


**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: City of Los AltosFiling Party: ☐ HCD ☒ Jurisdiction: City of Los AltosContact Name: Jon Biggs Title: Community Development DirectorPhone: (650) 947-2750 Email: jbiggs@losaltosca.gov**APPEAL AUTHORIZED BY:**Name: Los Altos City CouncilSignature: Date: 7/9/2021**PLEASE SELECT BELOW:**

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

**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: < Designated      ☐ 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.

Summary

The City of Los Altos is a fully built-out city that must continue to rely on converting developed commercial land to high-density housing to meet its RHNA allocation. Limitations on water and sewer capacity, flood-prone areas, and adjacency to fire-prone wildlands present insurmountable barriers to achieving the draft allocation.

Rezoning and redevelopment of commercial parcels (predominantly for multi-family housing) has, over the past two cycles, reduced the amount of commercial land from an already small 5 percent of the city. Few potential parcels remain, and continued conversion places at risk the remaining sources of sales and transit occupancy taxes that comprise nearly 20 percent of the City's operating revenue. Los Altos lacks efficient transit. Fewer than 3 percent of resident workers take VTA bus or CalTrain, despite the focus of new multi-family build during the past 10 years along the El Camino Real Corridor. Plan Bay Area 2050 projections are that service will not substantially improve during the 6th cycle.

The consequence of redeveloping commercial to multi-family is that Los Altos has had little or no job growth, even as other cities in the West Bay have greatly exceeded the projections in Plan Bay Area 2040. The city continues to be a net housing provider to the region. Increasing the City's housing allocation by more than 400% over the 5th cycle RHNA to compensate for the jobs/housing imbalance exacerbated by other cities is not consistent with the statutory objective to promote improved intraregional jobs-housing relationship and to help reduce greenhouse gas emissions by planning for housing growth near public transit facilities and the region's major job centers.

