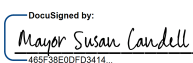


REGIONAL HOUSING NEEDS ALLOCATION

Association of Bay Area Governments

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.govJurisdiction Whose Allocation is Being Appealed: City of LafayetteFiling Party: HCD Jurisdiction: City of LafayetteContact Name: Greg Wolff Title: Planning & Building DirectorPhone: (925) 299-3204 Email: gwolff@ci.lafayette.ca.us**APPEAL AUTHORIZED BY:**Name: Susan CandellSignature: Date: 7/8/2021**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: 822 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.

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.

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)

The City of Lafayette appeals the allocation on the basis that Plan Bay Area 2050, which provided housing projections that were subsequently used as the baseline for the RHNA allocation process, failed to exclude public lands located in Very High Fire Hazard Severity Zones from its Growth Geographies, thereby increasing the number of units allocated to Lafayette in error (see discussion below).

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).

The City of Lafayette appeals the allocation on the basis that the methodology actually applied to the Regional Housing Needs Determination failed to exclude future development based on public lands located within Very High Fire Hazard Severity Zones.

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~~ **List of supporting documentation, by title and number of pages** shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

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



Click here to attach files

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



City Council

Susan Candell, Mayor
Teresa Gerringer, Vice Mayor
Carl Anduri, Council Member
Cameron Burks, Council Member
Gina Dawson, Council Member

July 8, 2021

Jesse Arreguin, President
Members of the ABAG Executive Board
375 Beale Street, Suite 800
San Francisco, CA 94105-2006

SUBJECT: Appeal of the City of Lafayette's Draft Regional Housing Needs Allocation

Over more than a year, the City has been actively engaged in the RHNA allocation process, providing feedback during key milestones during the time that the Housing Methodology Committee (HMC) met, providing written comment letters to ABAG leadership, and requesting one-on-one office hours with key staff at ABAG to understand how and why the City's "illustrative" allocations jumped by 28% between the end of 2020 and the beginning of 2021, after additional strategies were added to Plan Bay Area 2050.

CONTEXT

We continue to assert that the entire RHNA determination process was flawed for a variety of reasons, including, but not limited to, the following:

- Impacts from the pandemic were not considered for the long term.** Although ABAG/MTC indicated that certain adjustments were made to address the effects of the pandemic as part of the Plan Bay Area 2050 projections, these adjustments addressed short term impacts and not potential long-term impacts, which have yet to be felt. Will employees continue to work from home? Will fewer people carpool, instead becoming solo drivers? Will local retail establishments survive if online purchasing is preferred? All of these questions will impact how communities survive moving forward, and yet there are no easy answers.
- Jobs-Housing balance will be exacerbated, not relieved, and certain areas of the region will see worsening Green House Gas (GHG) emissions.** We maintain that housing should be located where the jobs already are and will be, but the HMC instead chose job proximity by car and by transit. This will result in greater Vehicle Miles Traveled (VMT), not less. Lafayette has declining employment rates, and will become even more of a bedroom community; our roads will be increasingly congested, VMT will rise, and local GHG targets will become impossible to achieve.
- The process benefits the region at the expense of local jurisdictions.** ABAG/MTC staff assert that the addition of ten strategies at the end of 2020 were needed in order to achieve region-wide targets for GHG reductions. However, this does not take into consideration the impacts of increased VMT at the local jurisdiction level. In essence, this leaves local jurisdictions struggling to improve the quality of life for its residents – those who are negatively impacted by the region's "success."

THIS 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.

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\(d\)\(5\)](#)

The City of Lafayette appeals the allocation on the basis that Plan Bay Area 2050, which provided housing projections that were subsequently used as the baseline for the RHNA allocation process, failed to exclude public lands located in Very High Fire Hazard Severity Zones from its Growth Geographies, thereby increasing the number of units allocated to Lafayette in error (see discussion below).

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).

The City of Lafayette appeals the allocation on the basis that the methodology actually applied to the Regional Housing Needs Determination failed to exclude future development based on public lands located within Very High Fire Hazard Severity Zones.

