



Agenda Item No. 10.

Staff Report

Date: July 8, 2021

To: Mayor Robbins and Council Members

From: Patrick Streeter, Planning and Building Director

Subject: Town Council consideration of submission of an appeal to the Metropolitan Transportation Commission / Association of Bay Area Governments (MTC/ABAG) of the 6th Cycle Regional Housing Needs Allocation

Recommendation

The Town Council receive the report and provide direction to the Town Manager and staff to submit an appeal of the 6th Cycle Regional Housing Needs Allocation (RHNA) for the Town of Ross.

Background

The State of California periodically provides population growth and housing need estimates to each regional Council of Governments. The Regional Housing Needs Allocation (RHNA) is the state-mandated process to identify the number of housing units, by affordability level, that each jurisdiction must accommodate in the Housing Element of its General Plan (Government Code Section [65584](#)). The RHNA process follows an 8-year planning cycle. The Department of Housing and Community Development (HCD) has allocated a total of 441,176 housing units to the Bay Area for the 6th Cycle Housing Element planning period which begins in January 2023. This allocation is more than twice the number of housing units assigned to the Bay Area in the previous housing cycle (187,990 units).

The total housing units assigned to the Bay Area are further distributed to each jurisdiction in the region through the development of a methodology administered and approved by the Metropolitan Transportation Commission/Association of Bay Area Governments (MTC/ABAG). On May 20, 2021, after HCD confirmation that the proposed RHNA methodology met required statutory objectives, the MTC/ABAG Executive Board approved a final RHNA methodology for the Bay Area. Based on this methodology, the Town of Ross is assigned a total allocation of 111 units with income level distribution of 34 very low income, 20 low income, 16 moderate income, and 41 above moderate income units. This allocation represents a sixfold increase over the Town's 5th Cycle allocation of 18 units. As the following table indicates, the 2023 allocation for Ross will be 45 units greater than the past three cycles combined.

Unit Allocation in Past RHNA Cycles

	1999-2006	2007-2014	2015-2022	2023-2031
Town of Ross	21	27	18	111
Marin Total	6,515	4,882	2,298	14,405
Bay Area Region	230,743	214,500	187,990	441,176

All Marin jurisdictions have been assigned a RHNA that substantially exceeds that of the previous cycle. This is partly due to the greater number of units assigned to the Bay Area by HCD, but also results from a change in methodology from past cycles. For instance, where the methodology of previous cycles had a focus on transit availability and anticipated population growth (criteria that are low in Marin County), the current cycle's methodology also includes equity criteria such as access to high quality education and health care in its assignment. In November of 2020, the Town of Ross submitted a letter to the ABAG Executive Board citing the Town's concerns and recommendations for the draft methodology of the 6th Cycle allocation.

Discussion

The Town has until July 9, 2021, to submit an appeal to modify its draft allocation, or appeal any other jurisdiction's allocation. HCD may also file an appeal for one or more jurisdictions. The grounds for appeal are very limited and are detailed in Government Code Section [65584.05](#) and Attachment 2. Should the Council direct staff to file an appeal, the staff recommendation would be that it be on the following grounds:

1. *ABAG failed to adequately consider the information submitted as part of the local jurisdiction survey.*

While the local jurisdiction survey included questions about constraints to housing due to land suitability, there is no indication that the Plan Bay Area 2050 Blueprint, on which the RHNA methodology is based, took specific issues like FEMA floodplain, fire severity zones, slope stability, or availability of public services and utilities into consideration when considering "developable land". Approximately 97% of the parcels in Ross are already improved. Almost 80% of the Town's land area is in an area defined by the California Public Utilities Commission (CPUC) as extreme fire threat, more than one quarter of our parcels are within FEMA's 100-year Special Flood Hazard Area, there are fewer than thirty vacant lots, and almost all of them are in heavily wooded, steeply sloped areas with limited or no access for utilities or emergency services. Only seven are located on non-hillside parcels and of those, two are constrained by a creek and four have substandard lot sizes, which significantly reduces their developability.

