



OFFICE OF THE CITY COUNCIL *City of Foster City*

November 20, 2020

Ms. Karen Mitchoff, Chair
ABAG Regional Planning Committee
c/o ABAG-MTC Public Information Office
375 Beale St, Suite 800
San Francisco, CA 94105

VIA EMAIL: RHNA@bayareametro.gov

RE: Proposed RHNA Methodology and Subregional Shares

Dear Chair Mitchoff:

The City of Foster City would like to thank you for the opportunity to comment on the proposed Regional Housing Needs Assessment (RHNA) methodology **Option 8A: High Opportunity Areas Emphasis & Job Proximity** for the RHNA 6 Cycle (2023-2031) and the draft subregion shares passed by the ABAG Executive Board at their October 15, 2020 meeting.

HCD has determined that the Bay Area must plan for **441,176 new housing units from 2023 to 2031**. Option 8A uses the 2050 Households from the forthcoming Plan Bay Area 2050 Draft Blueprint as the baseline starting point for allocating new housing units amongst the jurisdictions across the region. Option 8A also allocates the region's required new housing units within the very low, low, moderate, and above-moderate income categories using a bottom-up approach. The bottom-up approach adds up the individual income category allocations to create a jurisdiction's total allocation. A jurisdiction's allocation within each income category is based upon how the jurisdiction scores relative to the rest of the region on the following selected factors: Access to High Opportunity Areas (AHOA); Jobs Proximity – Transit; and Jobs Proximity – Auto. The weights assigned to these three factors include: 70% weight given to AHOA and 30% to Jobs Proximity – Auto (15%) and Job Proximity – Transit (15%) for very low and low units and 40% weight given to AHOA and 60% Job Proximity – Auto for moderate and above moderate.¹

If proposed RHNA Methodology 8a is adopted, the City of Foster City will receive an allocation of **2,028 units** for RHNA 6 – this translates to an increase in **471%** from RHNA 5 which was 430 units. To put this in context – the Bay Area

¹ https://abag.ca.gov/sites/default/files/rhna_methodology_report_2023-2031_finalposting.pdf

Region's increase in RHNA 6 is **235%** (441,176 units) and San Mateo County's Increase is **338%** (48,490 units) when compared to RHNA 5.

Earlier this year, ABAG requested the City's input with the RHNA Local Planning Factor Survey. This Survey is required by law for ABAG to allow jurisdictions to identify local planning factors prior to the development of a proposed RHNA methodology, per Government Code Section 65584.04(b). Information collected from the survey is required to be included as part of the proposed RHNA methodology. The City of Foster City submitted its response to the Local Planning Factors Survey. The response indicates the local planning factors that demonstrate limitations in the City's ability to accommodate future housing growth.

The current extraordinarily high draft RHNA 6 allocation based on Option 8A is infeasible for the City of Foster City for many reasons as outlined below:

I. Lack of Vacant Land:

- a. Non-Vacant Residential Land: The City of Foster City is a 4 square-mile city that is largely built out. Currently, there is no vacant residential land that can accommodate additional opportunities for residential development. This is partly because since 2000, approximately 51 acres of land designated for commercial and/or semi-public use was converted to residential or mixed-use residential. All of the existing residentially zoned land consists of currently developed properties. Therefore, future residential development of these existing residential properties would have to be accommodated by infill, reuse, and redevelopment.
- b. Non-Vacant Commercial/Industrial Land: Much of the City's existing commercial and industrial land is built out. One of the factors included within the methodology to determine RHNA allocations is based on projected job growth which depends on preserving and/or expanding existing inventory of commercial or industrial land. The significant size of RHNA allocations will force the City to evaluate and re-designate non-residential land for residential development. This effectively limits the City's ability to create jobs, thus reducing the job growth factor projected in the modeling of the RHNA methodology.

