

TO: ABAG Administrative Committee
FROM: Therese W. McMillan, Executive Director
SUBJECT: City of Monte Sereno Appeal of Draft RHNA Allocation and Staff Response

DATE: October 22, 2021

OVERVIEW

Jurisdiction: City of Monte Sereno

Summary: City of Monte Sereno requests the decrease of its Draft RHNA Allocation by 97 units (50 percent) from 193 units to 96 units based on the following issues:

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

Staff Recommendation: Deny the appeal.

BACKGROUND

Draft RHNA Allocation

Following adoption of the Final RHNA Methodology on May 20, 2021, the City of Monte Sereno received the following draft RHNA allocation on May 25, 2021:

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Monte Sereno	53	30	31	79	193

Local Jurisdiction Survey

The City of Monte Sereno 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 no comments that specifically relate to the appeal filed by the City of Monte Sereno. [All comments received](#) are available on the ABAG website.

ANALYSIS

Issue 1: *The City of Monte Sereno argues that ABAG failed to adequately consider that Monte Sereno lacks the jobs to support its RHNA, as the City has 0.37 jobs per resident worker. The City states that Monte Sereno was chartered to be a residential-only district with no commercial or mixed-use developments to be rezoned. The City also claims that ABAG's methodology does not further the statutory objective to improve the intraregional relationship between jobs and housing, as Monte Sereno lacks jobs and exports workers to other cities.*

ABAG-MTC Staff Response: This argument by Monte Sereno 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.

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, and when exporting data about total households in 2050 for the RHNA baseline, appropriate jurisdiction boundaries were used. The Final Blueprint emphasizes growth near job centers and in locations near transit, including in high-resource areas, with the intent of reducing

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.

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 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.

Notably, state law also requires the RHNA methodology to consider the balance between the number of low-wage jobs and the number of affordable housing units in each jurisdiction, as described in Government Code Section 65584.04(e)(2)(B). Data from the Census Bureau indicates that Monte Sereno has an imbalanced ratio between low-wage jobs and affordable housing units, with 94 low-wage jobs and few units of rental housing affordable to low-wage workers and their families.³ Accordingly, the allocation of 83 units of lower-income RHNA assigned to Monte Sereno could enable many of the low-wage workers in Monte Sereno to live closer to their jobs, helping to improve the jobs-housing balance, reduce commute times, and lower GHG.

³ For more information, see this data source created by ABAG for the Local Jurisdiction Survey: <https://rhna.mtcanalytics.org/jobshousingratio.html?city=Monte%20Sereno>.

Issue 2: *The City argues that ABAG failed to adequately consider transit access in Monte Sereno. The City states that Monte Sereno lacks transit, and claims that adding more housing to the City where there is a lack of local jobs and transit will lead to increased VMT and GHG.*

ABAG-MTC Staff Response: The RHNA Methodology considers opportunities to maximize transit use by incorporating the forecasted development pattern from the Plan Bay Area 2050 Final Blueprint as the baseline allocation. As noted previously, the Final Blueprint emphasizes growth near job centers and in locations near transit, including high-resource areas, with the intent of reducing GHG. This land use pattern is developed with complementary transportation investments in an effort to ensure past and future transportation investments are maximized.

Additionally, the inclusion of job proximity by transit as a factor in the Final RHNA Methodology directs more housing to the jurisdictions with the most jobs that can be accessed with a 45-minute commute by transit. The three factors in the RHNA methodology are placed on the same scale so a factor 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, Monte Sereno has a small number of jobs that can be accessed within a 45-minute commute. As a result of its low score, the City receives a scaled score of 0.5 on the Job Proximity – Transit factor, which means few units are allocated to Monte Sereno based on this factor compared to other jurisdictions in the region.

In its review of ABAG's RHNA methodology, HCD made the following findings regarding the RHNA objective related to *"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:"*

"The draft ABAG methodology⁴ encourages a more efficient development pattern by allocating nearly twice as many RHNA units to jurisdictions with higher jobs access, on a per capita basis. Jurisdictions with higher jobs access via transit also receive more RHNA on a per capita basis.

⁴ 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.