Additionally, ABAG states that households and jobs were projected on a localized level through modeling (Urban Sim). There is no indication that the modeling observed discreet jurisdictional boundaries. While the area around Ross, which includes San Anselmo and the unincorporated communities of Kentfield and Greenbrae, contains the types of commercial, office, medical, and educational land uses that would be expected in a suburban county, Ross itself has very few parcels that are not already residentially developed. The primary employers are the municipal government, a public grade school, a private high school, and a residence for the developmentally disabled. Altogether, MTC/ABAG estimates a total of 360 jobs in the Town of Ross. Plan Bay Area 2040, the currently active regional planning document, projects a Bay Area jobs/housing balance of 1.32, while the balance in Ross is approximately 0.44. Planning housing units in areas where

there is no reasonable expectation of job growth and few significant public transit opportunities or existing transportation infrastructure options does not further the State's climate goals or the regional transportation plan. Adding units in areas where jobs are unavailable will result in increased Vehicle Miles Travelled and an increase in Greenhouse Gases.

2. *A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted as part of the local jurisdiction survey.*

A significant and unforeseen change in circumstances has occurred in the Town of Ross and other parts of Marin County that merits a revision of the draft RHNA. The Marin Municipal Water District, the Town's water service provider, has declared drought conditions. If drought conditions persist, a mitigating step that the District could take would be to place a moratorium on new or expanded water service until such time that adequate supply is available. Marin County already relies on water sourced from the Russian River watershed to the north to supplement its limited supply. The uncertainty regarding municipal water supply has the potential to dramatically affect the feasibility of new housing development in the Town of Ross.

Fiscal, resource and timeline impacts

No fiscal impact other than staff's time to prepare the staff report and appeal materials.

Alternative actions

The Council may choose not to appeal the proposed allocations.

Environmental review (if applicable)

This report and any proceeding action are exempt from the requirements of the California Environmental Quality Act (CEQA) as there is not a "project" as defined in CEQA Guidelines Section 15378(b)(5).

Attachments

Attachment 1 – Draft Appeal Form

Attachment 2 – Appeal Process Information Packet

Attachment 3 – RHNA Methodology Letter, November 24, 2020

ATTACHMENT 1

REGIONAL HOUSING NEEDS ALLOCATION



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

Jurisdiction Whose Allocation is Being Appealed: Town of Ross

Filing Party: HCD Jurisdiction: Town of Ross

Contact Name: Patrick Streeter Title: Planning and Building Director

Phone: 415 453-1453 x121 Email: PStreeter@TownofRoss.org

APPEAL AUTHORIZED BY:

Name: _____

Signature: _____

Date: _____

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: 59 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.

1. ABAG failed to adequately consider the information submitted as part of the local jurisdiction survey. While the local jurisdiction survey included questions about constraints to housing due to land suitability, there is no indication that the Plan Bay Area 2050 Blueprint, on which the RHNA methodology is based, took specific issues like FEMA floodplain, fire severity zones, slope stability, or availability of public services and utilities into consideration when considering “developable land”. Approximately 97% of the parcels in Ross are already improved. Almost 80% of the Town’s land area is in an area defined by the California Public Utilities Commission (CPUC) as extreme fire threat, more than one quarter of our parcels are within FEMA’s 100-year Special Flood Hazard Area, there are fewer than thirty vacant lots, and almost all of them are in heavily wooded, steeply sloped areas with limited or no access for utilities or emergency services. Only seven are located on non-hillside parcels and of those, two are constrained by a creek and four have substandard lot sizes, which significantly reduces their developability.

Additionally, ABAG states that households and jobs were projected on a localized level through modeling (Urban Sim). There is no indication that the modeling observed discreet jurisdictional boundaries. While the area around Ross, which includes San Anselmo and the unincorporated communities of Kentfield and Greenbrae, contains the types of commercial, office, medical, and educational land uses that would be expected in a suburban county, Ross itself has very few parcels that are not already residentially developed. The primary employers are the municipal government, a public grade school, a private high school, and a residence for the developmentally disabled. Altogether, MTC/ABAG estimates a total of 360 jobs in the Town of Ross. Plan Bay Area 2040, the currently active regional planning document, projects a Bay Area jobs/housing balance of 1.32, while the balance in Ross is approximately 0.44. Planning housing units in areas where there is no reasonable expectation of job growth and few significant public transit opportunities or existing transportation infrastructure options does not further the State’s climate goals or the regional transportation plan. Adding units in areas where jobs are unavailable will result in increased Vehicle Miles Travelled and an increase in Greenhouse Gases.