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.

Although the City is not appealing on changed conditions, we note that the arrival of the pandemic most certainly was a changed condition that affected all jurisdictions. In addition, beginning in February 2020, the State of California’s Attorney General began filing lawsuits against local jurisdictions’ approval of housing development projects in high fire hazard areas, thereby establishing the State’s role in discouraging housing development in these areas. As discussed in this letter, 46% of Lafayette’s land, including the BART parking lots, are in the Very High Fire Hazard Severity Zone.

DISCUSSION

In December, 2020, the ABAG Executive Committee approved the Final Plan Bay Area 2050 Blueprint, which included the addition of ten new strategies. According to staff, the existing 25 strategies, if implemented, would not result in meeting the targets for GHG emissions. Among the strategies presented in the Friday, December 18, 2020 webinar included transforming aging malls and office parks, as well as the acceleration of the reuse of public lands. To quote the presentation, “Larger sites with significant development potential – including in North Santa Clara County and in portions of the East Bay – are seeing more housing in the Final Blueprint as a result.” [Attachment A]

The resulting increase in future projections impacted the application of the RHNA housing methodology as growth was assumed to increase in areas of the East Bay, including Lafayette. Two meetings with ABAG/MTC staff confirmed that the Lafayette BART station’s parking lots – nearly 11 acres in total size and considered “public lands” targeted in one of the strategies – resulted in, at least in part, the increase of 463 units from

Lafayette’s “illustrative” RHNA allocation of 1,651 units, to 2,114 units. [Attachment B] This 28% increase in the number of units is disproportionate to the percentage increase in surrounding jurisdictions, many of which share similar development patterns.

The Draft Regional Housing Needs Allocation Plan notes, on page 36:

Including the Plan Bay Area 2050 Final Blueprint in the RHNA methodology 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** as well as county-designated wildland-urban interfaces (WUIs) where applicable. The Final Blueprint strategies focus future growth away from the highest fire risk zones, support increased wildland management programs, and support residential building upgrades that reduce the likelihood for damage when fires occur in the wildland urban interface.... The Final Blueprint strategies focus future growth away from the highest fire risk zones, support increased wildland management programs, and support residential building upgrades that reduce the likelihood for damage when fires occur in the wildland urban interface (emphasis added).

However, the Final Blueprint’s public lands strategy did not exclude Lafayette’s BART station, as the parking lots are 100% within the Very High Fire Hazard Severity Zones as published by CAL FIRE. [Attachment C] In fact, 46% of Lafayette land is located within a VHFHSZ, as evidenced by this official map. Even the Plan Bay Area 2050 maps showed that the Growth Geographies included the VHFHSZ. [Attachment D and E]

The BART parking lots, if developed according to AB 2923, could result in 822 units of housing – or more, if a developer seeks a density bonus. The sites, collectively, total 10.96 acres. Multiplying by the 75 dwelling units per acre, this results in 822 units. To develop this amount of housing within a VHFHSZ is problematic, as is evidenced by recent lawsuits by the State Attorney General against proposed developments in such zones in several parts of the State.

The City of Lafayette requests that 822 units – the base amount of housing allowed as per AB 2923 on the BART parking lot sites – be deducted from its current draft allocation of 2,114 units, which would result in an adjusted allocation of 1,292 units.

Sincerely,



Susan Candell, Mayor
On Behalf of the City of Lafayette

Cc: Therese Watkins McMillan, Executive Director, Association of Bay Area Governments
Gillian Adams, Principal Planner, ABAG Regional Planning Program
Dave Vautin, Plan Bay Area 2050

Attachments

- A. Webinar Presentation: Household Growth: Draft vs. Final Blueprint PBA 2050
- B. Changes in Allocations from Proposed to Draft Methodology
- C. Very High Fire Hazard Severity Zones in LRA, as published by CAL FIRE
- D. Draft PBA 2050 Growth Geographies Showing Very High Fire Hazard Severity Zones
- E. Final PBA 2050 Growth Geographies Omitting Very High Fire Hazard Severity Zones

Attachment A - Webinar: Household Growth: Draft vs. Final Blueprint

Which new or revised Final Blueprint Strategies are driving changes between Draft & Final?



