



ABAG-MTC Staff Response to *City of Sausalito* RHNA Appeal

ABAG Administrative
Committee

October 15, 2021

Overview of City of Sausalito Appeal

Appeal Request:

- Reduce allocation by 579-599 units (80-83%) from 724 units to 125-145 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.

Note: The City of Sausalito did not submit a Local Jurisdiction Survey.

Issue #1: Lack of Available Land

Jurisdiction Argument: ABAG failed to adequately consider information about availability of land suitable for housing, and ABAG's Draft RHNA Plan does not provide sufficient information about each jurisdiction's land availability.

ABAG-MTC Staff Response:

- Development constraints considered in Plan Bay Area 2050 Final Blueprint, which is baseline allocation for RHNA methodology; jurisdictions had access to land use modeling inputs and results for Final Blueprint.
- All data and calculations for RHNA Methodology available in [Draft RHNA Plan](#), including data for each step of the RHNA methodology for each jurisdiction. Public open-source RHNA calculations also posted on [GitHub](#).
- HESS Tool plays no role in determining RHNA, and evaluates sites using **existing** local development policies.
- 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.

Issue #2: Areas at Risk of Natural Hazards

Jurisdiction Argument: 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:

- Areas at risk of natural hazards are not identified in Housing Element Law as a constraint to housing development.
- Sausalito not protected by Plan Bay Area 2050 sea level rise adaptations because only one housing unit at risk; no additional households forecasted in inundation areas, so RHNA baseline allocation lower than if 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 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 authority to plan for housing in places with lower risk.
- 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.

Issue #3: Drought

Jurisdiction Argument: RHNA methodology fails to consider sewer and water capacity in Sausalito. Marin Municipal Water District declared water emergency in April 2021.

ABAG-MTC Staff Response:

- 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.”
- 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.

Issues #4 and #5: Methodology Does Not Meet Statutory Requirements

Jurisdiction Argument #4: ABAG failed to provide a jurisdiction-level evaluation of existing and projected jobs and housing growth and to demonstrate that the RHNA does not result in a detrimental jobs-housing balance.

Jurisdiction Argument #5: The RHNA allocation does not meet the statutory requirement for consistency with development pattern in Plan Bay Area 2050.

ABAG-MTC Staff Response:

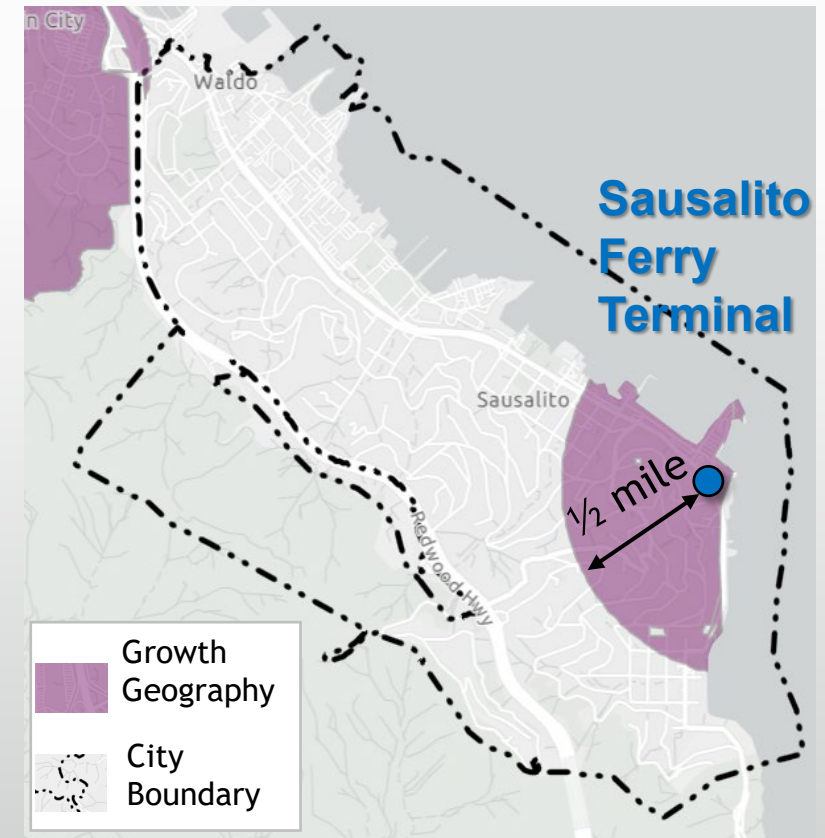
- These arguments challenge the Final RHNA Methodology adopted by ABAG and approved by HCD, and thus fall outside the scope of the appeals process.
- HCD has authority to determine if the RHNA methodology furthers the statutory objectives and HCD found that ABAG's methodology does further the objectives.
- Housing Element Law requires RHNA be consistent with Plan Bay Area 2050 development pattern, but does not specify how to determine consistency, giving ABAG discretion to define its own approach.
- Approach to determine consistency used throughout 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 8-year growth from 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 Central Marin superdistrict where Sausalito is located.

Issue #6: Growth Geography Designation

Jurisdiction Argument: Portion of Sausalito is mistakenly designated as Growth Geography. There should not be any Growth Geographies because City does not meet the minimum transit service thresholds.

ABAG-MTC Staff Response:

- Final Blueprint designates portion of Sausalito as a Transit-Rich and High-Resource Area based on 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; 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.



Issues #7, #8, #9, #10, and #11: Critiques of Methodology

Argument #7: The way RHNA methodology factors adjust allocations results in infeasible growth and allocations that are inconsistent with Final Blueprint development pattern.

Argument #8: ABAG should have used overcrowding factor to allocate more units to jurisdictions with most overcrowding.

Argument #9: ABAG should have used vacancy factor to assign more units to areas with low vacancy.

Argument #10: 2050 Households baseline is flawed, and methodology should be adjusted to distribute RHNA where growth is anticipated in the near- and mid-term.

Argument #11: RHNA methodology's Equity Adjustment is flawed because does not consider jurisdiction's capacity to accommodate growth, does not address jobs-housing balance, and does not account for constraints to development.

ABAG-MTC Staff Response:

- These arguments challenge the Final RHNA Methodology adopted by ABAG and approved by HCD, and thus fall outside the scope of the appeals process.

Issue #12: Maximum Growth Potential

Jurisdiction Argument: City provides calculations that indicate maximum growth potential in Sausalito during the 6th RHNA Cycle is 145 units, and argues its allocation should not exceed this amount.

ABAG-MTC Staff Response:

- 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:
 - 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.
- Sausalito's recalculation of its RHNA does not identify mistakes in application of adopted RHNA methodology. This recalculation represents a critique of the adopted methodology, and such critiques are not a valid basis for a RHNA appeal.

Recommended Action for City of Sausalito Appeal

Deny the appeal filed by the City of Sausalito to reduce its Draft RHNA Allocation by 579-599 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).