2. Compliance with State law:

Upon review of the Government Code requirements for Housing Elements and the HCD Sites Inventory Guidebook, we find the following factors severely limit the sites that can be considered for future growth:

- a. Realistic Development Capacity: Realistic development capacity calculation accounts for minimum density requirements, land use controls, site improvements, typical densities of existing or approved projects at similar income levels, and access to current or planned, water, sewer, and dry utilities (Government Code Sections 65583.2(c)(1) and (2)).² The City of Foster City must demonstrate realistic development capacity for a large percentage of existing viable land with existing stable land uses in the City. This is infeasible as the City would essentially have to consider a large area of existing job-generating uses to transition to residential uses and must prove these sites are viable to transition during the planning period.
- b. HCD's Substantial Evidence Standard: The HCD Sites Inventory Guidebook requires the City to analyze property as either vacant or non-vacant. As noted above, there isn't any vacant land in the City; therefore, the City will need to consider non-vacant land to meet its RHNA. The HCD Guidebook states that when a City plans to accommodate more than 50 percent of the lower-income RHNA on non-vacant land, substantial evidence must be provided proving that the existing uses of the land will be discontinued during the planning period. In the Draft RHNA allocation to the City, ABAG does not appear to have made an effort to take this factor into consideration to determine if there is sufficient non-vacant land in the City

² <https://codes.findlaw.com/ca/government-code/gov-sect-65583-2.html>

that can satisfy the substantial evidence standard in order to meet its RHNA. As part of its Housing Element Update, the City will conduct a sites inventory assessment and will list sites that are practicable, but in order to meet its RHNA, the City will need at least 58 – 68 acres of land, assuming a density of 30 or 35 units per acre to meet the projected 2,028 units. That means property owners of at least 58 to 68 acres of commercial/industrial land in the City must conclude that a conversion of some, or all, of their land to a residential use is more advantageous than their existing non-residential use. Before assigning the City its Draft RHNA, ABAG should have included a reasonable level of analysis, or at least made direct inquiries regarding the availability of land upon which the City (and other cities in a similar situation) would be able to plan for its future RHNA.

- c. Penalties for Non-Compliance: If the City cannot facilitate property owners to make their land available for housing through various incentives, as described by State law, the City will have very limited alternatives to meet its projected RHNA. Therefore, inherent consequences of non-compliance will be forced upon the City if it fails to comply with a RHNA, when limited or lack of availability of land do not allow the City to comply. State law and the RHNA allocation methodology should therefore not punish the inability of the City to comply with a mandate due to the lack of land availability.

3. RHNA Methodology Option 8A Weighted Factors:

- a. Limited Weight Given to Access to Transit: Option 8A allocates the majority of the units based on the Access to High Opportunity Areas and factors related to Job Proximity (Auto & Transit). However, it places little weight on access to ‘High Quality Public Transit.’ Plan Bay Area 2050, includes a diverse range of strategies to reduce greenhouse gas emissions, including: Focusing more housing growth in areas near high quality public transit and in high-resource communities near job centers. Contrary to the RHNA and Plan Bay Area 2050 objectives, Option 8A will not further greenhouse gas reduction goals or protect residents from environmental impacts. Option 8A allocates too many housing units to suburban areas that lack adequate high-quality public transit. Targeting growth in areas such as Foster City that have poor-quality public transit, in which bus routes have average service intervals during peak traffic hours that are so long (30-60 minutes) that make public transit unattractive/inconvenient is impractical. Instead, the RHNA Allocation Methodology should target growth in “Transit Rich Areas”. Transit Rich Areas should be areas near a “major transit stop”, such as a rail transit station or ferry terminal, or a “high-quality transit corridor”, which is a fixed bus route service with average service intervals of no longer than 15 minutes during peak commute hours.³
- b. Infrastructure Constraints: Option 8A does not take into consideration availability of adequate infrastructure such as water, sewer, streets, school capacity, and other local constraints that a City like Foster City faces or any other ‘built-out’ city faces to support housing growth. Foster City (through the Estero Municipal Improvement District) purchases all of its water from the San Francisco Public Utility Commission as a contractual member of the Bay Area Water Supply and Conservation Agency. The City’s water supply allocation is not sufficient to support 2000 additional housing units. Furthermore, the City is basically an island with only three access points of ingress and egress. Given the increase in regional highway traffic over the last several years, the congestion has backed onto the City’s roadways and traffic has been impacted considerably. Adding more housing without taking into consideration, the City’s roadway networks, circulation and limited ways to get in and out of the City would only exacerbate the current problem.

