

County of Santa Clara

Department of Planning and Development

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, CA 95110
Phone: (408) 299-5700
www.sccplandev.org



May 21, 2021

The Executive Board
Association of Bay Area Governments

Re: Final Regional Housing Needs Allocation (RHNA) Methodology and County of Santa Clara's draft allocation.

Dear President Arreguin and ABAG Executive Board:

On behalf of the Department of Planning and Development for the County of Santa Clara (County), I am writing to restate the County's objections regarding Association of Bay Area Government's (ABAG) approval of the Final Regional Housing Needs Allocation (RHNA) Methodology and Draft RHNA Allocations at its meeting on May 20, 2021 (Agenda Item No. 10.b). This letter identifies oversights in the methodology and the resulting policy conflicts that arise from the proposed assigned RHNA of 3,125 housing units to the County of Santa Clara unincorporated area and explains the untenable condition that would result for the County from this assignment.

This letter supplements the January 21, 2021 & November 3, 2020 letters from Jacqueline R Onciano, Director of the Department of Planning and Development, and the Honorable Cindy Chavez, Santa Clara County Board of Supervisors respectively; to President Jesse Arreguin objecting to the draft methodology and the RHNA assigned to the County.

As stated in the previous letters, the unincorporated County is primarily rural. Approximately 99% of the land within the County's jurisdiction is located outside of the urban service areas (USAs). The rural unincorporated County encompasses important agriculture lands and provides critical habitat and natural resources that support biological diversity and sustainability in the greater region. As a result, the County's General Plan, adopted in 1995, has had strong regional growth policies that protect the rural areas and direct growth into the urban areas, including the cities and unincorporated area subject to city annexation.

The Department of Planning and Development believes the conflict between the proposed RHNA allocation for the County and these critical sustainability policies result from several oversights in ABAG's draft methodology process. Our previous letters outlined Government Code sections 65584.04(e)(2), and 65584(d)(2), which require that the methodology consider the opportunities and constraints to development of additional housing in each jurisdiction, promote infill development and socioeconomic equity, protect environmental and agricultural resources, and encourage efficient development patterns to help meet the region's greenhouse gas reductions targets. We still maintain that the assignment of RHNA of 3,125 units to the County of Santa Clara unincorporated area,

requiring urban housing in the County's rural areas, conflicts with this statutory objective. Locating new housing units in these rural areas will impact environmental and agricultural resources, discourage efficient development patterns, and undermine greenhouse gas reduction targets by promoting urban sprawl.

In our consultations with ABAG staff, it was suggested that the County plan to accommodate RHNA within the urban unincorporated areas. However, the County's General Plan identifies that the land use planning for these urbanized parts of unincorporated county are conducted by the cities¹. The County's policy also has been that these urban unincorporated areas would be eventually annexed into the respective cities. To that effect the County's zoning code does not allow any significant projects within these areas unless the project conforms with the affiliated city's General Plan, and that the city has the option to annex the project area². This cornerstone policy of our General Plan has been accepted by cities in the County. This is reflected in their respected General Plans that have been planning for these USAs for the last two and a half decades.

This policy has been acknowledged by ABAG in the past RHNA cycles, as the County was assigned housing unit goals commensurate with the County's strong anti-sprawl regulations, and HCD has approved past cities' Housing Elements where site inventories include sites located in these urban unincorporated areas. A prime example of this has been the City of San José identifying over 543 acres of land for housing development within the urban unincorporated County in the past two Housing Elements (2007-2014, 2015-2023), totaling a capacity of 3,716 units.

