

TO: ABAG Administrative Committee
FROM: Therese W. McMillan, Executive Director
SUBJECT: Town of Los Altos Hills Appeal of Draft RHNA Allocation and Staff Response

OVERVIEW

Jurisdiction: Town of Los Altos Hills

Summary: Town of Los Altos Hills requests the decrease of its Draft RHNA Allocation by 129 units (26 percent) from 489 units to 360 units based on the following issues:

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

Staff Recommendation: Deny the appeal.

BACKGROUND

Draft RHNA Allocation

Following adoption of the Final RHNA Methodology on May 20, 2021, the Town of Los Altos Hills received the following draft RHNA allocation on May 25, 2021:

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
Town of Los Altos Hills	125	72	82	210	489

Local Jurisdiction Survey

The Town of Los Altos Hills submitted a Local Jurisdiction Survey. A [compilation of the surveys submitted](#) is available on the ABAG website.

Comments Received during 45-Day Comment Period

ABAG received nearly 450 comments during the 45-day public comment period described in Government Code section 65584.05(c). Some comments encompassed all of the appeals submitted and there were two comments that specifically relate to the appeal filed by the Town of Los Altos Hills. Both comments support the Town's appeal. [All comments received](#) are available on the ABAG website.

ANALYSIS

Issue 1: *The Town asserts that ABAG fails to adequately consider the jobs-housing relationship in Los Altos Hills. The Town disputes the use of job proximity factors in the methodology instead of the number of jobs within a jurisdiction. The Town also argues that it has sufficient affordable housing units relative to the number of low-wage jobs in the jurisdiction.*

ABAG-MTC Staff Response: This argument by the Town 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. Jurisdictions had multiple opportunities to comment as the methodology was developed and adopted between October 2019 and May 2021. Housing Element Law gives HCD the authority to determine whether the RHNA methodology furthers the statutory objectives described in Government Code Section 65584(d), and HCD made this determination.¹ Regarding the RHNA objective related to "Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction," HCD made the following findings:

The draft ABAG methodology² allocates more RHNA units to jurisdictions with more jobs. Jurisdictions with a higher jobs/housing imbalance receive higher RHNA allocations on a per capita basis. For example, jurisdictions within the healthy range of 1.0 to 1.5 jobs for every housing unit receive, on average, a RHNA allocation that is 61% of their current share of households. Jurisdictions with the highest imbalances – 6.2 and higher – receive an average allocation 1.21 times their current share of households. Lastly, higher income jurisdictions receive larger lower income allocations relative to their existing lower income job shares.

¹ For more details, see [HCD's letter](#) confirming the methodology furthers the RHNA objectives.

² Pursuant to Government Code Section 65584.04(i), HCD must review the Draft RHNA Methodology developed by the Council of Governments. On May 20, 2021, ABAG adopted the Draft RHNA Methodology without any modifications as the Final RHNA Methodology.

The RHNA methodology incorporates each jurisdiction's jobs-housing relationship through use of the Plan Bay Area 2050 Final Blueprint as the baseline allocation. The Final Blueprint incorporates information about each jurisdiction's existing and projected jobs and households. The Final Blueprint emphasizes growth near job centers and in locations near transit, including in high-resource areas, with the intent of reducing greenhouse gas (GHG) emissions. It includes strategies related to increased housing densities and office development subsidies to address jobs-housing imbalances in the region. This land use pattern is developed with complementary transportation investments in an effort to ensure past and future transportation investments are maximized. The strategies incorporated into the Final Blueprint help improve the region's jobs-housing balance, leading to shorter commutes—especially for low-income workers. The Draft RHNA Allocation was also found to be consistent with Plan Bay Area 2050, which meets the statutory GHG reduction target.

The final RHNA methodology amplifies the Plan Bay Area 2050 Final Blueprint's emphasis on improving jobs-housing balance by using factors related to job proximity to allocate nearly half of the Regional Housing Needs Determination (RHND). It is important to note that Housing Element Law requires that the RHNA methodology improve the *intraregional* relationship between jobs and housing—not the jobs-housing balance in any particular jurisdiction. The job proximity factors direct housing units to those jurisdictions with the most jobs that can be accessed with a 30-minute commute by automobile and/or a 45-minute commute by transit. The inclusion of the Job Proximity – Transit factor encourages growth that capitalizes on the Bay Area's existing transit infrastructure, while the Job Proximity – Auto factor recognizes that most people in the region commute by automobile.