2. A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits a revision of the information submitted as part of the local jurisdiction survey. A significant and unforeseen change in circumstances has occurred in the Town of Ross and other parts of Marin County that merits a revision of the draft RHNA. The Marin Municipal Water District, the Town’s water service provider, has declared drought conditions. If drought conditions persist, a mitigating step that the District could take would be to place a moratorium on new or expanded water service until such time that adequate supply is available. Marin County already relies on water sourced from the Russian River watershed to the north to supplement its limited supply. The uncertainty regarding municipal water supply has the potential to dramatically affect the feasibility of new housing development in the Town of Ross.

List of supporting documentation, by title and number of pages

- 1. _____
- 2. _____
- 3. _____

The maximum file size is 25MB. To submit larger files, please contact rhna@bayareametro.gov.

[Click here to attach files](#)

ATTACHMENT 2

2023-2031 RHNA Cycle Appeals Procedures

Pursuant to Government Code Section 65584.05, any local jurisdiction within the ABAG region may file an appeal to modify its Draft Regional Housing Needs Allocation (RHNA) Allocation or another jurisdiction's Draft RHNA Allocation included as part of ABAG's Draft RHNA Plan. The California Department of Housing and Community Development (HCD) may also file an appeal to the Draft RHNA Allocation for one or more jurisdictions. No appeal shall be allowed relating to post-appeal reallocation adjustments made by ABAG, as further described in Section I.I, below. For the purposes of these procedures, the entity filing an appeal is referred to as an "applicant."

Note: This document contains a description of the appeals procedures, which are designed to comply with applicable provisions of the Government Code. Applicants are encouraged to review the full content of relevant code sections. In any apparent conflict between these procedures and the Code, the Code provisions will prevail.

I. APPEALS PROCESS

A. DEADLINE TO FILE

The period to file appeals shall commence on May 25, 2021, which shall be deemed as the date of receipt by jurisdictions and HCD of the Draft RHNA Plan. To comply with Government Code Section 65584.05(b), a jurisdiction or HCD seeking to appeal a Draft RHNA Allocation must submit an appeal by 5:00 p.m. PST on July 9, 2021. ABAG will not accept late appeals.

B. FORM OF APPEAL

The local jurisdiction or HCD shall state the basis and specific reasons for its appeal on the RHNA Appeal Request Form prepared by ABAG (see Attachment A for an example of the information to be included in the form). Additional documents may be submitted by the local jurisdiction as attachments, and all such attachments should be properly labeled and numbered.

C. BASES FOR APPEAL

Per Government Code Section 65584.05, a local jurisdiction or HCD shall only be entitled to file an appeal based upon the three criteria listed below. Appeals based on "change of circumstance" can only be filed by the jurisdiction or jurisdictions where the change in circumstance 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).

Applicants should ensure that their appeal satisfies the criteria in the applicable Government Code section.

Appeals may be brought on one of the following three grounds:

1. Information about Local Planning Factors and Affirmatively Furthering Fair Housing from the Local Jurisdiction Survey – That ABAG failed to consider information submitted relating to certain local factors outlined in Government Code Section 65584.04(e) and affirmatively furthering fair housing pursuant to Government Code Section 65584.04(b)(2) and 65584(d)(5) including the following:
 - a. Each jurisdiction’s existing and projected jobs and housing relationship.
 - b. The opportunities and constraints to development of additional housing in each jurisdiction, including the following:
 - i. 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.
 - ii. The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. ABAG may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. 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.
 - iii. Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to non-agricultural uses.