Allow a Greater Mix of Housing Densities and Types in Growth Areas

Refinements approved in September focused a greater share of growth in transit-rich, high-resource places, yielding shifts toward San Francisco & higher-resource East Bay cities.



Transform Aging Malls & Office Parks +

Accelerate Reuse of Public Land

Larger sites with significant development potential - including in North Santa Clara County and in portions of the East Bay - are seeing more housing in the Final Blueprint as a result.



Improved Baseline & Pipeline Data

Further engagement with local jurisdiction partners this summer improved baseline, pipeline, and zoning data, which contributed to changes in household growth projections for select counties.

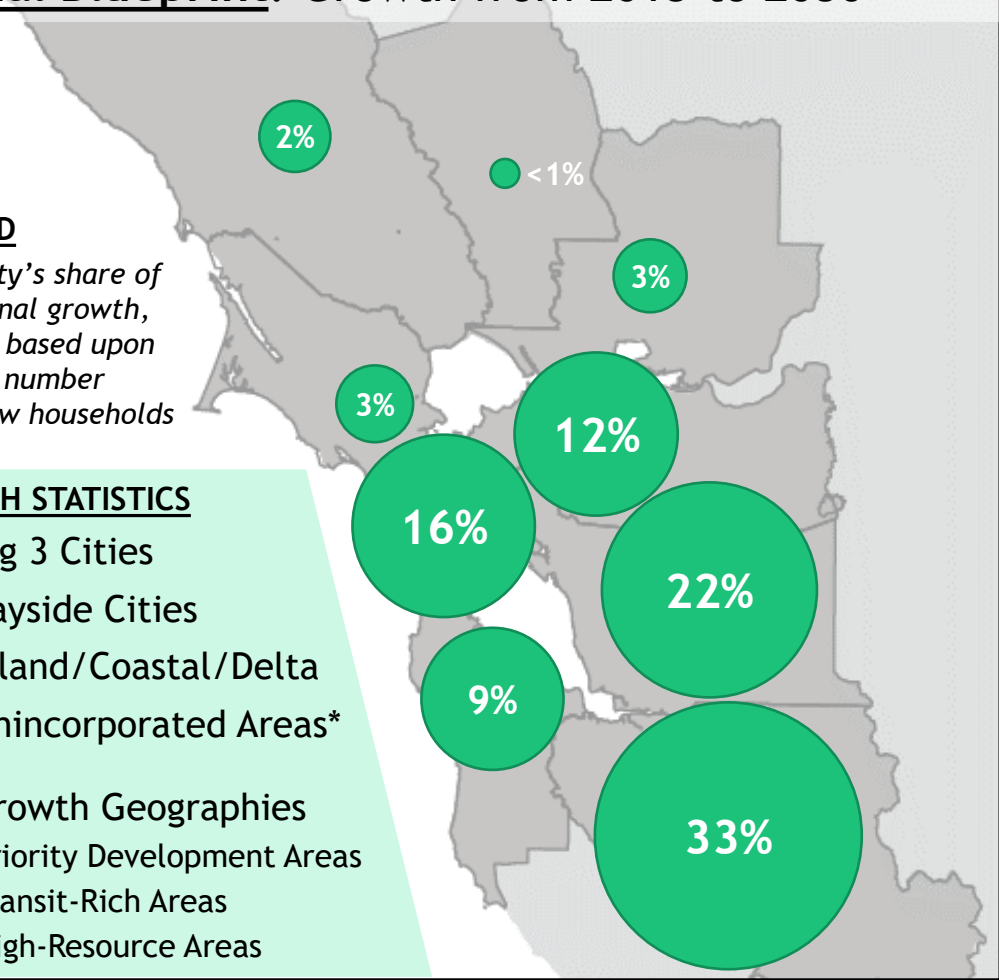
Final Blueprint: Growth from 2015 to 2050

MAP LEGEND

X% County's share of regional growth, sized based upon total number of new households

KEY GROWTH STATISTICS

- 43% in Big 3 Cities
- 34% in Bayside Cities
- 18% in Inland/Coastal/Delta
- 5% in Unincorporated Areas*
- 85% in Growth Geographies
- 72% in Priority Development Areas
- 82% in Transit-Rich Areas
- 28% in High-Resource Areas



* All urbanized growth in unincorporated areas is focused **within existing urban growth boundaries** (Strategy EN4).