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

1. City of Los Altos Appeal Letter
2. Los Altos - Uses and Development Potential Along El Camino Real
3. \_\_\_\_\_

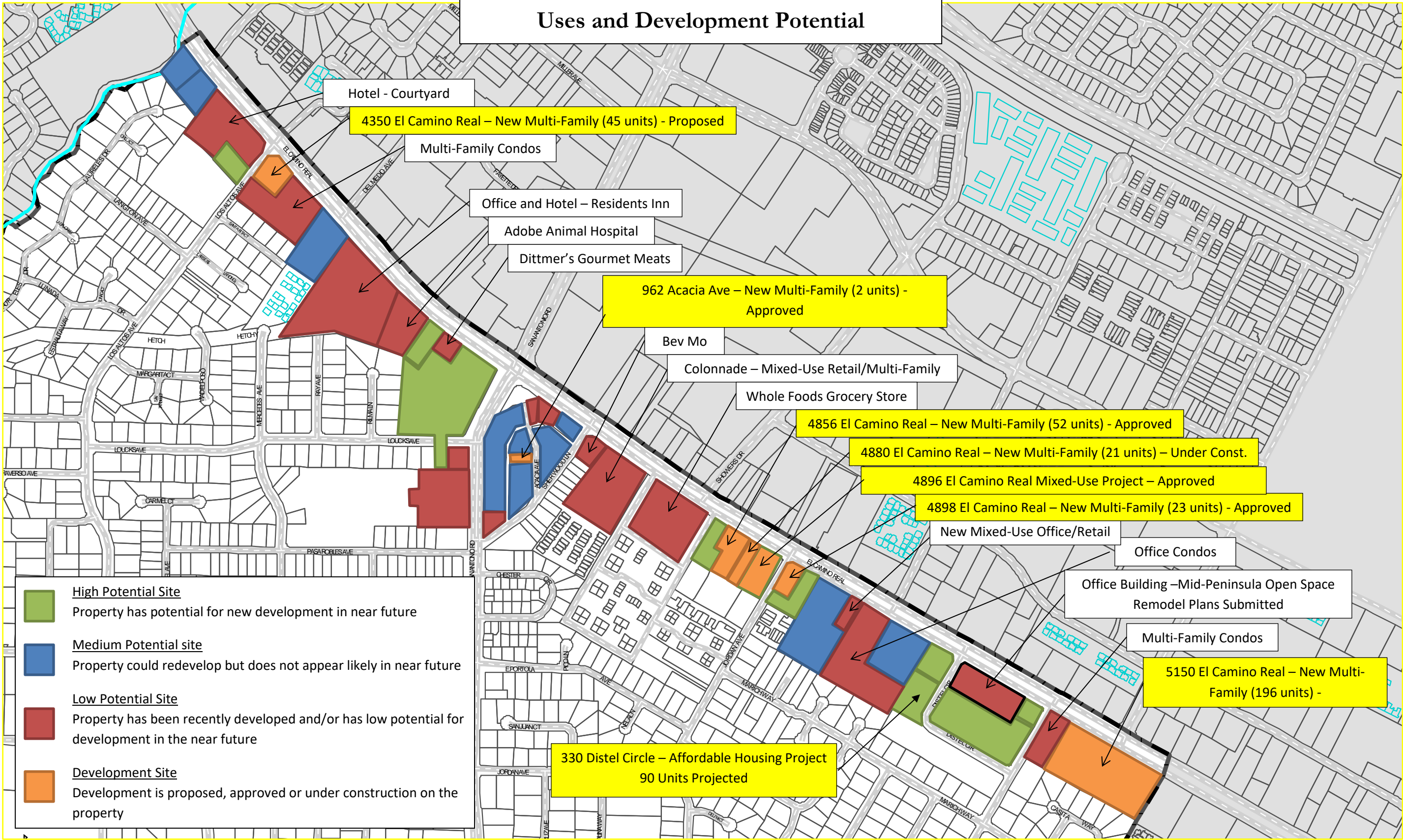


The maximum file size is 25MB. To submit larger files, please contact [rhna@bayareametro.gov](mailto:rhna@bayareametro.gov).

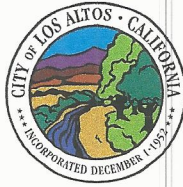
Click here to  
attach files

# EL CAMINO REAL CORRIDOR

## Uses and Development Potential







**City of Los Altos  
Community Development Department  
One North San Antonio Road  
Los Altos, California 94022**

July 8, 2021

Therese McMillan  
AGAB/MTC Executive Director  
Bay Area Metro Center  
375 Beale Street  
San Francisco, CA 94105

Subject: City of Los Altos Appeal of Draft 2023-2031 Regional Housing Needs  
Assessment Allocation

Dear Ms. McMillan,

On behalf of the Los Altos City Council and the Los Altos community, the City of Los Altos respectfully submits an appeal to the Association of Bay Area Governments (ABAG) of the Draft 2023-2031 Regional Housing Needs Assessment (RHNA) allocation. The City of Los Altos is appealing on a number of grounds as specified on the attached form, including the existing and projected jobs and housing relationship, infrastructure constraints, availability of land suitable for development in accordance with state law, distribution of household growth assumed for Plan Bay Area 2050, the region's greenhouse gas target, anomalies in applying the Draft RHNA Allocation, and the significant and unforeseen change in circumstances arising from the decrease in California population and the likely long-term impact of the Covid impact.

We request a reallocation based on the issues raised below, which should reflect at least a 50 percent reduction.

**1. Local Planning Factors regarding RHNA and Information Related to Affirmatively  
Furthering Fair Housing (Gov. Code 65584.04(b)(2) and (e))**

**Existing and projected jobs and housing relationship**

Los Altos has been and continues to be a net provider of housing to the region, with a jobs to housing ratio of less than 1.2, well below the 1.5 often used as a benchmark. Reliable jobs information is not available, pending release of the 2020 Census. Sources of historic jobs data are inconsistent among several documents (see table below), leading to great difficulty in identifying or relying on the data used for the draft RHNA. Given the few replacement office developments over the past 10 years, coupled with



the significant redevelopment of commercial space into multi-family housing, the City believes there has been little growth in employment over the past 8 years. Certainly, Los Altos has not experienced the massive jobs growth of other nearby cities.

Source	2000	2010	2019
U.S. Census	12,711	11,958	N/A
Los Altos Housing Element (5 <sup>th</sup> cycle) [Source reference is ABAG]	N/A	14,760	N/A
Housing Needs Data Report for Los Altos (April 2021)	8,500 (2002)	8,300	11,950

As a consequence of RHNA, Los Altos will continue to see redevelopment of some commercial space to multi-family housing, with no expected increase in commercial development. Thus, the number of jobs should remain fairly stable over the 6<sup>th</sup> cycle, adjusting only for increase in support services for increased population (e.g. schools). The jobs-to-housing ratio is therefore expected to decrease further, and Los Altos will continue to be a net provider of housing. For this reason, increasing the City's housing allocation by more than 400 percent over the 5<sup>th</sup> cycle RHNA to compensate for the jobs/housing imbalance exacerbated by other cities is not consistent with the statutory objective to promote improved intraregional jobs-housing relationship.