The factors in the RHNA methodology measure job access based on a commute shed to better capture the lived experience of accessing jobs irrespective of jurisdiction boundaries. Housing and job markets extend beyond jurisdiction boundaries—in most cities, a majority of workers work outside their jurisdiction of residence, and demand for housing in a particular jurisdiction is substantially influenced by its proximity and accessibility to jobs in another community. Even in jurisdictions that lack robust transit service or where most residents commute by automobile, adding more housing in areas with easy access to jobs can lead to shorter commutes, helping to reduce vehicle miles travelled (VMT) and GHG.

Issue 2: *The Town argues that ABAG made an error in applying RHNA methodology. The Town asserts that Los Altos Hills has limited transit, and that there should be no units allocated from Job Proximity-Transit (JPT) factor.*

ABAG-MTC Staff Response: The Town's argument that ABAG made an error in applying the RHNA methodology by allocating Los Altos Hills units using the JPT factor does not accurately reflect the mechanics of the adopted RHNA methodology. In fact, the methodology appropriately recognizes the limited access to jobs by transit in this jurisdiction. In the RHNA

methodology, the JPT factor is based on the number of jobs that can be accessed within a 45-minute transit commute from a jurisdiction. The factor in the RHNA methodology is placed on a scale so it can modify a jurisdiction's baseline allocation in the range from 50% to 150%. Thus, jurisdictions scoring at the top for the region will get baseline share times 1.5, while jurisdictions scoring at the bottom for the region will get baseline share times 0.5. This scaling approach helps distribute RHNA units throughout the region by ensuring that even a jurisdiction with a low score gets an allocation from each factor and placing a limit on how many units can be assigned to a jurisdiction with a high score. Relative to other jurisdictions in the region, Los Altos Hills has a small number of jobs that can be accessed within a 45-minute commute. As a result of its low score, the Town receives a scaled score of 0.5 on the JPT factor.

Issue 3: *The Town argues that the RHNA Methodology fails to adequately consider the limited land available for development in Los Altos Hills. The Town asserts that 39% of properties rely on septic systems and only low-density development with an ADU is viable on these lots. The Town further states that wildfire, landslides, and seismic hazards limit the potential for development. Additionally, the Town claims that most of the jurisdiction is in a High Fire Hazard Severity Zone, and the Town believes the costs for mitigation would prevent development of affordable housing.*

ABAG-MTC Staff Response: The RHNA methodology adequately considers the potential development constraints described in Government Code Section 65584.04(e)(2), which the Town references in its appeal, by integrating data from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. In developing the Plan Bay Area 2050 Final Blueprint, ABAG-MTC staff worked with local governments to gather information about local plans, zoning, and physical characteristics that might affect development. A strength of the land use model used for Plan Bay Area 2050 forecasting is that it assesses feasibility and the cost of redeveloping a parcel, including the higher cost of building on parcels with physical development constraints, e.g., steep hillsides. These feasibility and cost assessments are used to forecast Los Altos Hills's share of the region's households in 2050, which is an input into its RHNA allocation.

However, RHNA is not just a reflection of projected future growth, as statute also requires RHNA to address the existing need for housing that results in overcrowding and housing cost burden throughout the region. Accordingly, the 2050 Households baseline allocation in the RHNA methodology represents both the housing needs of existing households and forecasted household growth from the Plan Bay Area 2050 Final Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects both existing and future housing demand in the Bay Area.

Importantly, as HCD notes in its comment letter on submitted appeals, Government Code Section 65584.04(e)(2)(B) states that ABAG:

*"may not limit its consideration of suitable housing sites to existing zoning and land use restrictions and must consider the potential for increased development under alternative zoning and land use restrictions. Any comparable data or documentation supporting this appeal should contain an analysis of not only land suitable for urban development, but land for conversion to residential use, the availability of underutilized land, and opportunity for infill development and increased residential densities. In simple terms, this means housing planning cannot be limited to vacant land, and even communities that view themselves as built out or limited due to other natural constraints such as fire and flood risk areas must plan for housing through means such as rezoning commercial areas as mixed-use areas and upzoning non-vacant land."*³

While the Town argues that properties on septic systems represent sewer and wastewater constraints preventing additional development, Government Code Section 65584.04(e)(2)(A) states that ABAG must consider constraints to development of additional 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." The conditions noted within the Town's appeal do not fall within the definition of sewer and water constraints as defined by statute, as the Town has not demonstrated that is precluded from accommodating its RHNA allocation due to lack of sewer capacity stemming from federal/state laws or decisions made by a sewer or water service provider.