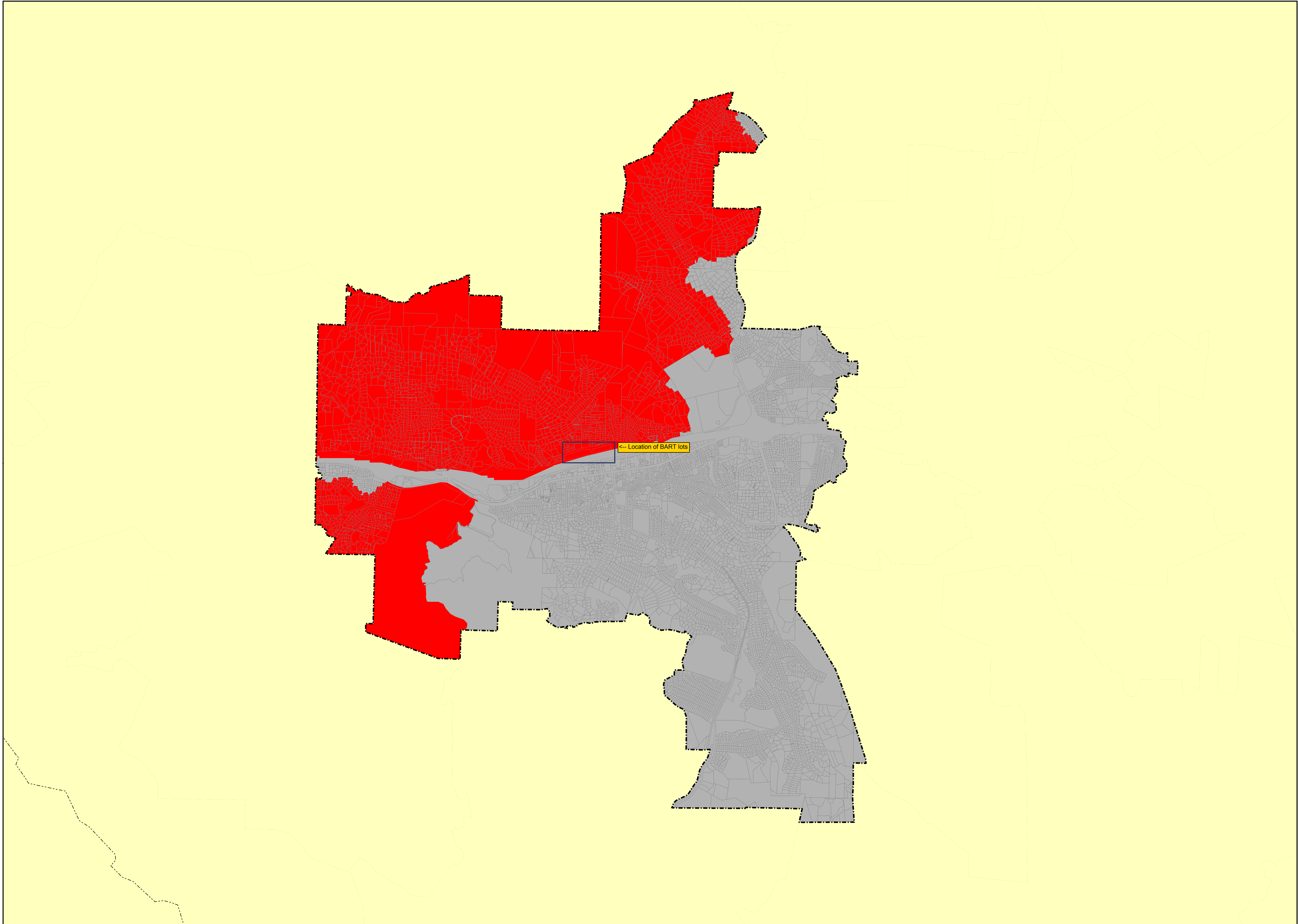
Totals do not always sum to 100% due to rounding.