#### **Sewer or water infrastructure constraints for additional development**

The City of Los Altos is significantly constrained by infrastructure and available land that can realistically be rezoned for dense housing development. Gov Code 65583.2(c)(1) requires "Realistic development capacity calculation accounts for minimum density requirements, land use controls, site improvements, and typical densities of existing or approved projects at similar income levels, and access to current, or planned, water, sewer, and dry utilities [emphasis added.]"

#### *Sewer Capacity*

With the exception of a few homes with septic systems, the City's sewer system serves all development within Los Altos, adjacent unincorporated areas within the urban service area, and a portion of Los Altos Hills. Since 1972, the City has contracted with the City of Palo Alto for sewage treatment at the Palo Alto Regional Water Quality Control Water Supply Plant. The City of Palo Alto is the administrator of the plant. Currently, the City of Los Altos has approximately 11,057 housing units. The addition of 1,958 housing units to the City's housing inventory would represent an unanticipated increase of 18% in a short 8 years, which was not planned for within the Los Altos General Plan, thus making future development inconsistent with the City's General Plan. Inconsistency with the General Plan violates Government Code Section 65300.5

and existing case law (see *Sierra Club vs. Board of Supervisors*, 126 Cal App 3d 698 (1981)). The only option to obtain additional capacity is to “buy” it from another willing jurisdiction – unlikely give the RHNA numbers they will all be facing. Thus, Los Altos has no means to mitigate this issue.

#### *Water Availability*

The City of Los Altos is supplied by retailer California Water Service Company (CalWater) through their Los Altos Suburban District. CalWater sources water from local wells and purchases surface and imported water from the Santa Clara Valley Water District (Valley Water). There are well-known local, state, and federal constraints on water supply, especially given the increasing number and severity of drought years. The California Water Service Urban Water Management Plan (2015) projects growth for Los Altos at 0.92% per year through 2040 (p. 23), which is approximately 6.6 percent over the period of the 6<sup>th</sup> cycle, not the 18 percent that can be expected from adding 1958 housing units. CalWater and Valley Water have aggressive conservation plans, but none anticipate accommodating this level of growth. In addition to the well-known reductions and limitations resulting from drought, Anderson Reservoir – which stores over 50 percent of the surface water managed by Valley Water – is empty and unavailable for at least the next 10 years due to dam reconstruction and seismic retrofitting. The Draft EIR for Plan Bay Area 2050 states that, even given planned mitigation measures, water supply will be insufficient to support the projected population increases.

#### *Wildland Urban Interface*

A portion of southwest Los Altos borders the Rancho San Antonio Preserve, a Wildland - Urban interface. This area is quite hilly, which makes it unsuitable for higher-density redevelopment because of emergency ingress-egress issues. These areas and Los Altos Hills, which shares the western border of Los Altos, were threatened by the CZU fire in 2020 that burned 87,000 acres.

#### **Availability of land suitable for urban development or for conversion to multi-family residential use**

##### *Constraints on available land per Gov. Code 65588(d)(1) and (d)(2)*

Los Altos is a built out community. The majority of land within the City (81 percent) is zoned and developed for residential, with additional land zoned to allow multi-family with or without commercial uses. Regular and significant rebuilding of housing has kept the stock in good condition and attractive. Another 14 percent is zoned as public land (including public and private schools, religious institutions, utility sites, and civic facilities, parks, and open space). Los Altos has the smallest per capita amount of parks and open space of any jurisdiction in Santa Clara County and has no excess, publicly owned land. The only parcel owned by another government agency is currently being



developed as the first 100 percent affordable development in the city. The remaining 5 percent was zoned for and originally developed as commercial, retail, and office space. Much of that has been rezoned to allow multi-use or multi-family redevelopment. Over the past two RHNA cycles, a significant portion of this land has been redeveloped or is entitled or in the pipeline for multi-family.