Jurisdictions with the lowest vehicle miles traveled (VMT) per capita, relative to the region, receive more RHNA per capita than those with the highest per capita VMT. ABAG's largest individual allocations go to its major cities with low VMT per capita and better access to jobs. For example, San Francisco – which has the largest allocation – has the lowest per capita VMT and is observed as having the highest transit accessibility in the region. As a major employment center, San Jose receives a substantial RHNA allocation despite having a higher share of solo commuters and a lower share of transit use than San Francisco. However, to encourage lower VMT in job-rich areas that may not yet be seeing high transit ridership, ABAG's Plan Bay Area complements more housing in these employment centers (which will reduce commutes by allowing more people to afford to live near jobs centers) with strategies to reduce VMT by shifting mode share from driving to public transit."

Issue 3: *Monte Sereno argues that the City has limited land available for development. The City uses data from the ABAG-MTC Housing Element Site Selection (HESS) Tool to argue there are limited vacant sites suitable for development in Monte Sereno. The City also asserts that 50% of Monte Sereno is in a very high fire hazard area with limited evacuation routes, while 75% of the City's area has high potential for earthquake induced landslides, both of which limit the availability of land suitable for urban development or for conversion to residential use.*

ABAG-MTC Staff Response: The final RHNA methodology adequately considers information about land available for housing development through use of 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 Monte Sereno's share of the region's households in 2050, which is an input into its RHNA allocation.

Importantly, 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 Blueprint. Thus, the RHNA methodology adequately considers the development constraints raised in this appeal, but the allocation to this jurisdiction also reflects existing and future housing demand in the Bay Area.

The City of Monte Sereno uses information from the Housing Element Site Selection (HESS) Tool to argue it does not have sufficient developable land available to accommodate its RHNA. The HESS Tool is a web-based mapping tool developed by ABAG-MTC staff to assist Bay Area jurisdictions with preparing the sites inventory required for their Housing Element updates. The

HESS Tool is not used as an input in the RHNA methodology, and thus played no role in determining Monte Sereno's RHNA. When Monte Sereno activated its HESS account, the City received an email noting that the tool was under active development and the data presented was preliminary. ABAG anticipates releasing version 1.0 of the HESS Tool this month. Local jurisdictions will be able to review this data and submit corrections directly to ABAG for future iterations of the HESS Tool. Even with the updates in version 1.0, the HESS Tool still plays no role in RHNA.

It is also important to note that the HESS Tool evaluates potential sites based on *existing* local development policies. Housing Element Law specifically prohibits ABAG from limiting RHNA based on the existing zoning or land use restrictions that are shown in the HESS Tool. 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."*⁵

As such, the City must consider other opportunities for development, such as use of underutilized land, infill development and increased residential densities. Furthermore, accessory dwelling units can play a role to accommodating housing growth in a jurisdiction with limited vacant land.

In addition to considering non-vacant sites, sites identified in the HESS Tool as "environmentally constrained" may still be developable. The HESS Tool designates sites as environmentally constrained if they possess hazard risks or other restrictive environmental conditions such as critical habitats and California protected areas. Local jurisdictions are generally advised to avoid locating new housing on these sites where possible. However, local jurisdictions may find that siting housing on sites with hazards is unavoidable in order to accommodate their housing need, in which case appropriate mitigation measures should be considered. For additional

⁵ See [HCD's comment letter on appeals](#) for more details.

guidance on how to integrate resilience into the Sites Inventory and the Housing Element more broadly, refer to ABAG's Resilient Housing Instruction Guide and associated resources.⁶

The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands Monte Sereno's concerns about the potential for future growth in areas at risk of natural hazards. 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."⁷ 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.⁸ Ultimately, HMC members 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 concerns about natural hazards, as the Final Blueprint excludes areas with unmitigated high hazard risk from Growth Geographies.

The Final Blueprint Growth Geographies exclude CAL FIRE designated "Very High" fire severity areas in incorporated jurisdictions, and "High" and "Very High" fire severity areas as well as county-designated wildland-urban interfaces (WUIs) where applicable in unincorporated areas. The only exception is for locally-nominated Priority Development Areas (PDAs), which does not apply to Monte Sereno.⁹

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, Monte Sereno has the opportunity to identify the specific sites it will use to accommodate its RHNA. In doing so, the City can choose to take hazard risk into consideration with where and how it sites future development, either limiting growth in areas of higher hazard or by increasing building standards for sites within at-risk areas to cope with the hazard.