Attachment B: Changes in Allocations from Proposed to Draft

Jurisdiction Illustrative Allocations by Income Category

Jurisdiction	Jurisdiction Share of		Proposed RHNA Methodology					Draft RHNA Methodology					Comparison of Total RHNA	
	Draft Blueprint	Final Blueprint	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total	Very Low Income	Low Income	Moderate Income	Above Moderate Income	Total	Unit Change from Proposed to Draft	Percent Change from Proposed to Draft
Antioch	1.032%	1.270%	661	380	402	1,038	2,481	811	467	493	1,275	3,046	565	23%
Brentwood	0.618%	0.647%	395	228	237	614	1,474	411	237	247	641	1,536	62	4%
Clayton	0.115%	0.111%	176	102	87	227	592	170	97	84	219	570	(22)	-4%
Concord	1.306%	1.725%	1,006	579	643	1,662	3,890	1,322	762	847	2,190	5,121	1,231	32%
Danville	0.410%	0.424%	632	365	328	848	2,173	652	376	338	875	2,241	68	3%
El Cerrito	0.339%	0.405%	289	166	203	524	1,182	342	197	241	624	1,404	222	19%
Hercules	0.240%	0.264%	164	95	115	297	671	179	104	126	327	736	65	10%
Lafayette	0.297%	0.382%	468	269	255	659	1,651	599	344	326	845	2,114	463	28%
Martinez	0.381%	0.383%	357	205	220	569	1,351	358	206	221	573	1,358	7	1%
Moraga	0.193%	0.204%	302	174	163	422	1,061	318	183	172	445	1,118	57	5%
Oakley	0.395%	0.450%	251	145	152	393	941	286	165	172	446	1,069	128	14%
Orinda	0.197%	0.235%	313	180	181	468	1,142	372	215	215	557	1,359	217	19%
Pinole	0.209%	0.183%	142	82	99	256	579	124	71	87	223	505	(74)	-13%
Pittsburg	0.630%	0.787%	419	242	273	707	1,641	518	298	340	880	2,036	395	24%
Pleasant Hill	0.423%	0.368%	522	300	293	758	1,873	451	261	254	657	1,623	(250)	-13%
Richmond	1.403%	1.227%	988	569	731	1,891	4,179	860	496	638	1,651	3,645	(534)	-13%
San Pablo	0.261%	0.248%	187	108	139	359	793	177	102	132	341	752	(41)	-5%
San Ramon	0.898%	0.975%	1,382	796	708	1,830	4,716	1,497	862	767	1,985	5,111	395	8%
Unincorporated Contra Costa	1.658%	2.203%	1,609	928	917	2,373	5,827	2,131	1,227	1,217	3,147	7,722	1,895	33%
Walnut Creek	1.118%	1.148%	1,655	954	869	2,247	5,725	1,696	976	890	2,304	5,866	141	2%
Contra Costa County	12.124%	13.638%	11,918	6,867	7,015	18,142	43,942	13,274	7,646	7,807	20,205	48,932	4,990	11%

Very High Fire Hazard Severity Zones in LRA As Recommended by CAL FIRE



Fire Hazard Severity Zones

Local Responsibility Area	State or Federal Responsibility Areas
VHFHSZ	VHFHSZ
Non-VHFHSZ	Non-VHFHSZ