The City of Los Altos can demonstrate, as required by the statute, that it has successfully re-zoned and encouraged redevelopment of parcels that have resulted in 357 new multi-family housing units, of which 58 are affordable, and more are in the pipeline for entitlement prior to the end of the cycle. For the 6<sup>th</sup> cycle, the combination of high land values, absence of vacant land, high construction costs, and lack of available labor all work against pro-forma that justifies and supports redevelopment.

AB 1397 (Low) gives strict requirements for including a site in a housing element, ensuring it must be a real, developable, and adequate site for housing.

Gov. Code 65588(d)(1) and (d)(2) requires as to existing uses

“The housing element must demonstrate non-vacant and/or underutilized sites in the inventory that can be realistically developed with residential uses or more-intensive residential uses at the densities appropriate to accommodate the regional housing need (by income) within the planning period. ... The condition or age of existing uses and the potential for such uses to be discontinued and replaced with housing (within the planning period) are important factors in determining “realistic” development potential.”

The Draft RHNA fails to consider the implication of the statutes governing Housing Elements. The requirement for determining the adequacy of housing sites to accommodate further housing growth is contrary to demands of the draft allocation. This creates a scenario where the City cannot realistically expect redevelopment – either by market forces or through public funding – to achieve the target levels of RHNA for any income level on sites pursuant to statutory provision.

Further, despite the relatively small amount of commercial/retail space, Los Altos is dependent on the sales and transient occupancy tax from these areas that contribute 20 percent of the annual operating revenue and provide important diversity in revenue sources.

Assuming that the 1169 moderate and above market-rate units in the draft allocation will be built at an average of 35 units/acre, and that 789 low- and very low-income units will be built at 75 units/acre, the city would need 43 acres of land to be redeveloped for housing in the 6<sup>th</sup> cycle. Given the paucity of available land, the escalating cost of land, and the unavailability of any excess public land owned by the



city, it is unreasonable to assume that the marketplace will construct the market-rate units or that the city can identify funding for moderate, low-, and very low-income sites, pursuant to the requirements of the Government Code.

Of the potential vacant sites listed in the 5<sup>th</sup> cycle housing element, 12 single-family and one 4-unit multifamily units were constructed on 13 of the 25 small vacant parcels, leaving 12 parcels of from 0.09-0.31 acres and one of 1.48 acres that is part of an old holding with no near-term prospect for development. None of these were or are suitable for multi-family development.

ADU production has surged, from 15 units in 2018 to 35 in 2019 and 62 in 2020 (despite the impact of COVID). However, it is not yet known whether these units will be available for rent (or at what income levels) or whether they will predominantly be used for multi-generational housing within a family. Therefore, despite their contribution to housing stock, it is unknown how many units might contribute to achieving the RHNA.

Of 42 parcels along El Camino Real, 15 were previously rebuilt as commercial, and 10 have been developed, or are entitled or in process of being approved, for multi-family housing. Together, these comprise more than 600 units. Of the seven parcels with some likelihood of future redevelopment, six are less than .5 acres each. [El Camino Map]

Along the periphery of the downtown, nine parcels have been redeveloped or substantially rebuilt as commercial and 10 have been redeveloped, or are entitled or in process, for multi-family consisting of 175 new multi-family units. There are few remaining parcels that may be considered for redevelopment, as most are successful commercial/retail businesses.

Over the past two cycles, the city has been able to increase the percentage of inclusionary zoning from 10 to 18 percent. However, this percentage of inclusionary zoning will be insufficient to achieve the 6<sup>th</sup> cycle numbers. In fact, the exclusive use of inclusionary zoning would exacerbate the difficulty of creating affordable housing, as 40 percent of the RHNA units are assigned to below-market-rate categories. Every parcel developed under the inclusionary system further constrains the availability of parcels for development of more than 20 percent affordable units.

With single-family lots (most commonly of 0.25 acre) selling for \$3.5 million, it is unlikely to be economical for developers to acquire such individual lots for multi-family. To the extent that single-family parcels are upzoned, it will accelerate increase inland prices and make further development uneconomical. Upzoning commercial land for multi-family has demonstrably increased land costs, going from less than \$3.7M/acre

(for a .54 acre parcel) in 2002 to over \$13M/acre (0.84 acre parcel and 3.8 acre parcel) in 2018.