⁶ The Resilient Housing Instruction Guide is available on ABAG's website: https://abag.ca.gov/sites/default/files/documents/2021-07/0_ResilientHousingInstructionGuide.docx. Additional resources for incorporating resilience in Housing Element updates are available here: <https://abag.ca.gov/our-work/resilience/planning/general-plan-housing-element-updates>.

⁷ 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."

⁸ See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

⁹ The only locally nominated PDA affected was the Urbanized Corridor PDA in Marin County.

Per Government Code Section 65584.04(e)(2)(B), the City must consider the availability of underutilized land, opportunities for infill development, and increased residential densities to accommodate its RHNA. Monte Sereno does not provide evidence it is unable to consider underutilization of existing sites, increased densities, accessory dwelling units (ADUs), and other planning tools to accommodate its assigned need.¹⁰

Issue 4: *The City argues that ABAG failed to adequately consider its water capacity. Monte Sereno also asserts its ability to provide water supplies to new residential development has become progressively constrained, representing a change in circumstances that merits a reduction in its RHNA.*

ABAG-MTC Staff Response: Government Code Section 65584.04(e)(2)(A) states that ABAG must consider the opportunities and constraints to development of additional housing in each member jurisdiction 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 arguments put forward by the City of Monte Sereno do not meet the requirements for a valid RHNA appeal because the City has not demonstrated that a water service provider has made a decision that precludes it from accommodating its RHNA allocation. Importantly, future population growth does not necessarily mean a similar increase in water consumption: while the region’s population grew by approximately 23 percent between 1986 and 2007, total water use increased by less than one percent.¹¹ A review by ABAG-MTC staff of 54 UWMPs from 2015 and 2020 produced by water retailers that cover 94 percent of the Bay Area’s population illustrate a further reduction in per capita water use over the past decade. Between 2010 and 2015 per capita water use fell from 162 gallons per person per day to 105, reflecting significant conservation during the last major drought. In the 2020 non-drought year, conservation held, with the regional daily use at 114 gallons per person per day, a 30 percent reduction since 2010. In addition to having an impressive aggregate reduction in water use, only one water retailer out of the 54 reviewed plans did not meet state per capita water conservation goals. In other words, per capita water use has substantially declined in the region over the last quarter century.

The Plan Bay Area 2050 Final Blueprint, which is used as the baseline allocation in the RHNA methodology, has the potential to lessen water supply issues in the region. The Final Blueprint concentrates future growth within already developed areas to take advantage of existing water

¹⁰ See HCD’s [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

¹¹ San Francisco Bay Area Integrated Regional Water Management Plan, 2019.

supply infrastructure and reduce the need for new water infrastructure to be developed to serve new areas. Per capita water use is likely to be less due to a greater share of multifamily housing and modern water efficiency standards for new construction and development. The continued urban densification promoted by the Final Blueprint – in addition to the continued implementation of water conservation, reuse and recycling programs by local water agencies and municipalities – will help to continue the downward trajectory of per capita water consumption within the region. One of Plan Bay Area 2050's strategies to reduce risks from hazards is to provide financial support for retrofits to existing residential buildings to increase water efficiency. ABAG and MTC are working with partner agencies to secure additional resources to improve water conservation in the Bay Area over the long term.

It is true that the current drought poses significant challenges to Bay Area communities, and that the incidence of droughts is likely to increase as a result of climate change. All jurisdictions in the Bay Area, State of California, and much of the western United States must contend with impacts from drought and all 441,176 new homes that must be planned for in the region need sufficient water. However, as HCD notes in its comment letter on appeals that identified drought as an issue, "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."¹²

Action can be taken to efficiently meet the region's future water demand, even in the face of additional periods of drought. Eight of the region's largest water districts in the region worked together to produce the Drought Contingency Plan to cooperatively address water supply reliability concerns and drought preparedness on a mutually beneficial and regional focused basis.¹³ The Drought Contingency Plan identifies 15 projects of a regional nature to further increase water supply reliability during droughts and other emergencies.