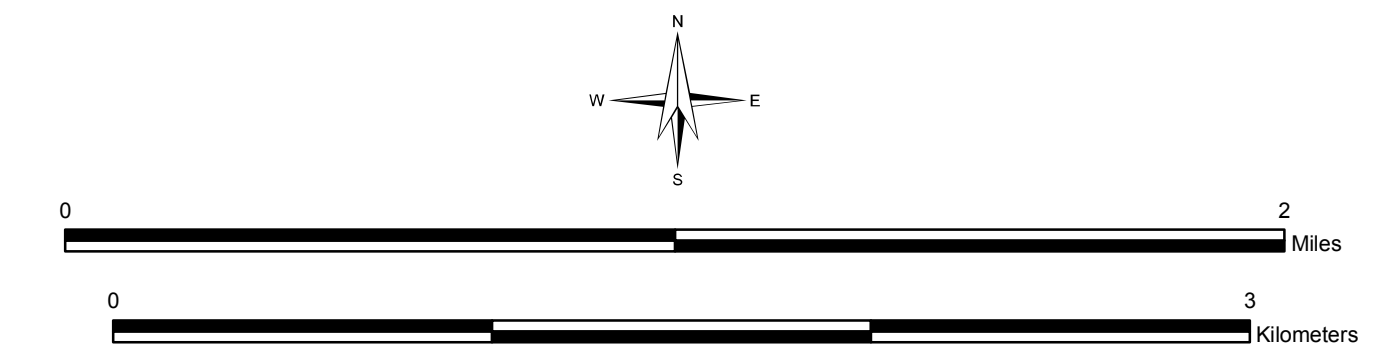
City Boundary
 Parcels
 County Boundary

Government Code 51175.89 directs the California Department of Forestry and Fire Protection (CAL FIRE) to identify areas of very high fire hazard severity zones within Local Responsibility Areas (LRA). Mapping of these areas, referred to as Very High Fire Hazard Severity Zones (VHFHSZ), is based on data and models of potential fuels over a 30-50 year time horizon and their associated expected fire behavior, and expected burn probabilities to quantify the likelihood and nature of vegetation fire exposure (including firebrands) to buildings. Details on the project and specific modeling methodology can be found at <http://frap.cdf.ca.gov/projects/hazard/methods.htm>. Local Responsibility Area VHFHSZ maps were initially developed in the mid 1990s and are now being updated based on improved science, mapping techniques, and data.

In late 2005 to be effective in 2008, the California Building Commission adopted California Building Code Chapter 7A requiring new buildings in VHFHSZs to use ignition resistant construction methods and materials. These new codes include provisions to improve the ignition resistance of buildings, especially from firebrands. The updated very high fire hazard severity zones will be used by building officials for new building permits in LRA. The updated zones will also be used to identify property whose owners must comply with natural hazards disclosure requirements at time of property sale and 100 foot defensible space clearance. It is likely that the fire hazard severity zones will be used for updates to the safety element of general plans.

This specific map is based on a geographic information system dataset that depicts final CAL FIRE recommendations for Very High FHSZs within the local jurisdiction. The process of finalizing these boundaries involved an extensive local review process, the details of which are available at <http://frap.cdf.ca.gov/projects/hazard/notes> (click on "Continue as guest without logging in"). Local government has 100 days to designate, by ordinance, very high fire hazard severity zones within its jurisdiction after receiving the recommendation. Local government can add additional VHFHSZs. There is no requirement for local government to report their final action to CAL FIRE when the recommended zones are adopted. Consequently, users are directed to the appropriate local entity (county, city, fire department, or Fire Protection District) to determine the status of the local fire hazard severity zone ordinance.

This map was developed using data products such as parcel and city boundaries provided by local government agencies. In certain cases, this includes copyrighted geographic information. The maps are for display purposes only - questions and requests related to parcel or city boundary data should be directed to the appropriate local government entity.



Projection Albers, NAD 1983
 Scale 1: 20,000
 at 36" x 36"
 January 7, 2009

The State of California and the Department of Forestry and Fire Protection make no representations or warranties regarding the accuracy of data or maps. Neither the State nor the Department shall be liable under any circumstances for any direct, special, incidental, or consequential damages with respect to any claim by any user or third party on account of, or arising from, the use of data or maps.