- iv. County policies to preserve prime agricultural land, as defined pursuant to Government Code Section 56064, within an unincorporated area and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts its conversion to non-agricultural uses.
- c. The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.
- d. Agreements between a county and cities in a county to direct growth toward incorporated areas of the county and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of the jurisdiction that prohibits or restricts conversion to nonagricultural uses.
- e. The loss of units contained in assisted housing developments, as defined in Government Code Section 65583(a)(9), that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.
- f. The percentage of existing households at each of the income levels listed in Government Code Section 65584(e) that are paying more than 30 percent and more than 50 percent of their income in rent.
- g. The rate of overcrowding.
- h. The housing needs of farmworkers.
- i. The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.
- j. The housing needs of individuals and families experiencing homelessness.
- k. The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis. For purposes of these guidelines, this applies to loss of units during a state of emergency occurring since January

31, 2015 and have not yet been rebuilt or replaced by February 5, 2020 (the deadline for jurisdictions to submit surveys to ABAG).

- I. The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080, to be met by Plan Bay Area 2050.
 - m. Information based upon the issues, strategies, and actions that are included, as available in an Analysis of Impediments to Fair Housing Choice or an Assessment of Fair Housing completed by any city or county or the California Department of Housing and Community Development, and in housing elements.
2. Methodology – That ABAG failed to determine the jurisdiction's share of the regional housing needs in accordance with the information described in the Final RHNA Methodology approved by ABAG on May 20, 2021, and in a manner that furthers, and does not undermine the five objectives listed in Government Code Section 65584(d).
3. Changed Circumstances – That a significant and unforeseen change in circumstance has occurred in the jurisdiction after February 5, 2020 (the deadline for jurisdictions to submit surveys to ABAG) and merits a revision of the information previously submitted by the local jurisdiction. Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

D. LIMITS ON SCOPE OF APPEAL

Existing law explicitly limits ABAG's scope of review of appeals. Specifically, ABAG shall not grant any appeal based upon the following:

1. Any other criteria other than the criteria in Section I.C above.
2. A local jurisdiction's existing zoning ordinances and land use restrictions, including but not limited to, the contents of the local jurisdiction's current general plan. Pursuant to Government Code Section 65584.04(e)(2)(B), ABAG may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.
3. Any local ordinance, policy, voter-approved measure or standard limiting residential development. Pursuant to Government Code Section 65584.04(g)(1), any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits shall not be a justification for a determination or a reduction in a city's or county's share of regional housing need.
4. Prior underproduction of housing in a jurisdiction from the previous regional housing need allocation. Pursuant to Government Code Section 65584.04(g)(2), prior

underproduction of housing in a jurisdiction from the previous housing need allocation, as determined by each jurisdiction's annual production report submitted pursuant to Government Code Section 65400(a)(2)(H) cannot be used as a justification for a determination or reduction in a jurisdiction's share of the regional housing need.

5. Stable population numbers in a jurisdiction. Pursuant to Government Code Section 65584.04(g)(3), stable population growth from the previous regional housing needs cycle cannot be used as a justification for a determination or reduction in a jurisdiction's share of the regional housing need.

E. COMMENTS ON APPEALS

At the close of the appeals period as set forth in I.A., ABAG shall notify all jurisdictions within the region and HCD of all appeals and shall make all materials submitted in support of each appeal available on its website after the close of the appeals filing period. Members of the public who are interested in receiving notification about appeals submitted can sign up on the ABAG website. ABAG will accept comments on submitted appeals from jurisdictions, HCD, and members of the public for 45 days following the end of the appeals filing period. All comments must be filed by 5:00 p.m. PST on August 30, 2021. ABAG will not accept late comments. Members of the public who are interested in receiving notification about comments received can sign up on the ABAG website. ABAG will notify jurisdictions, HCD, and members of the public who have signed up on the ABAG website about comments received following the end of the comment period.

F. HEARING BODY

The ABAG Executive Board has delegated the responsibility of considering appeals regarding Draft RHNA Allocations to the ABAG Administrative Committee. All decisions on RHNA appeals made by the Administrative Committee are considered final and will not be reviewed by the ABAG Executive Board.

