

RE: ASSOCIATION OF BAY AREA GOVERNMENTS
DAY ONE OF THE SIXTH CYCLE REGIONAL HOUSING NEEDS
ASSESSMENT (RHNA) APPEALS HEARING:
ADMINISTRATIVE COMMITTEE

**CERTIFIED
TRANSCRIPT**

REPORTER'S TRANSCRIPT OF PROCEEDINGS VIA ZOOM
VIDEOCONFERENCE
FRIDAY, OCTOBER 8, 2021
2:00 P.M.

REPORTED BY:
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- 1 MEMBERS PRESENT:
- 2 MAYOR JESSE ARREGUIN, PRESIDENT
- 3 MAYOR PAT EKLUND
- 4 MAYOR NEYSA FLIGOR
- 5 MAYOR DAVE HUDSON
- 6 SUPERVISOR OTTO LEE
- 7 SUPERVISOR RAFAEL MANDELMAN
- 8 SUPERVISOR KAREN MITCHOFF
- 9 SUPERVISOR DAVID RABBIT
- 10 SUPERVISOR BELIA RAMOS
- 11 MAYOR CARLOS ROMERO

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1 PROCEEDINGS; FRIDAY, OCTOBER 8, 2021; 2:00 P.M.

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3 PRESIDENT ARREGUIN: Good afternoon. I'm
4 Berkeley Mayor Jesse Arreguin. I'm the chair of the
5 Association of Bay Area Governments Administrative
6 Committee. I'd like to call the special meeting of the
7 ABAG Administrative Committee to order and ask staff to
8 play the COVID-19 meeting announcement recording. Thank
9 you.

10 RECORDING: Due to COVID-19, this meeting will
11 be conducted as a Zoom webinar pursuant to the
12 provisions of the Governor's Executive Order N-2920,
13 which suspends certain requirements of the Brown Act.

14 This meeting is being webcast on the ABAG
15 website. The Chair will call upon commissioners,
16 presenters, staff, and other speakers by name and ask
17 that they speak clearly and state their names before
18 giving comments or remarks.

19 Persons participating via webcast and Zoom
20 with their cameras enabled are reminded that their
21 activities are visible to viewers.

22 Commissioners and members of the public
23 participating by Zoom wishing to speak should use the
24 raise hand feature, or dial *9, and the Chair will call
25 upon them at the appropriate time. Teleconference

1 attendees will be called upon by the last four digits of
2 their phone number.

3 It is requested that public speakers state
4 their names and organization, but providing such
5 information is voluntary.

6 Written public comments received at
7 info@BayAreaMetro.gov by 5:00 p.m. yesterday will be
8 posted to the online agenda and entered into the record
9 but will not be read out loud. If authors of the
10 written correspondence would like to speak, they are
11 free to do so.

12 A roll-call vote will be taken for all action
13 items. Panelists and attendees should note that the
14 chat feature is not active.

15 PRESIDENT ARREGUIN: Okay. Thank you. I just
16 want to clarify before we call the roll that we do need
17 to update that video, that this meeting is actually
18 being conducted pursuant to Assembly Bill 361 and the
19 new authority provided under the Brown Act to conduct
20 meetings remotely due to the state declared emergency.

21 MS. KANE: That's right, to the Chair, we
22 haven't had the videos updated yet. The agendas are
23 correct as to that, and ABAG exec board will be taking
24 an appropriate action to invoke the AB 361 provisions.

25 PRESIDENT ARREGUIN: Thank you.

1 With that, I'll ask the clerk of the Board to
2 conduct the roll.

3 CLERK OF THE BOARD: Mayor Arreguin?

4 PRESIDENT ARREGUIN: Here.

5 CLERK OF THE BOARD: Mayor Eklund?

6 MAYOR EKLUND: Here.

7 CLERK OF THE BOARD: Mayor Fligor?

8 MAYOR FLIGOR: Here.

9 CLERK OF THE BOARD: Mayor Hudson?

10 MAYOR HUDSON: Here.

11 CLERK OF THE BOARD: Supervisor Lee?

12 Supervisor Lee is absent.

13 Supervisor Mandelman?

14 SUPERVISOR MANDELMAN: Here.

15 CLERK OF THE BOARD: Thank you.

16 Supervisor Mitchoff?

17 SUPERVISOR MITCHOFF: Here.

18 CLERK OF THE BOARD: Councilmember Peralez?

19 (Audio interruption.)