Obtain FRAP maps, data, metadata and publications on the Internet at <http://frap.cdf.ca.gov>
 For more information, contact CAL FIRE-FRAP, PO Box 944246, Sacramento, CA 94244-2460, (916) 327-3939.

Arnold Schwarzenegger, Governor,
 State of California
 Mike Chrisman, Secretary for Resources,
 The Resources Agency
 Ruben Grijalva, Director,
 Department of Forestry and Fire Protection

MAP ID: FHSZL_c7_Lafayette

DATA SOURCES
 CAL FIRE Fire Hazard Severity Zones (FHSZL06_3)

Plan Bay Area 2050: DRAFT Blueprint Growth Geographies for Study

Adopted by ABAG Executive Board and MTC Commission, February 2020, for study in Draft Plan Bay Area 2050

About this Map

This map shows the growth geographies adopted by the Association of Bay Area Governments (ABAG) Executive Board and Metropolitan Transportation Commission (MTC) in February 2020 for study in the Draft Plan Bay Area 2050 Blueprint. This includes locally-nominated Priority Development and Priority Production Areas, and areas within 1/2 mile of a frequent regional rail station, as well as select areas beyond PDAs, PPAs, and regional rail station areas intended to improve the Plan's ability to meet challenging GHG reduction, housing and equity requirements.

These additional areas approved for study are Transit Rich Areas (TRAs) and High Resource Areas (HRAs) with at least basic bus service located in a jurisdiction that has nominated less than 50% of its eligible PDA area.

Jurisdictions have the opportunity to nominate new or modify existing PDAs prior to May 31, 2020. A map with all of the areas eligible for PDA designation is [available here](#). (These areas are more extensive than those included in the growth geographies, providing local jurisdictions with flexibility in increasing the share of PDA-eligible areas nominated within its boundaries.)

This map may be updated as a result of local nominations and to reflect any transit improvements included in the Blueprint.

Legend

cdf_fire_responsibility_areas_and_risk - cdf_fire_responsibility_areas_and_risk

- Very High
- High
- Moderate

Priority Production Areas (March 2020)



Priority Development Areas (March 2020)