G. APPEAL HEARING

ABAG shall conduct one public hearing to consider all appeals filed and comments received on the appeals no later than September 26, 2021. This public hearing may be continued (over several days if necessary) until all appeals are heard. Notice shall be provided to the appealing jurisdictions, commenting jurisdictions, HCD, and members of the public who have signed up on the ABAG website at least 21 days in advance of the hearing. Consistent with the requirements of the Brown Act, members of the public may submit written comments in advance of the meeting or provide oral comments at the meeting. Per Government Code Section 65584.05(i), ABAG may extend the deadline to conduct the appeals hearing by up to thirty (30) days.

Each appeal shall be heard individually before the Administrative Committee and a preliminary decision on the appeal may be reached by the Committee. At the conclusion of all the individual appeals, the Administrative Committee will take a final vote determining the outcome for each appeal application. In the event an individual appeal involves a

Committee member's or alternate's respective jurisdiction, the member or alternate may not participate in the discussion of or vote on that individual item by the Administrative Committee. If the Committee decides to take one final vote ratifying prior preliminary decisions, a Committee member may participate in that vote and note for the record their abstention from the portion of the decision relating to their jurisdiction.

Due to the ongoing COVID-19 pandemic, RHNA appeals hearings may be conducted via teleconference per the Governor's executive orders or any amendments to the Brown Act. ABAG-MTC staff will apprise the public of any updates to meeting procedures and will include information relevant to public participation in the public noticing of the appeal hearings.

Appeal Hearing Procedures

The hearing shall be conducted to provide applicants and jurisdictions that did not file appeals but are the subject of an appeal with the opportunity to make their case regarding a change in their Draft RHNA Allocation or another jurisdiction's Draft RHNA Allocation. The burden is on the applicants to prove that adjustment of the Allocation is appropriate under the statutory standards set forth in the Government Code. The appeals hearing will be organized by the specific jurisdiction subject to an appeal or appeals and will adhere to the following procedures:

1. Initial Arguments

Applicants who have filed an appeal for a particular jurisdiction will have an opportunity to present their request and reasons to grant the appeal. The information and arguments presented by the applicant shall be limited to what was presented in the written appeal filed by the applicant. In the event of multiple appeals filed for a single jurisdiction, the subject jurisdiction will present their argument first if it has filed an appeal on its own Draft RHNA Allocation. Applicants may present their cases either on their own, or in coordination with other applicants, but each applicant shall be allotted five (5) minutes each. If the subject jurisdiction did not file an appeal on its own Draft RHNA Allocation, it will be given an opportunity to present after all applicants have provided initial arguments on their filed appeals. Any presentation from the jurisdiction who did not appeal but is the subject of the appeal is limited to five (5) minutes unless it is responding to more than one appeal, in which case the jurisdiction is limited to eight (8) minutes.

An appealing jurisdiction may choose to have technical staff present its case at the hearing. At a minimum, technical staff should be available at the hearing to answer any questions from the Administrative Committee.

2. Staff Response

After initial arguments are presented, ABAG-MTC staff will present their recommendation to approve or deny the appeal(s) filed for the subject jurisdiction. The staff response is limited to five (5) minutes.

3. **Rebuttal**

Applicants and the jurisdiction who did not file an appeal but is the subject of the appeal may elect to provide a rebuttal but are limited to the arguments and evidence presented in the staff response. Each applicant and the subject jurisdiction that did not file an appeal on its own Draft RHNA Allocation will be allotted three (3) minutes each for a rebuttal.

4. **Extension of Time Allotment**

The Chair of the Administrative Committee may elect to grant additional time for any presentation, staff response, or rebuttal in the interest of due process and equity.

5. **Public Comment**

Members of the public will have an opportunity to comment on the arguments presented related to the appeal(s) for the subject jurisdiction under consideration. Each speaker will be allotted two (2) minutes to speak, or as adjusted at the discretion of the Chair.

6. **Administrative Committee Discussion and Determination**

After arguments and rebuttals are presented, the Administrative Committee may ask questions of applicants, the subject jurisdiction (if present), and ABAG-MTC staff. The Chair of the Administrative Committee may request that questions from the Administrative Committee be asked prior to a discussion among Administrative Committee members. Any voting Committee member may make a motion regarding the appeal(s) for the subject jurisdiction. The Committee will take a preliminary vote on the appeal(s) for a subject jurisdiction. The Administrative Committee is encouraged to make a single determination on the subject jurisdiction after hearing all arguments and presentations on each subject jurisdiction.

