



# ABAG-MTC Staff Response to *City of Mill Valley* RHNA Appeal

ABAG Administrative  
Committee

October 8, 2021

# Overview of City of Mill Valley Appeal

## Appeal Request:

- Reduce allocation by 286 units (33%) from 865 units to 579 units.

## Staff Recommendation:

- Deny the appeal.

## Appeal bases cited:

- ABAG failed to adequately consider information submitted in the Local Jurisdiction Survey.
- 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.

# Issue #1 and #5: Methodology Does Not Further RHNA Objective 2 or Consider Hazard Constraints

*Jurisdiction Argument: RHNA methodology does not promote infill and socio-economic equity through efficient development patterns that achieve greenhouse gas emission targets and protect environmental and agricultural resources. The City also argues methodology does not consider constraints related to risk of flooding or wildfires.*

## **ABAG-MTC Staff Response:**

- City's argument challenges Final RHNA Methodology adopted by ABAG and approved by HCD, which falls outside scope of appeals process; HCD has authority to determine if RHNA methodology furthers 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 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.
  - 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 not identified in Housing Element Law as constraint to housing except when FEMA or Department of Water Resources has determined 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.

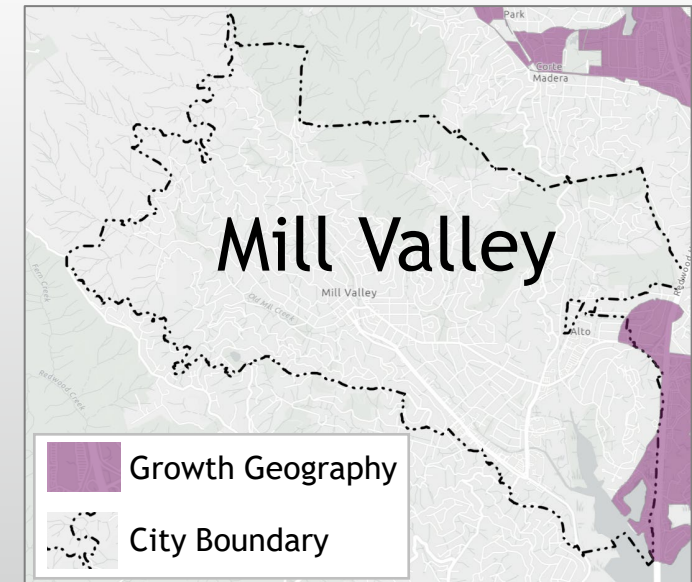


# Issue #2: Final Blueprint Growth Geographies

*Jurisdiction Argument: Plan Bay Area 2050 strategy H3 to allow greater mix of housing densities and types in Growth Geographies should only apply to eastern part of Mill Valley that is high-resource area, near transit, outside floodplain, and outside Fire Severity Zone. Draft RHNA of 865 units is inconsistent with Final Blueprint growth forecast of 1,000 households in Mill Valley by 2050.*

## **ABAG-MTC Staff Response:**

- Strategy H3 only applies to Growth Geographies, which encompass a small area of Mill Valley.
- City's argument about use of Growth Geographies in Final Blueprint challenges Final RHNA Methodology adopted by ABAG and approved by HCD, which falls outside scope of appeals process.
- Housing Element Law requires RHNA be consistent with Plan Bay Area 2050, but does not specify how to determine consistency, giving ABAG discretion to define approach.
- Approach used throughout RHNA methodology development compares RHNA allocations to Final Blueprint growth forecasts adopted at county and subcounty (i.e., superdistrict) levels.
- RHNA is consistent if 8-year RHNA does not exceed Plan's 35-year housing growth at county or subcounty levels; evaluation shows RHNA consistent with Plan Bay Area 2050, including South Marin superdistrict where Mill Valley is located.



# Issue #3: Error in RHNA Calculation

*Jurisdiction Argument: ABAG made an error in calculating the City's draft allocation, and thus failed to determine Mill Valley's RHNA using the methodology documented in the Draft RHNA Plan.*

## ***ABAG-MTC Staff Response:***

- There is no error in the calculation of Mill Valley's allocation.
- City's results were different because calculations did not include step to adjust factor scores for all jurisdictions to ensure methodology allocates 100% of units in each income category assigned by HCD.
- When calculations for each factor/income category include this step, results are consistent with Draft RHNA Plan.

# Issue #4: RHNA Methodology Factors

*Jurisdiction Argument: 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 the jurisdiction's allocation; a critique of the adopted methodology itself falls outside the scope of the appeals process.

# Issue #6: Concerns That Are Not A Valid Basis For An Appeal — Increased Fire Risk

*Jurisdiction Argument: Mill Valley argues it experienced a change in circumstances related to recommendations in draft 2020 Fire Hazard Planning Technical Advisory that conflict with RHNA methodology and City's increased fire risk.*

## ***ABAG-MTC Staff Response***

- Example policies in draft 2020 Fire Hazard Planning Technical Advisory related to minimizing risks to existing and new land uses are not in conflict with RHNA methodology.
- Given variety of natural hazard risks 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.”*

# Issue #7: Concerns That Are Not A Valid Basis For An Appeal — Slowing Population Growth

*Jurisdiction Argument: California's population growth slowed down in the last decade and Mill Valley argues ABAG should modify its population and household 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.
- 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.



# Recommended Action for City of Mill Valley Appeal

**Deny** the appeal filed by the City of Mill Valley to reduce its Draft RHNA Allocation by 286 units.

- ABAG considered information submitted in the local Jurisdiction Survey consistent with how the methodology factors are defined in Government Code Section 65584.04(e).
- The jurisdiction's Draft RHNA Allocation is in accordance with the Final RHNA Methodology adopted by the ABAG Executive Board and approved by HCD and furthers the RHNA Objectives identified in Government Code Section 65584(d).
- No 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.