The County would like to highlight the untenable conditions that will be imposed if the County were to receive the planned allocation of 3,125 units:

- 1) **The draft RHNA allocation upends the County's long established and successful policies in preventing urban sprawl and promoting resource conservation by focusing growth within Urban Service Areas.** The allocation of 3,125 units would force the County to consider sites within rural unincorporated areas, and/or rely on Federally controlled sites such as NASA/Ames, to produce housing that could be counted towards the County's allocation. These strategies run counter to the State's and Region's goals to reduce VMT and avoid building homes in areas likely to be impacted by Climate Change. Furthermore, the county has no land use jurisdiction over Federally controlled sites, making the County vulnerable to the SB 35 streamlining stipulations.
- 2) **The draft RHNA allocation will initiate unnecessary efforts to initiate transfer negotiations and policy updates essentially to achieve what is already happening with housing production in Urban Service Areas.** The requirement for the County to designate housing inventory sites within the urban unincorporated areas would require the County to modify its long-standing General Plan policies and Zoning Codes to essentially duplicate the actions already taken by cities in planning for these areas. Furthermore, it would create confusion between cities and the County in determining which sites in these USAs have been already counted in previous Housing

¹ County General Plan Book B, Part 4 Urban Unincorporate Area Issues & Policies. Strategy #2: *Ensure Conformity of Development With Cities' General Plans*


² County General Plan Book B, Part 4 Urban Unincorporate Area Issues & Policies. Strategy #1: *Promote Eventual Annexation.*

Elements, and who would benefit from the already approved housing projects to avoid double counting.

The County continues to be a strong advocate to build affordable housing in the incorporated and urbanized areas of the County. To that effect the County's *2016 Measure A - Affordable Housing Bond* has been instrumental in funding the building of new affordable housing projects within seven cities in the county amounting to 2,969 new affordable units in the last four years. All of these housing units have been counted towards the individual cities' RHNA requirements. The County continues to purchase parcels in cities and repurpose existing county-owned sites to build affordable housing to address the regional shortage.

In summary, we urge the ABAG Board to reconsider the methodology to allow for adjustments to the allocation for the County, and assign a RHNA amount commensurate with the County's commitment since 1995 to control sprawl and preserve agricultural and natural spaces.

Sincerely,

DocuSigned by:

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ROB EASTWOOD
Planning Manager, Department of Planning and Development
County of Santa Clara

Enclosures:

Attachment A: November 3, 2020 Letter from Cindy Chavez to ABAG President

Attachment B: January 21, 2021 Letter from Jacqueline R Onciano to ABAG President

ATTACHMENT A

County of Santa Clara

Department of Planning and Development

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January 21, 2020

President Jesse Arreguin
ABAG Executive Board
375 Beale Street, Suite 800
San Francisco, CA 94105-2066

**RE: County of Santa Clara, Department of Planning and Development Comment on
RHNA Allocation/Option 8a
1/21/2021 ABAG Executive Board Meeting
Agenda Item No. 11.b—Adoption of Draft RHNA Methodology**

Dear President Arreguin and ABAG Executive Board:

On behalf of the Department of Planning and Development for the County of Santa Clara (County), I am writing to restate the County's objections regarding Association of Bay Area Government's (ABAG) proposed adoption of Option 8a as the Regional Housing Needs Allocation (RHNA) distribution methodology at its meeting on January 21, 2021 (Agenda Item No. 11.b). This letter identifies oversights in the draft methodology and the resulting policy conflicts that arise from a RHNA of 3,156 housing units for the County of Santa Clara unincorporated area.

This letter supplements the November 3, 2020 letter from Cindy Chavez, Santa Clara County Board of Supervisors (Attachment A), to President Jesse Arreguin stating objections to the Option 8a methodology and the RHNA assigned to the County. The County recognizes that following the December 17, 2020 release of the Plan Bay Area final blueprint, the County's RHNA has decreased from 4,139 housing units to 3,156 units.

As stated in the November 3, 2020 letter, the unincorporated County is primarily rural. Approximately 99% of the land within the County's jurisdiction is located outside of the urban service areas that provide municipal sewer and water services. The rural unincorporated County encompasses important agriculture lands and provides critical habitat and natural resources that support biological diversity and sustainability in the greater region. As a result, the County's General Plan has strong regional growth policies that protect the rural areas from urbanization, directing growth into the urban areas, including the cities and unincorporated area subject to city annexation.

