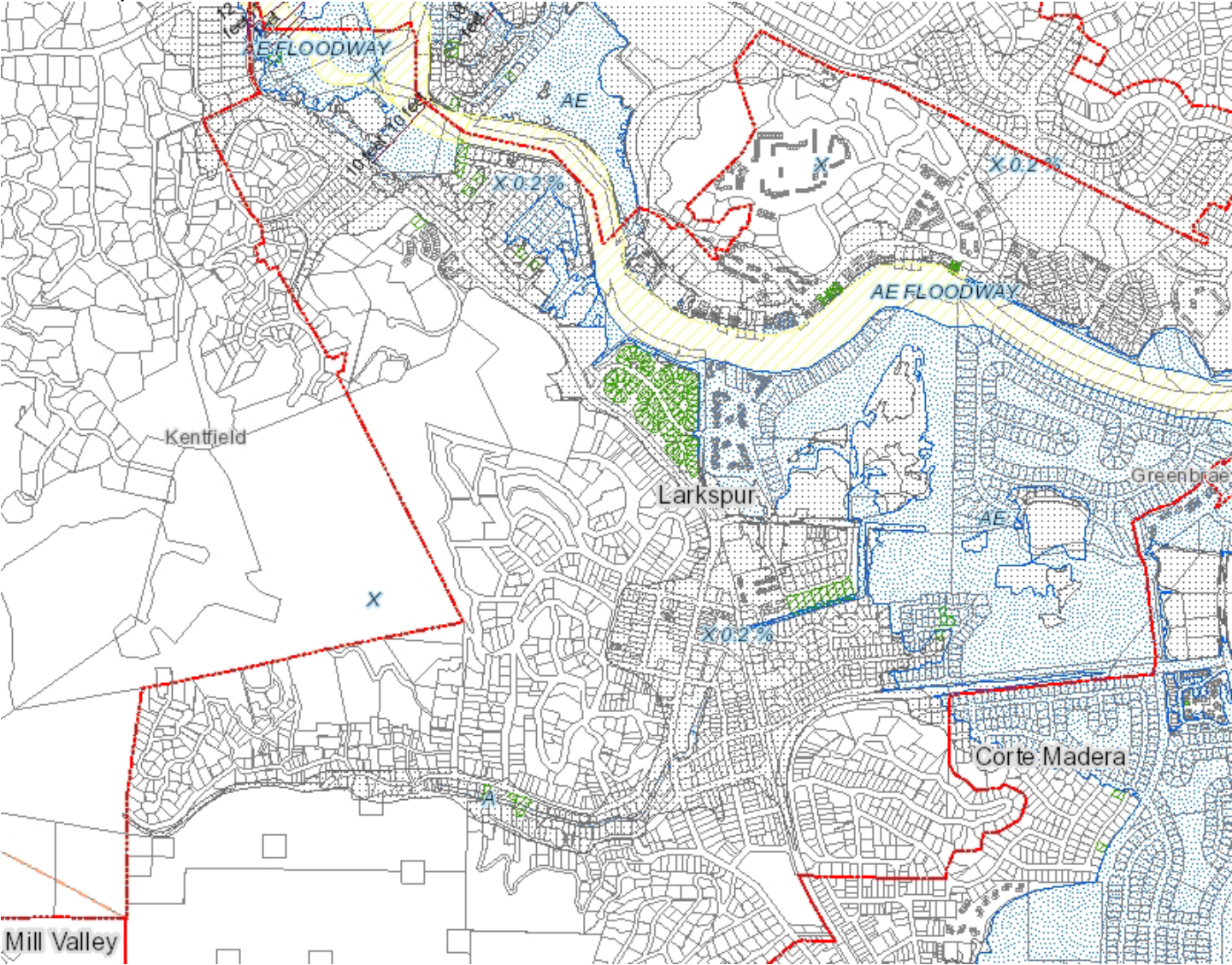
NW Larkspur FEMA Flood Zone + High Severity Fire Hazard Zone