Given that a substantial portion of the land previously developed for commercial uses has now been redeveloped for multi-family or has been redeveloped or rebuilt to create thriving businesses, it is unrealistic to expect that the City can identify and motivate redevelopment of more than 25 percent of that sparse land that would be needed for additional multi-family housing. Such development would also seriously affect the diversity of funding sources, placing city finances at risk. An evaluation of the draft RHNA allocation is needed and an adjustment is necessary so that this allocation appropriately reflects a realistic expectation of the additional housing units that City can reasonably expect to accommodate.

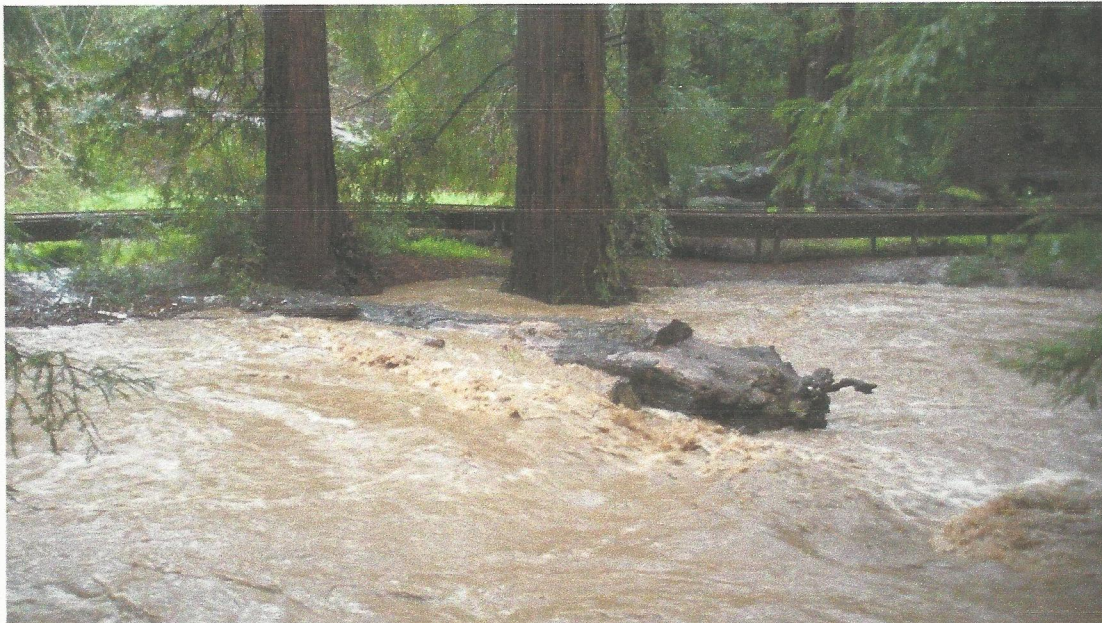
#### *Impact of Flood Zone*

The National Flood Insurance Program (NFIP) was created through the National Flood Insurance Act of 1968 (P.L. 90-448) to (1) share the risk of flood losses through flood insurance and to (2) reduce flood damages by restricting floodplain development. The U.S. Code (USC) codification of the Public Law where Congress established the NFIP in the section "Congressional findings and declaration of purpose" includes:

*It is the further purpose of this chapter to (1) encourage State and local governments to make appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses, (2) guide the development of proposed future construction, where practicable, away from locations which are threatened by flood hazards*

There are four creeks that run through Los Altos: Adobe Creek, Hale Creek, Permanente Creek and Stevens Creek. In addition, there is the by-pass near Blach School, which carries overflow from Permanente Creek to Stevens Creek. During rainstorms, storm water naturally flows to the creeks, which is eventually conveyed to the San Francisco Bay; however, during periods of heavy storms the amount of water flowing to the creeks can overflow the creek banks and cause flooding. Flooding is likely to be limited to properties closer to creek areas; however shallow flooding could occur in areas throughout the city including city streets. Below is a recent picture of flooding in Los Altos that occurred during a storm event in 2017.





The Community Rating System (CRS) of the National Flood Insurance Program (NFIP) is administered under the Federal Emergency Management Agency (FEMA). The CRS is a voluntary program that allows communities to earn flood insurance premium discounts for residents and businesses by promoting flood risk reduction practices, floodplain management, and encourage buying flood insurance. These activities go above and beyond the normal enforcement of floodplain regulations and the community earn various points for different activities. There are CRS Class ratings that are assigned at 500-point increments, and each improvement in class rating nets an additional 5 percent discount for property owners paying flood insurance premiums.