The County continues to be a strong leader in increasing housing production to meet the ongoing housing crisis in the Bay Area, including sponsoring the adoption of Measure A, a \$950 million dollar affordable housing bond approved by voters in 2016. However, the County strives to balance housing production with long term sustainability and greenhouse gas reduction goals.

To this end, the County supports housing development in urban areas closer to job centers and public transit, lowering Vehicle Miles Traveled and Greenhouse Gas Emissions.

The proposed Option 8a methodology that would result in a RHNA of 3,156 units to the County, represents over a 1,000% increase compared to the previous RHNA cycle and would require the County to rezone rural areas for urban housing development, conflicting with the County's General Plan and sustainability and greenhouse gas reduction goals within State law (AB 32) and the Plan Bay Area 2050 Blueprint. As identified in the November 3, 2020 letter, the County has determined it has the capacity to support approximately 2,000 units within the urban unincorporated areas, using a variety of housing production strategies.

We believe the conflict between the proposed RHNA for the County and these critical sustainability policies result from several oversights in ABAG's draft methodology process. First, in selecting a methodology, ABAG must consider the opportunities and constraints to development of additional housing in each jurisdiction. *See* Gov't Code § 65584.04(e)(2). Among these factors is "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." *Id.* § 65584.04(e)(2)(B). As described, approximately 99% of the land within the County's jurisdiction is in the rural areas, and the County maintains policies for the urban unincorporated areas that encourage their annexation into the Cities.

Based on conversations with ABAG staff, ABAG estimates that 2,000 units can be sited at Moffett Field/NASA Ames Research Center to meet RHNA requirements. While Moffett Field is located within the unincorporated County, the federal government owns this land and is immune from local land use regulation. As such, the County has no authority to zone or convert this land for residential use, and thus the County cannot demonstrate the necessary capacity in its Zoning Ordinance for housing on these federal lands.

Second, in selecting a draft methodology, ABAG must further the intent of the statutory objectives listed in subdivision (d) of Government Code section 65584, including "[p]romoting 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." Gov't Code § 65584(d)(2). As identified in the November 3, 2020 letter, it appears that an assignment of RHNA of 3,156 to the County of Santa Clara unincorporated area, requiring urban housing in the County's rural areas, conflicts with this statutory objective. Locating new housing units in these rural areas will impact environmental and agricultural resources, discourage efficient development patterns, and undermine greenhouse gas reduction targets by promoting urban sprawl.

We respectfully ask ABAG to adequately consider the statutorily mandated methodology criteria and identify and implement a modification to Option 8a that is consistent with the statutory objectives.

Thank you for the opportunity to comment.

Respectfully Submitted,

DocuSigned by:
Jacqueline R Onciano
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Jacqueline R. Onciano
Director, Department of Planning and Development

Attachment A: November 3, 2020 Letter from Cindy Chavez to ABAG President

ATTACHMENT B

County of Santa Clara

Board of Supervisors

County Government Center, East Wing
70 West Hedding Street, 10th Floor
San Jose, California 95110-1770
(408) 299-5001 FAX 938-4525
www.sccgov.org



November 3, 2020

President Jesse Arreguin
ABAG Executive Board
375 Beale Street, Suite 800
San Francisco, CA 94105-2066

RE: County of Santa Clara Unincorporated RHNA Allocation per Option 8a

Dear President Arreguin and ABAG Executive Board:

On behalf of the County of Santa Clara Board of Supervisors, I am writing to express objections regarding ABAG's adoption of Option 8a as the Regional Housing Needs Allocation (RHNA) distribution methodology, and specifically policy conflicts that would arise from the resulting RHNA of 4,139 housing units for the County of Santa Clara unincorporated area.