The Administrative Committee shall generally administer appeal hearings according to these procedures. However, the Chair of the Committee has the discretion to adjust the procedures as deemed necessary and formal rules of evidence and procedure do not apply. Further, any alleged failure to adhere to these procedures shall not be grounds for overturning a decision.

H. DATA REQUIREMENTS

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. To the extent a local jurisdiction submits evidentiary documentation to ABAG in support of its appeal, such data shall meet the following requirements:

1. The data shall be readily available for ABAG's review and verification. Data should not be constrained for use by proprietary conditions or other conditions rendering them difficult to obtain or process.

2. The data shall be accurate, current, and reasonably free from defect.
3. The data shall be relevant and germane to the local jurisdiction's basis of appeal.
4. The data shall be used to support a logical analysis relating to the local jurisdiction's request for a change to its or another jurisdiction's Draft RHNA Allocation.

I. DETERMINATION OF APPEAL AND POST-APPEAL REALLOCATION OF REGIONAL HOUSING NEEDS

The Administrative Committee shall issue a written final determination on all filed appeals after the conclusion of the public hearing. The written final determination shall consider arguments and comments presented on revising the Draft RHNA Allocation of the subject jurisdiction and make a determination that either accepts, rejects, or modifies the appeal for each subject jurisdiction. Per Government Code Section 65584.05(e)(1), the Administrative Committee has the discretion in its final determination on an appeal to require the adjustment of the allocation of a local jurisdiction that is not the subject of an appeal, if the adjustment(s) are supported by evidence and the Administrative Committee makes specific findings in its determination on the appeal.

The final determinations shall be based upon the information and methodology set forth in Government Code Section 65584.04 and whether the revision is necessary to further the objectives listed in Government Code Section 65584(d). The final determination shall include written findings as to how the determination is consistent with Government Code Section 65584.05. The final determinations for all appeals will be ratified by the Administrative Committee following release of the written final determinations on all filed appeals. The decision of the Administrative Committee shall be final, and local jurisdictions shall have no further right to appeal.

In accordance with Government Code Section 65584.05(g), after the conclusion of the appeals process, ABAG shall distribute the adjustments proportionally to all Bay Area jurisdictions, including those jurisdictions whose Draft RHNA Allocation was successfully appealed. For purposes of these procedures, proportional distribution shall be based on the share of regional housing needs after the appeals are determined and prior to the required redistribution. The redistribution of units successfully appealed could result in increases to the Draft RHNA Allocations for all jurisdictions.

If, consistent with Government Code Section 65584.05(e)(1), the Administrative Committee's final determination included adjustments to the allocations of a jurisdiction or jurisdictions that were not the subject of an appeal, these adjustments may be excluded from the cumulative total adjustments to be reallocated proportionally to all jurisdictions in the region.

J. FINAL RHNA PLAN

After ABAG reallocates units to all local jurisdictions resulting from successful appeals, the ABAG Executive Board shall review and consider adoption of the Final RHNA Plan for ABAG's 2023-2031 RHNA. This is scheduled to occur in either November or December 2021.

List of Attachments

- Attachment A: RHNA Appeal Request Form

2023-2031 Regional Housing Needs Assessment (RHNA) Appeal Request

Submit appeal requests and supporting documentation to rhna@bayareametro.gov
by 5:00 pm PST on July 9, 2021. **Late submissions will not be accepted.**

Jurisdiction Whose Allocation is Being Appealed: _____

Date: _____

Filing Party: _____
(Jurisdiction or HCD)

APPEAL AUTHORIZED BY:

Name: _____

Contact Name: _____

PLEASE SELECT BELOW:

Title: _____

Mayor

Phone: _____

Chair, County Board of Supervisors

Email: _____

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).

Number of units requested to be reduced or added to jurisdiction's Draft RHNA Allocation:

Number of Units Reduced _____ Number of Units Added _____

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.

