

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

DATE: October 22, 2021

OVERVIEW

Jurisdiction: City of Saratoga

Summary: The City of Saratoga requests the reduction of its Draft RHNA Allocation by 856 units (50 percent) from 1,712 units to 856 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.
 - Availability of land suitable for urban development or for conversion to residential use.
 - The region's greenhouse gas emissions targets to be met by Plan Bay Area 2050.

Staff Recommendation: Deny the appeal.

BACKGROUND

Draft RHNA Allocation

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

	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total
City of Saratoga	454	261	278	719	1,712

Local Jurisdiction Survey

City of Saratoga 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 12 comments that specifically relate to the appeal filed by the City of Saratoga. Eleven comments support the City's appeal, and one opposes it. [All comments received](#) are available on the ABAG website.

ANALYSIS

Issue 1: *The City of Saratoga argues the RHNA methodology fails to consider the jobs-housing relationship and the availability of land for housing development in Saratoga. The City asserts it will have to rezone limited commercial land for housing to accommodate its RHNA, which would lead to a reduction in services and jobs within the jurisdiction and a consequent increase in commutes and personal trips for current and future residents. The City argues that these outcomes directly conflict with the RHNA objective to reduce greenhouse gas emissions (GHG).*

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.

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. 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 RHNA methodology also adequately considers the availability of land suitable for urban development in Saratoga. As noted above, the Final RHNA Methodology integrates 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, such as steep hillsides. These feasibility and cost assessments are used to forecast Saratoga's share of the region's households in 2050, which is an input into its RHNA allocation.

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

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 current and future housing demand in the Bay Area.

³ See [HCD's comment letter on appeals](#) for more details.

Per Government Code Section 65584.04(e)(2)(B), the City of Saratoga must consider other opportunities for development. This includes the availability of underutilized land, opportunities for infill development and increased residential densities, or alternative zoning and density. While the City asserts it is built out and has little urban land available for development, it does not provide evidence it is unable to consider underutilization of sites, increased densities, accessory dwelling units, and other planning tools to accommodate its assigned need.⁴

Issue 2: *Saratoga argues it has been incorrectly identified as a Transit-Rich Area. The City asserts that this designation is counterproductive to greenhouse gas reduction goals, as Saratoga residents need to drive as a result of the limited public transportation options.*

ABAG-MTC Staff Response: As noted by the City, a portion of Saratoga is identified as a Transit-Rich and High-Resource Area in the Plan Bay Area 2050 Final Blueprint. Staff has reviewed the mapping and has identified that it is accurate and consistent with the adopted Growth Geography definition established by MTC/ABAG in February 2020, September 2020, and January 2021. The Plan Bay Area 2050 Blueprint Growth Geographies were determined based on transit service frequencies reported in January 2020, combined with any service improvements submitted by County Transportation Agencies (CTAs) and included in the fiscally-constrained Transportation Element of Plan Bay Area 2050. Specifically, VTA Route 57 has bus stops within the City's boundary with a peak service frequency of 15 minutes or less, thanks to envisioned VTA frequency improvements featured in Plan Bay Area 2050. This qualifies the areas near these stops to be identified as a Transit-Rich Area.

Directing growth to these types of Growth Geographies is an essential component to addressing the policy priorities required for Plan Bay Area 2050 and RHNA, including promoting efficient development patterns, reducing greenhouse gas emissions, and affirmatively furthering fair housing. As noted earlier, HCD affirmed that the RHNA methodology furthers these statutory objectives. In regard to the objective related to encouraging efficient development patterns and achieving greenhouse gas emissions reduction targets, HCD stated:

The draft ABAG methodology⁵ 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 See HCD's [Housing Element Site Inventory Guidebook](#) for more details on the various methods jurisdictions can use to plan for accommodating their RHNA.

⁵ 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: *Saratoga states that approximately half of the city is in a Wildland Urban Interface (WUI) and at high or very high risk for wildfires, including downtown. Saratoga argues that areas like WUI cannot sustain increased housing density, and that planning for RHNA allocation outside the WUI is unrealistic given the financial realities of residential construction.*

ABAG-MTC Staff Response: The Bay Area is subject to wildfire, flood, seismic, and other hazards and climate impacts, and ABAG-MTC staff understands the City'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."⁶ 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.⁷ 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 Saratoga.

⁶ 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."

⁷ See the [meeting materials for HMC meetings](#), including detailed notes for each meeting, for more information.

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, Saratoga 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 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.

The City asserts that areas inside the Wildland Urban Interface cannot sustain increased housing density, and the City also argues that planning for the addition of more than 1,700 new homes in other sections of Saratoga that are outside of the Wildland Urban Interface is unrealistic given the financial realities of residential construction. However, the City has not provided evidence that it cannot accommodate its RHNA in locations within the jurisdiction that are subject to lower risk of natural hazards.

Issue 4: *The City of Saratoga states that Santa Clara Valley Water recently instituted a mandatory reduction in water use and argues that the City cannot accommodate an increased demand for water.*

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.”

However, the arguments put forward by the City of Saratoga do not meet the requirements for a valid RHNA appeal. While the City notes there is currently a 15% reduction in water use mandated by Santa Clara Valley Water, there is no indication that restrictions would extend for the next ten years until the end of the RHNA planning period in 2031. Accordingly, the City has not provided evidence indicating that a lack of water capacity precludes Saratoga from accommodating its RHNA allocation for the entirety of the 2023-2031 Cycle 6 RHNA.

Furthermore, 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. A review by ABAG-MTC staff of 54 Urban Water Management Plans (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 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."⁸

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

⁸ See [HCD's comment letter on appeals](#) for more details.

basis.⁹ 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 will improve regional reliability for all.

RECOMMENDED ACTION

ABAG-MTC staff have reviewed the appeal and recommend that the Administrative Committee **deny** the appeal filed by City of Saratoga to reduce its Draft RHNA Allocation by 856 units (from 1,712 units to 856 units).

⁹ See the [Drought Contingency Plan](#) for more information.