The City of Los Altos currently has a Community Rating System Classification of 8, which is maintained through annual recertifications of CRS activities. The City has maintained a Community Rating System Class 8 rating which allows property owners in the Special Flood Hazard Areas (SFHA) in Los Altos to receive a 10% discount on flood insurance premiums for all new or renewed policies by residents and businesses.

Additionally, there are approximately 550 properties located near Adobe, Hale, Permanente, or Stevens Creeks that may have a portion or all of their properties federally designated as SFHA. This special designation is given to land that has the highest probability of flooding in any given year.

One of the key objectives of the Regional Housing Needs Allocation Draft Methodology is the promotion of infill development:



*OBJECTIVE 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 reductions targets provided by the State Air Resources Board pursuant to Section 65080.”*

While the City of Los Altos supports redevelopment, additional housing should not be built in a manner that places residents and the community at risk for major flood events contrary to the goals of the Community Rating System (CRS) of the National Flood Insurance Program (NFIP). As such, since the 550 properties in Los Altos in the special flood hazard zone represent 10 percent of parcels in Los Altos, we respectfully request this be considered in reducing our RHNA allocation.

#### **Distribution of household growth assumed for Plan Bay Area 2050**

In Los Altos, most redevelopment during the 5<sup>th</sup> cycle has replaced commercial with multi-family housing. As a consequence, jobs growth in Los Altos is nearly flat – a marked difference from other nearby cities that added jobs well above the projections from Plan Bay Area 2040. The draft RHNA of more than 400% of the 5<sup>th</sup> cycle numbers punishes Los Altos as a net provider of housing to the region for housing needs that it did not create. Such numbers are partly the result of designating Los Altos as a High Resource Area and designating part of the city as a Transit Rich-High Resource Area despite the lack of qualifying transit stop and service.

Los Altos does not fall within any Transit Priority Areas and has no Priority Growth Areas (and no feasible path to create them), yet it appears that certain VTA bus information in the draft Plan Bay Area 2050 was used to significantly increase the allocation of base units. The MTC/ABAG map (Blueprint Growth Geographies) found at (<https://mtc.maps.arcgis.com/apps/webappviewer/index.html?id=485e374221e84074b7e577ad381f6fce>) show a Transit Rich-High Resource Area along El Camino Real which is along the northern border of the city and a High Resource Area (not TRA, with bus service 16-30 min) along San Antonio Road that extends from El Camino to Foothill Expressway southbound and then connects to the southern most part of El Monte Ave. to Hwy 280. There is no major transit hub serving the former area, and there are no plans for VTA to expand its minimal bus service or frequency for any of the areas.

On the contrary, VTA had reduced service prior to the pandemic, and it estimates that service may not return to pre-Covid levels until after the end of the 6<sup>th</sup> RHNA cycle. Prior to Covid, fewer than 3 percent of residents used public transit (including VTA and CalTrain), and the Blueprint provides no evidence that this will change absent uncertain investment. Therefore, the consideration of this area for more dense development owing to “proximity” to transit during the 6<sup>th</sup> cycle is not supported. It is unknown to

what extent these two designations influenced the base allocation for Los Altos, but they should be excluded when making the calculation.

Finally, the distribution of household growth required by the draft 6<sup>th</sup> cycle numbers would substantially disrupt and undermine the planning and projects that the city has undertaken to create complete and safe streets for bicycles and walking. Most critical would be impacts on Safe Routes to School. The increased housing will result in substantial increases to traffic that cannot readily be accommodated on already constrained roadways.

### **The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050**

Through prudent planning, the City has been able to retain the seven small commercial centers that allow all residents to be within 1 mile of grocery, retail, and other services. Two major centers with medical services have also been preserved. This has significantly contributed to lower levels of greenhouse gases and contributed to Los Altos being a “self-sufficient” – or what some now call a “15-minute” – city.