SAMPLE

List of supporting documentation, by title and number of pages

(Numbers may be continued to accommodate additional supporting documentation):

1. _____
2. _____
3. _____

Table 4: Draft RHNA Allocations

Jurisdictions and HCD have an opportunity to appeal a jurisdiction's draft RHNA allocation. Any appeals that are upheld could affect the allocations for all jurisdictions. Following the appeals process, ABAG will adopt final RHNA allocations by the end of 2021.

Jurisdiction	VERY LOW INCOME (<50% of Area Median Income)	LOW INCOME (50-80% of Area Median Income)	MODERATE INCOME (80-120% of Area Median Income)	ABOVE MODERATE INCOME (>120% of Area Median Income)	TOTAL
ALAMEDA COUNTY					
Alameda	1,421	818	868	2,246	5,353
Albany	308	178	175	453	1,114
Berkeley	2,446	1,408	1,416	3,664	8,934
Dublin	1,085	625	560	1,449	3,719
Emeryville	451	259	308	797	1,815
Fremont	3,640	2,096	1,996	5,165	12,897
Hayward	1,075	617	817	2,115	4,624
Livermore	1,317	758	696	1,799	4,570
Newark	464	268	318	824	1,874
Oakland	6,511	3,750	4,457	11,533	26,251
Piedmont	163	94	92	238	587
Pleasanton	1,750	1,008	894	2,313	5,965
San Leandro	862	495	696	1,802	3,855
Unincorporated Alameda County	1,251	721	763	1,976	4,711
Union City	862	496	382	988	2,728

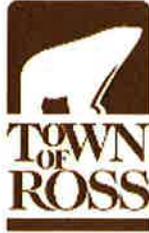
Jurisdiction	VERY LOW INCOME (<50% of Area Median Income)	LOW INCOME (50-80% of Area Median Income)	MODERATE INCOME (80-120% of Area Median Income)	ABOVE MODERATE INCOME (>120% of Area Median Income)	TOTAL
CONTRA COSTA COUNTY					
Antioch	792	456	493	1,275	3,016
Brentwood	402	232	247	641	1,522
Clayton	170	97	84	219	570
Concord	1,292	744	847	2,190	5,073
Danville	652	376	338	875	2,241
El Cerrito	334	192	241	624	1,391
Hercules	344	198	126	327	995
Lafayette	599	344	326	845	2,114
Martinez	350	201	221	573	1,345
Moraga	318	183	172	445	1,118
Oakley	279	161	172	446	1,058
Orinda	372	215	215	557	1,359
Pinole	121	69	87	223	500
Pittsburg	506	291	340	880	2,017
Pleasant Hill	566	326	254	657	1,803
Richmond	840	485	638	1,651	3,614
San Pablo	173	100	132	341	746
San Ramon	1,497	862	767	1,985	5,111
Unincorporated Contra Costa	2,082	1,199	1,217	3,147	7,645
Walnut Creek	1,657	954	890	2,304	5,805

Table 4: Draft RHNA Allocations

Jurisdiction	VERY LOW INCOME (<50% of Area Median Income)	LOW INCOME (50-80% of Area Median Income)	MODERATE INCOME (80-120% of Area Median Income)	ABOVE MODERATE INCOME (>120% of Area Median Income)	TOTAL
MARIN COUNTY					
Belvedere	49	28	23	60	160
Corte Madera	213	123	108	281	725
Fairfax	149	86	71	184	490
Larkspur	291	168	145	375	979
Mill Valley	262	151	126	326	865
Novato	570	328	332	860	2,090
Ross	34	20	16	41	111
San Anselmo	253	145	121	314	833
San Rafael	857	492	521	1,350	3,220
Sausalito	200	115	114	295	724
Tiburon	193	110	93	243	639
Unincorporated Marin	1,100	634	512	1,323	3,569
NAPA COUNTY					
American Canyon	112	65	75	194	446
Calistoga	31	19	19	50	119
Napa	504	291	319	825	1,939
St. Helena	103	59	26	66	254
Unincorporated Napa	369	213	120	312	1,014
Yountville	19	11	12	30	72
SAN FRANCISCO COUNTY					
San Francisco (city)	20,867	12,014	13,717	35,471	82,069