ABAG-MTC staff understands Los Altos Hills's concerns about the potential for future growth in areas at risk of natural hazards, as the Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts. However, with only a small exception, Housing Element Law does not identify areas at risk of natural hazards as a potential constraint to housing development."⁴ Given the significant natural hazard risks in the Bay Area, whether to incorporate information about hazard risks when allocating RHNA units was one of the topics most thoroughly discussed by the Housing Methodology Committee (HMC) during the methodology development process.⁵ Ultimately, HMC members took a vote and came to consensus that though housing in high hazard areas is a concern, adding a specific hazard factor to the RHNA methodology may not be the best tool to address this issue. In large part, this is because the Plan Bay Area 2050 Final Blueprint, which forms the baseline of the final RHNA methodology, already addresses

³ View a copy of HCD's comment letter on appeals at <https://mtcdrive.box.com/s/1jud9atcfpa3bovt6ph7mlisj39qeciz>.

⁴ Government Code Section 65584.04(e)(2)(B) states "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."

⁵ See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

concerns about natural hazards, as the Final Blueprint excludes areas with unmitigated high hazard risk from Growth Geographies.

Throughout the region, it is essentially impossible to avoid all hazards when siting new development, but jurisdictions can think critically about which areas in the community have the *highest* hazard risk. Notably, the residents of new development are likely to be safer from hazards than current residents living in older structures, as new construction is built to modern standards that more effectively address hazard risk. In developing its Housing Element, Los Altos Hills has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the Town can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard by choosing strategies related to the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density or by increasing building standards for sites within at-risk areas to cope with the hazard.

Per Government Code Section 65584.04(e)(2)(B), the Town must consider the availability of underutilized land, opportunities for infill development, and increased residential densities to accommodate its RHNA. Los Altos Hills does not provide evidence it is unable to consider underutilization of sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.⁶

Issue 4: *The Town argues that COVID-19 is significantly impacting population, housing and jobs estimates which affects RHNA directly.*

ABAG-MTC Staff Response: ABAG-MTC Staff appreciates the Town's concerns about the significant economic and societal changes resulting from COVID-19. In its comment letter on submitted appeals, HCD indicated that RHNA appeals based on changes caused by COVID-19 do not fall within the appeal criteria defined by statute, stating "The COVID-19 pandemic has only increased the importance of ensuring that each community is planning for sufficient affordable housing as essential workers, particularly lower income ones, continue to commute to their places of business."⁷

Potential impacts of COVID-19, including an accelerated shift toward telecommuting and the associated economic boom/bust cycle, are incorporated into the Final RHNA Methodology through integration of the Plan Bay Area 2050 Final Blueprint. Approved in January 2021, the Final Blueprint was crafted throughout the entirety of 2020, taking into account the best information available on future impacts related to telecommuting, locational preferences, and

⁶ See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

⁷ View a copy of the letter at <https://mtcdrive.box.com/s/1jud9atcfpa3bovt6ph7mlisj39qeciz>.

more. External forces, including long-term projections for telecommuting and office square footage needs per employee, were updated to reflect potential post-COVID conditions. Long-range household and job projections were adjusted in the short-to-medium term to capture the weak economic conditions of 2020 and a multi-year recovery period in the years ahead. Additionally, strategies in the Final Blueprint were updated, including new strategies to encourage an accelerated shift toward telecommuting and other sustainable modes of travel, to support job training programs to assist in economic recovery, and to expand opportunities to rebuild aging malls and office parks into housing-rich neighborhoods as e-commerce continues to boom.

Importantly, the eight-year RHNA cycle (which starts in 2023) represents a longer-term outlook than the current impacts of the pandemic in 2020 and 2021. The Town of Los Altos Hills has not provided evidence to suggest that COVID-19 reduces the jurisdiction's housing need for the entirety of the 2023-2031 RHNA planning period. Additionally, impacts from COVID-19 are not unique to any single jurisdiction, and the appeal does not indicate that the jurisdiction's housing need has been disproportionately impacted relative to the rest of the Bay Area. Therefore, the pandemic is not cause for a reduction in RHNA for any particular jurisdiction. Regardless of the impacts of the pandemic, demand for housing remains high across the region, as reflected in home prices that continue to rise. Accordingly, jurisdictions must maintain their statutory obligation to plan for additional housing.

RECOMMENDED ACTION

ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by Town of Los Altos Hills to reduce its Draft RHNA Allocation by 129 units (from 489 units to 360 units).