³ Pub. Resources Code, § 21064.3 – (“‘Major transit stop’ means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.”).

OPR Guidelines on using VMT in CEQA: https://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf

- c. City of Foster City's Track Record: The City of Foster has made significant progress in development of housing, particularly affordable housing, including:
- Creating 499 affordable housing units over the current and previous RHNA Cycles
 - Producing more than double the number of units in the current RHNA Cycle albeit we are yet to meet 100% of our RHNA targets in the VL, L and M categories (produced 898 units to date in current RHNA planning period when RHNA 5 was 430 units)
 - Being one of the very few cities that has a 20% inclusionary policy in the Housing Element (20% of any new housing units are required to be affordable)
 - Adopting the Commercial Linkage Fee (a fee per square foot of new commercial development that is paid into the City's Affordable Housing Fund)
 - Streamlined requirements for Accessory Dwelling Units (ADUs)

Furthermore, the City of Foster City has been actively addressing the housing shortage and has been one of the few cities that is in compliance with State laws. Based on the Annual Progress Report that the City submitted to HCD, the State determined that we are one among the 29 cities that have met our prorated (Very-Low and Low) and Above-Moderate Income RHNA and, therefore, are currently not subject to the streamlined ministerial approval process under [SB 35](#). The remaining 510 jurisdictions are subject to SB 35. To be placed in the same bucket as a jurisdiction that has failed to produce housing and not assigning RHNA targets proportionally to cities that have complied versus the ones that have not complied seems not only unreasonable but also places an undue burden on the compliant cities.

Even if the City were to undertake rezoning or introduce new policies to add new housing units, lack of vacant land, lack of housing sites due to the previous conversion of non-residential land to residential uses, lack of access to high quality public transit (bus lines only) and limited infrastructure such as water, sewer and school capacity (one middle school and no high school), all combine to make high RHNA numbers unachievable. Further, as stated above this will be required by a jurisdiction that has consistently strived to meet its RHNA. Given the City's commitment to housing production and providing affordable housing to address the region's housing challenges, the City requests that the final methodology takes into consideration the City's historic track record in achieving its RHNA targets.

- d. Community Character and Quality of Life: In the late 1950s, T. Jack Foster had a vision to transform the 2,600-acre/4-square mile land consisting of a dairy farm and salt ponds into a successful master planned community. Foster's original vision for the master plan was to accommodate a variety of housing types by dividing it into nine neighborhoods, each with access to schools, parks, and neighborhood shopping centers and clearly delineated the commercial and industrial lands from residential. Much of the community character and quality of life in Foster City is based on its unique qualities as a self-contained master planned community and its enviable 16 miles of navigable waterways & lagoons. Since its incorporation in 1971, the City has embraced growth while maintaining much of its character and quality of life. Expecting a built-out community like Foster City to accommodate the extremely high projected number of units for the next 8 years would result in unintended consequences. The final RHNA methodology should take into consideration quality of life factors, sustainability, and impacts on community character.

While the City is committed to contributing to the collective local, regional and State needs for housing, the City finds that the Draft RHNA Allocation is unrealistic and excessive and can have unintended consequences to the City and its residents. Therefore, the City, respectfully asks that the Draft RHNA Allocation and RHNA methodology be reconsidered. Thank you for your consideration, and this opportunity to provide comment.

Sincerely,


Catherine Mahanpour (Nov 20, 2020 10:32 PST)

Catherine Mahanpour, Mayor
City of Foster City

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