Jurisdiction	VERY LOW INCOME (<50% of Area Median Income)	LOW INCOME (50-80% of Area Median Income)	MODERATE INCOME (80-120% of Area Median Income)	ABOVE MODERATE INCOME (>120% of Area Median Income)	TOTAL
SAN MATEO COUNTY					
Atherton	94	54	56	144	348
Belmont	488	281	283	733	1,785
Brisbane	317	183	303	785	1,588
Burlingame	863	497	529	1,368	3,257
Colma	44	25	37	96	202
Daly City	1,336	769	762	1,971	4,838
East Palo Alto	165	95	159	410	829
Foster City	520	299	300	777	1,896
Half Moon Bay	181	104	54	141	480
Hillsborough	155	89	87	223	554
Menlo Park	740	426	496	1,284	2,946
Millbrae	575	331	361	932	2,199
Pacifica	538	310	291	753	1,892
Portola Valley	73	42	39	99	253
Redwood City	1,115	643	789	2,041	4,588
San Bruno	704	405	573	1,483	3,165
San Carlos	739	425	438	1,133	2,735
San Mateo	1,777	1,023	1,175	3,040	7,015
South San Francisco	871	502	720	1,863	3,956
Unincorporated San Mateo	811	468	433	1,121	2,833
Woodside	90	52	52	134	328

ATTACHMENT 3



November 24, 2020

Executive Board, Association of Bay Area Governments
375 Beale Street, Suite 700
San Francisco, CA 94105

Dear President Arreguin, Vice President Ramos, and Members of the Executive Board:

On behalf of the Town of Ross, we wish to thank the ABAG Executive Board and the ABAG Housing Methodology Committee (HMC) for the challenging work and creative thinking that has gone into distributing 441,000 new units in the 6th Cycle Regional Housing Needs Allocation (RHNA). We support the use of the Plan Bay Area 2050 Blueprint in developing the RHNA methodology, but respectfully request that the Executive Board amend the baseline to utilize the Blueprint's *Household Growth* metric instead of *Households* as proposed by the HMC.

The HMC's recommended baseline allocates too many units to suburban areas that are far from job centers, lack adequate transportation infrastructure, and are in areas of wildfire risk. The proposed HMC methodology will not further greenhouse gas reduction goals and is inconsistent with the growth patterns and policy objectives more carefully considered in the Plan Bay Area 2050 Blueprint.

The Town of Ross faces significant constraints to development that are not accurately reflected in the *Households* baseline. More than one quarter of our parcels are within FEMA's 100-year Special Flood Hazard Area and practically the entire Town is in the Wildland Urban Interface. Additionally, small suburban communities like Ross do not have the capacity or the expectation for substantial job growth. In place of the HMC proposal, we recommend the ABAG Executive Board follow ABAG staff's July 2020 suggestion to utilize the Plan Bay Area 2050 Draft Blueprint in the RHNA methodology with each jurisdiction's share of *Household Growth* from 2010 to 2050 as the baseline.

The Town supports the *Household Growth* baseline, as it results in higher allocations for jurisdictions with significant jobs that are experiencing growth, including communities that have elected to be Priority Development Areas. The State Housing and Community Development Department (HCD) has already approved using regional plan household growth as a baseline for 4 of the 8 approved 6th Cycle RHNA methodologies (with 3 others using baselines that factor in jobs, and one using a variety of factors). Utilizing the *Household Growth* baseline would enable the Town of Ross to prepare our General Plan Housing Element to accommodate housing development in a way that realistically considers climate change, our unique environmental conditions, and our relationship to the Bay Area's transportation network.

The Town of Ross remains committed to addressing the housing crisis. During the current RHNA cycle we have upzoned our commercial zoning district to allow as-of-right multifamily housing and in the past year we have been collaborating with other Marin jurisdictions to develop Objective Design Standards to streamline residential construction. We have also updated our Zoning Ordinance to provide additional allowable floor area for ADUs with a very low income rent restriction. We are proud of the fact that we have been able to deliver on our 5th Cycle RHNA obligation in all income categories. Again, thank you for your contribution to the region's planning and for your consideration of this request.

Sincerely,



Julie McMillan
Mayor



Joe Chinn
Town Manager