Transit Rich Area (High Frequency Regional Rail) - Inside High Resource Area



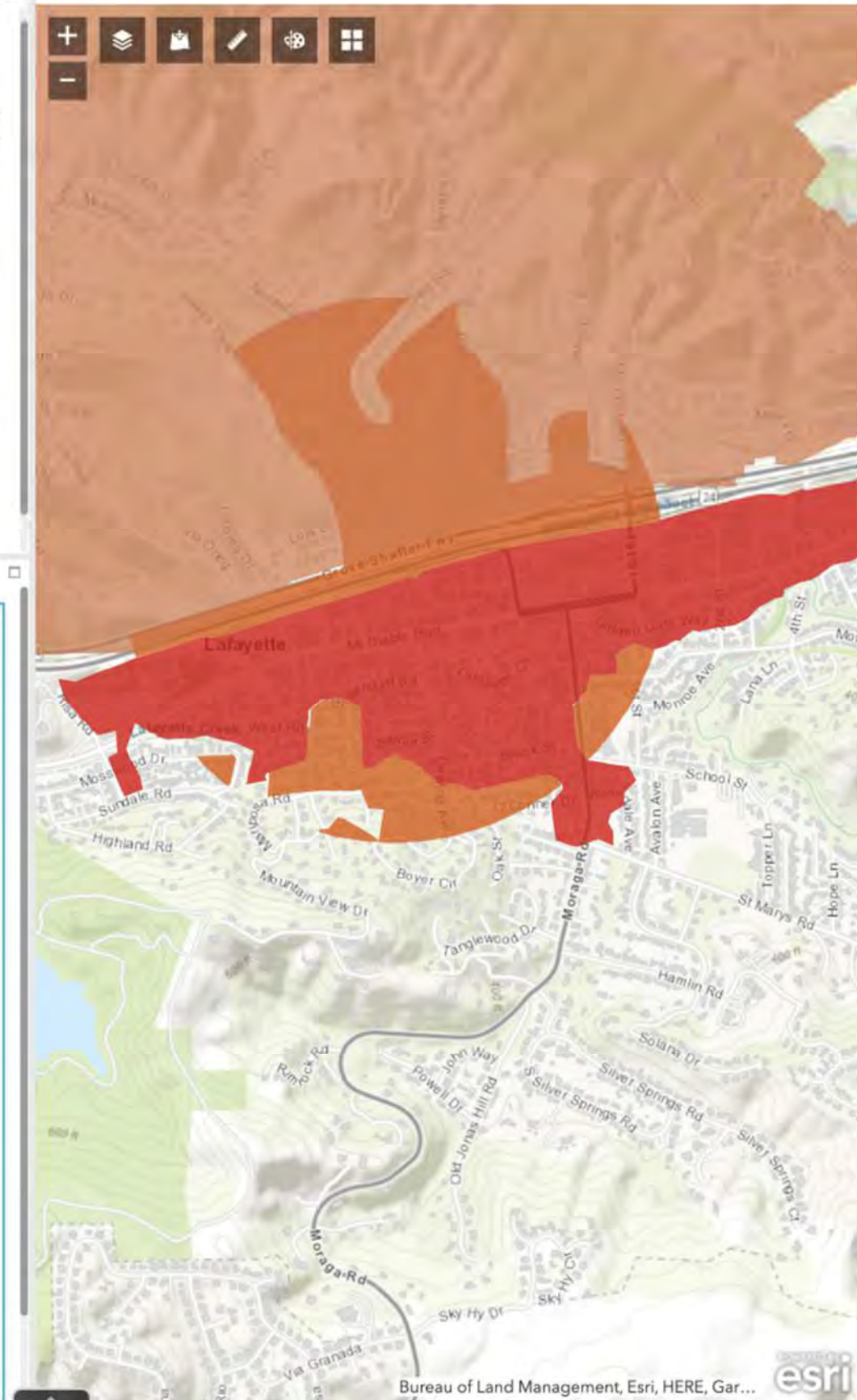
Transit Rich Area (High Frequency Regional Rail) - Outside High Resource Area



Transit Rich Area (Other Rail, Ferry, Frequent Bus) - Inside High Resource Area



Transit Rich Area (Other Rail, Ferry, Frequent Bus) - Outside High Resource Area



Plan Bay Area 2050: Final Blueprint Growth Geographies

Adopted by ABAG Executive Board and MTC Commission, September 2020

About this Map

This map shows the growth geographies adopted by the Association of Bay Area Governments (ABAG) Executive Board and Metropolitan Transportation Commission (MTC) in September 2020 for analysis in the Plan Bay Area 2050 Final Blueprint. This includes locally-nominated Priority Development and Priority Production Areas, and areas within 1/2 mile of a frequent regional rail station, as well as select areas beyond PDAs, PPAs, and regional rail station areas intended to improve the Plan's ability to meet challenging GHG reduction, housing and equity requirements. These additional areas approved for study are Transit Rich Areas (TRAs) and High Resource Areas (HRAs) with at least basic bus service located in a jurisdiction that has nominated less than 50% of its eligible PDA area.

Areas shown are conceptual, and do not supersede local government land use authority. Specific levels and types of development will be determined through local planning.

The following areas are excluded from the map: Highest and High Wildfire Risk Areas; locally-adopted Wildland Urban Interface Areas; Areas of unmitigated sea level rise (i.e., areas at risk from sea level rise through year 2050 that lack mitigation strategies in Plan Bay Area 2050 Environment Element) area; Areas outside locally-adopted urban growth boundaries; and Parkland and other open spaces within urbanized areas identified in the California Protected Areas Database and locally-provided data.

Legend

Priority Development Area (PDA)



Priority Production Area (PPA)



Transit-Rich High-Resource Areas (Outside PDAs)



Transit-Rich Areas (Outside PDAs)



High Resource Areas (16-30 minute bus; Outside PDA)