In 2015 the City of Los Altos adopted a Climate Action Plan, in conformance with Plan Bay Area 2040, which provides guidance for the reduction of greenhouse gas emissions within the City. The Climate Action Plan, while forward thinking, did not anticipate the housing units counts presented by the proposed RHNA allocation. This Climate Action Plan strives to achieve a 15% reduction in greenhouse gas emissions to 152,000 MTCO<sub>2</sub>e, with half coming from reductions in vehicle miles traveled. As described previously, the thoughtful inclusion of seven commercial centers and two medical centers allows for bikeable/walkable shopping and service access. The city lacks useful bus service, so retaining what is being called “15-minute cities” is crucial to achieving meaningful reductions in greenhouse gases.

ACS data (pre-pandemic) show that Los Altos households have an average of 2.5 automobiles. About 77 percent of residents drive to work and just under 10 percent work from home (pre-pandemic); about 3% walk or ride bikes. Although there is bus service along El Camino Real and a Caltrain station in the adjacent city of Mountain View, these modes do not meet the commute needs of the overwhelming number of residents, as fewer than 3 percent commute by public transit. There has been no change in transit use despite the addition of multi-family housing along the El Camino Real corridor. At least in Los Altos, higher density, multi-family housing does not result in increased use of transit.

Adding 1958 housing units will likely add at least 3,000 vehicles, more than 10,500 daily trips (based on 5.44 trips per day, Institute of Transportation Engineers Trip Generation Manual, 10<sup>th</sup> ed), and at least 65,000 daily VMT (based on 2018 data showing 375,000



daily VMT for Los Altos California Public Roads Data Highway Performance Monitoring System (HPMS)). The city can expect that the average 22-mile transit to work will result in greater greenhouse gas emissions as people sit on increasingly congested streets in the South and West Bay.

The addition of the housing units called for in the RHNA allocation will therefore negate the progress made under the plan and result in absolute increases. The RHNA allocation needs to be reconsidered in light of the City's Climate Action Plan strategies and adjusted so that Los Altos can remain on target to achieve greenhouse gas emissions goals and meet GHG and VMT targets, conforming to AB 32 and SB 375.

## 2. Application of the adopted Final RHNA Methodology for the 6<sup>th</sup> Cycle

It is difficult to validate the application of the methodology to the City of Los Altos. It is not possible to assess the baseline numbers used, in part because they were adjusted by ABAG from the Plan Bay Area 2050 Blueprint (and those numbers are similarly opaque). While the calculations in Appendices 4 and 5 of the Draft RHNA Plan are mathematically correct, it is not possible to validate the assumptions and methods that led to adjusting the factors.

The state of California is experiencing historically low population growth. Recent downward revisions by Department of Finance shows more significant slowing than expected, with the past three years having the lowest population growth rates since 1900. The demographics of the population show a flattening of the curve in household formation, completely contrary to the rate of growth planned in the Draft RHNA allocation. The Freddie Mac report (February 2020) "The Housing Supply Shortage: State of the States" showed California had an existing need of 820,000 units statewide. Given the revised forecasts of minimal growth, the housing need forecast in Plan Bay Area 2050 and the RHNA estimates for the 6<sup>th</sup> cycle look increasingly suspect. The additional information in the writ of mandamus filed by the Orange County Council of Governments brings the HCD numbers into further question. It is hoped that ABAG/MTC will find a way to revisit the plans given the impact of the Covid pandemic, the lack of City resources and staff ability to adequately review the volumes of data that go into the RHNA projections, the new estimates from the Department of Finance as to population changes, and the questions regarding HCD methodology.

It is critical that cities have realistic expectations placed on them for planning, especially given the adverse consequences under recent state laws for failing to issue building permits for the target RHNA numbers.



### *Vacancy Rates*

SB-828 mandates application of a 5 percent vacancy rate to rental housing; HCD has applied this to all housing, including owned units that have a significantly smaller historical rate. The HCD adjustment for vacancy, Appendix 2 of the Draft Plan, adds almost 22 percent of the units for the 6<sup>th</sup> cycle, based on the difference between 5 percent and the region's "...current vacancy rate based (1.73%) on the 2014-2018 ACS data. For ABAG that difference is 3.27%" (footnote 5).