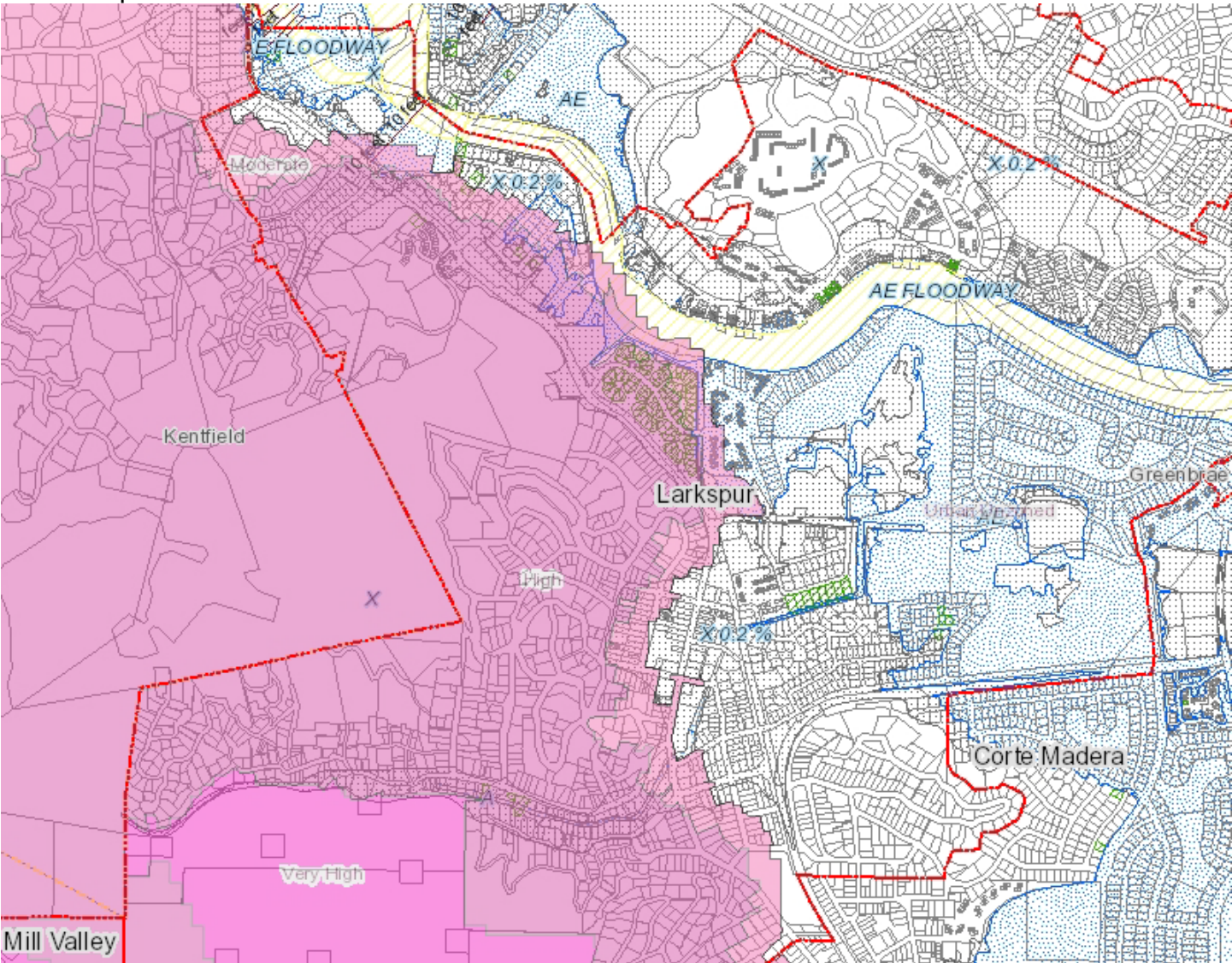
NW Larkspur FEMA Flood Zone + Fire Hazard Zone + WUI



SW Larkspur FEMA Flood Zone



SW Larkspur FEMA Flood Zone + Fire Hazard Zone



SW Larkspur FEMA Flood Zone + Fire Hazard Zone + WUI