Importantly, the existence of the drought does not change the need to add more housing to address the Bay Area's lack of housing affordability. Part of the reason the Regional Housing Needs Determination (RHND) assigned by HCD for this RHNA cycle is significantly higher than in past cycles is because it incorporates factors related to overcrowding and housing cost burden as a way of accounting for existing housing need. ABAG encourages jurisdictions to take steps to accommodate growth in a water-wise manner, such as supporting new development primarily through infill and focusing on dense housing types that use resources more efficiently. We also support efforts like the Bay Area Regional Reliability partnership between many of the major water agencies in the region. The measures identified in the Drought Contingency Plan

¹² See [HCD's comment letter on appeals](#) for more details.

¹³ See the [Drought Contingency Plan](#) for more information.

will improve regional reliability for all, especially for water districts with a small or singular water supply portfolio.

Issue 5: *Monte Sereno cites an Embarcadero Institute report and argues that the statewide methodology for calculating RHND is flawed and that HCD overestimates statewide housing need.*

ABAG-MTC Staff Response: As HCD noted in its comment letter on submitted appeals, “The council of government may file an objection within 30 days of HCD issuing the RNHD, per Government Code section 65584.01(c)(1). ABAG did not object to the RHND. Government Code section 65584.05(b) does not allow local governments to appeal the RHND during the 45-day period following receipt of the draft allocation. There are no further appeal procedures available to alter the ABAG region’s RHND for this cycle.”¹⁴

Issue 6: *Monte Sereno argues that the RHNA methodology fails to meet the jobs/housing RHNA objective.*

ABAG-MTC Staff Response: See the response under Issue 1.

Issue 7: *Monte Sereno argues that the RHNA methodology fails to account for lack of access to transit.*

ABAG-MTC Staff Response: See the response under Issue 2.

Issue 8: *The City argues there is increased fire hazard potential in Monte Sereno because of ongoing drought, and this increased hazard represents a change in circumstances requiring a reduction in its RHNA.*

ABAG-MTC Staff Response: As HCD notes in its comment letter on appeals that identified increased wildfire risk as an issue, “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.”¹⁵ Wildfire hazard in California is increasing, but the increasing fire hazard alone does not directly correlate to increasing fire risk. Risk is a function of hazard, susceptibility, consequence, and adaptive capacity. The hazard has been increasing over time while the response was constant for many years. However, recently the State of California and local governments have begun to take more aggressive actions to reduce susceptibility and

¹⁴ See [HCD’s comment letter on appeals](#) for more details.

¹⁵ See [HCD’s comment letter on appeals](#) for more details.

consequences, which in turn may keep overall wildfire risk constant during the coming RHNA cycle.

Issue 9: *Monte Sereno argues drought conditions represent a change in circumstances because the City identified water supply as an “opportunity” in its Local Jurisdiction Survey, but with the continuing drought, water supply has become a constraint to housing development.*

ABAG-MTC Staff Response: See the response under Issue 4.

Issue 10: *Monte Sereno argues that the housing allocation to each jurisdiction does not satisfy intent of Government Code Section 65584(a)(2). The City asserts that units should be allocated to Santa Clara County (i.e., the region), then units assigned to Monte Sereno could be allocated to other cities in the county that can accommodate them.*

ABAG-MTC Staff Response: Government Code Section 65584.03 describes the process by which jurisdictions within a county or multiple counties can form a subregion, and the subregion can then create its own methodology for distributing RHNA units to its jurisdictions. For the 6th Cycle RHNA, the jurisdictions in Solano County formed the only subregion in the Bay Area. Santa Clara County jurisdictions had the opportunity to form a subregion and declined to do so prior to the deadline for making this decision. As a result, the City of Monte Sereno’s RHNA is determined by ABAG’s Final RHNA Methodology rather than a subregional methodology. Santa Clara County jurisdictions’ decision not to form a subregion does not represent one of the bases for appeal established by statute, and thus the absence of a subregion in Santa Clara County does not merit a reduction in RHNA for the City of Monte Sereno.

RECOMMENDED ACTION

ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by City of Monte Sereno to reduce its Draft RHNA Allocation by 97 units (from 193 units to 96 units).