It is unclear whether this is a total vacancy rate or whether either or both are based on excluding the "other vacant" units, as explained in the Housing Needs Data Report for Los Altos provided by ABAG/MTC (April 2021). That report states, "Vacant units make up 3.7% of the overall housing stock in Los Altos. The rental vacancy stands at 3.1%, while the ownership vacancy rate is 1.0%. Of the vacant units, the most common type of vacancy is *Other Vacant* (see Figure 21)." The footnote explains "The vacancy rates by tenure is for a smaller universe than the total vacancy rate first reported, which in principle includes the full stock (3.7%). The vacancy by tenure counts are rates relative to the rental stock (occupied and vacant) and ownership stock (occupied and vacant) - but exclude a significant number of vacancy categories, including the numerically significant *other vacant*." The report continues, "Throughout the Bay Area, vacancies make up 2.6% of the total housing units..." This is at odds with the table in Appendix 2 of the Draft Plan that shows "current vacancy rate of 1.73%." If the 2.6% and 1.73% are measurements of the same definition of "vacancy", then the discrepancy must be resolved.

It also remains unclear if the adjustment made by HCD relies on an ACS-based vacancy rate for the "smaller universe" or for all vacant units (irrespective of category). If the former, then adding 3.27% to the projected additional units needed erroneously inflates the number of additional units, especially when an additional increment of 0.5% is added for "replacement" to cover units being demolished (which are also counted as "Other Vacant"). This discrepancy may result in double counting of the need for additional units and, at a minimum, assigns a disproportionate number of such units to Los Altos, given that our vacancy rates (under any scenarios) are above those of the HCD calculations.

The underlying assumption by the ABAG methodology is flawed and must be revised to accurately reflect the vacancy rates under correct and consistent definitions. The allocation to City of Los Altos should be adjusted accordingly.

### 3. Changed circumstances (Per Gov. Code 65584.05(b))

The pandemic was unforeseen during the development of the RHNA methodology and will likely have a profound impact on the Bay Area, ways of working, and housing needs. There will not be a return to “normal” as follows a typical recession. In addition, revisions to population numbers from Department of Finance demonstrate a slowdown in population predates the pandemic and is being exacerbated by pandemic response.

This unforeseen slowing of population growth, changes in ways to work, and shifts in housing needs and preferences are significant and should be considered before finalizing the 6<sup>th</sup> RHNA cycle. Moreover, the COVID-19 pandemic has resulted in a significant change in local, regional, and state-wide circumstances, which necessitates a reevaluation of several key data inputs in the RHNA methodology.

With the COVID-19 pandemic, how and where people work, where they live and want to live, and their use of transit have all changed dramatically. On October 1, the San Francisco Chronicle ran an article entitled “S.F. hits highest office vacancy rate in nearly a decade.” The commercial real estate firm CBRE reported that in the second quarter leasing activity fell by 44 percent in comparison with the second quarter of 2019. Silicon Valley businesses are still evaluating how to return to work, with many having announced reduced expectations for in-office presence. How people work and where they work has changed dramatically. This has and will change the underlying assumptions on which the RHNA allocation was determined.

Therefore, it is unreasonable to move forward with a housing plan that focuses growth around jobs and commute patterns that no longer exist. Tens of thousands of jobs have been changed or lost within the 30-minute travel buffer used to determine the City’s existing housing need.

In Santa Clara County, the Valley Transportation Authority (VTA) saw an 80 percent reduction in ridership once the shelter in place order took effect in March. Plan Bay Area 2050 indicates that bus service is unlikely to return to pre-Covid levels until the end of the 6<sup>th</sup> cycle, and even that is dependent on uncertain funding. Governments need more information and time to study the changing plans and desires of the public to determine whether additional housing and employment should be planned around higher density transit stations in the urban core or at transit stations in the suburbs. Jurisdictions need more time to watch how these travel patterns, economic changes, land use changes, working patterns, housing preference changes will continue to affect the underlying assumptions of this RHNA allocation.

The impacts of the Covid pandemic also impacted staff’s workload that, in addition to processing applications and projects in compliance with permit streamlining

requirements, presented challenges of dealing with ever-changing rules and requirements that were implemented to help protect the public's welfare. This was an unprecedented set of circumstances that required quick action and adjustment to new ways of completing the City's daily business and that made it difficult to review the numerous regulatory directives and initiatives that we were presented with. There just was not sufficient time for staff to handle the day-to-day duties of the City, address the pandemic, and be fully involved in the long-range planning efforts. More time is needed to allow for a full and appropriate review of the RHNA allocations.

For all of the above reasons, the City of Los Altos requests a substantial reduction of its allocation, based on staff reworking and resolution of the issues raised.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jon Biggs', is written over the printed name.

Jon Biggs, City of Los Altos  
Community Development Director