The County of Santa Clara (County) has been a strong leader in increasing housing production to address the ongoing housing crisis and affordability gap in the Bay Area. In 2016, the County Board of Supervisors sponsored ballot initiative Measure A, a \$950-million affordable housing bond passed by the voters. Measure A Bond proceeds contribute to the creation or preservation of over 4,500 units countywide, and the County has already supported 28 housing developments and allocated \$25 million for a first-time homeowner buyer program.

Additionally, the County has taken strong measures to increase the housing supply in the unincorporated areas. These measures include adoption of Inclusionary Housing Ordinances in 2018 and 2020, adoption of State-compliant Accessory Dwelling Unit (ADU) regulations that allow increased flexibility in housing types, including the use of mobile tiny homes, and adoption of an Agricultural Worker Housing Ordinance in 2020 that streamlines agricultural worker housing production.

Concurrently, the County has been a leader in advancing sustainability and climate resiliency in alignment with the State's climate goals and policy mandates. Since 1980, the County has maintained foundational General Plan policies that direct all urban growth into the cities while maintaining rural unincorporated areas for resource conservation and agriculture preservation. Consistent with these objectives, the County adopted the Santa Clara Valley Habitat Plan in 2012 and the

Board of Supervisors:

Mike Wasserman
District 1

Cindy Chavez
District 2

Dave Cortese
District 3

Susan Ellenberg
District 4

S. Joseph Simitian
District 5

County Executive: Jeffrey V. Smith

Santa Clara Valley Agricultural Plan in 2018, which direct further investments into preserving habitat and agricultural lands within the rural areas.

Under the Option 8a RHNA distribution methodology, the County of Santa Clara unincorporated area would receive a RHNA of 4,139 units, to be completed over the next Housing Element Cycle (2023-31). Based on the County's General Plan policies and land use framework, the County has very limited jurisdiction over urban housing production. Approximately 98.9 percent of the County's unincorporated lands are in rural areas, which lack municipal services such as sewer and are identified for resource conservation. The County's urban unincorporated policies require new development within urban unincorporated areas to petition for annexation into Cities. A RHNA of 4,139 units—representing over a 1,300% increase over the previous RHNA allocation of 277 units in the last housing cycle—would require the County to rezone its rural areas for urban housing development, conflicting with the County's General Plan and sustainability and greenhouse gas reduction goals in both adopted State policies and within the Plan Bay Area 2050 Blueprint.

The County's Department of Planning and Development staff has determined that the County has the capacity to support approximately 2,000 units in the urban unincorporated areas for the 2023–31 Housing Element cycle, incorporating a variety of housing production strategies. This commitment to 2,000 units still represents a 620% increase over the County's previous RHNA, but underscores the County's strong commitment to produce housing within its capacity without undermining climate action and resource conservation goals.

A RHNA above this amount requiring urban housing in the County's rural areas conflicts with Housing Element Law, specifically RHNA Objective 2 (California Government Code section 65584(d)(2)), which states:

“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 requirement for the County to designate rural and agricultural areas for urban housing production also conflicts with the Plan Bay Area 2050 Blueprint that designates a majority of the County's rural areas as Priority Conservation Areas. The vast majority of the County's 65 Priority Conservation Areas identified by ABAG are located within our rural areas, identified for conservation as natural landscapes, regional recreation, and as agricultural lands. Conversion of these lands into urban housing would conflict with these resource conservation goals, concurrently increasing greenhouse gas emissions and vehicle miles traveled, contrary to the State's climate action goals.

We would like to reiterate the County is strongly committed to both housing production and greenhouse gas reduction. The County has continued to stake a leadership position in increasing housing production within our urban areas while preserving our rural and agricultural areas for resource conservation, in alignment with State and ABAG climate action goals along with greenhouse gas reduction and regional resiliency. We respectfully ask ABAG to identify and implement a modification to Option 8a that avoids the increase in RHNA for the County of Santa Clara's unincorporated areas.

Thank you for the opportunity to comment.

Respectfully Submitted,



Cindy Chavez
President, County of Santa Clara Board of Supervisors