20 CLERK OF THE BOARD: Please mute yourself.

21 Thank you.

22 Councilmember Peralez is absent.

23 Supervisor Rabbit?

24 SUPERVISOR RABBIT: Here.

25 CLERK OF THE BOARD: Supervisor Ramos?

1 SUPERVISOR RAMO: Here.

2 CLERK OF THE BOARD: Thank you. Mayor Romero?

3 MAYOR ROMERO: Present.

4 CLERK OF THE BOARD: Mayor Wilson? Mayor
5 Wilson is absent. We have quorum.

6 SUPERVISOR LEE: Sorry. Lee, present.

7 CLERK OF THE BOARD: Thank you, Supervisor
8 Lee. I got you. We have ten members present.

9 PRESIDENT ARREGUIN: All right.

10 Thank you, colleagues, for joining for this
11 RHNA appeal hearing.

12 Before we proceed with our next order of
13 business, I'd like to recognize Mr. Castro to make an
14 announcement.

15 CLERK OF THE BOARD: Yes. Please know that
16 the previously-posted October 8, 2021, agenda had the
17 agenda materials for consent calendar Item 6.a, Wetlands
18 Regional Monitoring Program incorrectly listed under
19 Item 6.b, the Clean Vessel Act, and the agenda materials
20 for Item 6.b were included under Item 6.a.

21 The corrected agenda was sent out to members
22 and is posted online at mtclegistar.com.

23 PRESIDENT ARREGUIN: Thank you for that
24 clarification. We move to Item 2, public comment. This
25 is an information item. Is there any member of the

1 public who wishes to give items not on this afternoon's
2 agenda? If you wish to speak to an item on our
3 calendar, please wait until we call public comment for
4 that item. This is an opportunity for public comment on
5 non-agenda matters. I'll ask, are there any speakers?

6 CLERK OF THE BOARD: No members of the public
7 with their hands raised and no written comments were
8 received on this item.

9 PRESIDENT ARREGUIN: Okay. Thank you. So
10 that completes Item 2, public comment on non-agenda
11 matters.

12 Moving now to Item 3, committee member
13 announcements. This is an information item. Are there
14 any announcements from members of the committee? Seeing
15 none, I'll ask is there any public comment on this item?

16 CLERK OF THE BOARD: No members with their
17 hands raised from the public, and no written comments
18 were received for this item.

19 PRESIDENT ARREGUIN: Okay. Thank you very
20 much.

21 Moving now to Item 4, Chair's report. This is
22 my report.

23 I would like to welcome my colleagues on the
24 ABAG Administrative Committee and staff and
25 representatives from our member jurisdictions to the

1 continued RHNA appeals hearing. Our meeting agenda
2 includes a consent calendar, which we will consider
3 before the appeals hearing.

4 RHNA is a state-mandated process to identify
5 the number of housing units that each jurisdiction must
6 accommodate in its housing element of its general plan.

7 The California Department of Housing Community
8 Development determined that Bay Area communities must
9 plan for 441,176 new units from 2023 to 2031.

10 On May 20, 2021, the ABAG Administrative
11 Committee approved a final RHNA methodology and draft
12 allocations. We received 28 appeals by the appeals
13 deadline.

14 Let me see. This is our third day of an
15 appeal here, and we will hear three appeals today which
16 are agendaized as Item 7, and we will consider these
17 appeals sequentially. I may call a recess during the
18 day if necessary.

19 And I will read the rest of my report before
20 we start the hearing, but with that, I'll ask, are there
21 any other questions on my report? If not, is there any
22 public comment on my report?

23 Any public comment, Mr. Castro?

24 CLERK OF THE BOARD: There are no members of
25 the public with their hands raised, and no written

1 comments were received for this item.

2 PRESIDENT ARREGUIN: Thank you. We'll go to
3 Item 5, the Executive Director's report. Is there a
4 report today?

5 MS. BOCKELMAN: This is Alix Bockelman, Deputy
6 Executive Director for policy. I don't believe there's
7 any report today.

8 PRESIDENT ARREGUIN: Okay. Thank you.

9 So we'll go to Item 6, the consent calendar.
10 Is there a motion on the consent calendar? Is there a
11 motion on the consent calendar, or does some member want
12 to pull one up?

13 MAYOR EKLUND: I'll move the consent calendar.

14 PRESIDENT ARREGUIN: Okay.

15 MAYOR EKLUND: Mayor Eklund.

16 MAYOR ROMERO: I'll second. Romero.

17 PRESIDENT ARREGUIN: Okay. So we have a
18 motion to second on the consent calendar. Any public
19 comment?

20 CLERK OF THE BOARD: There are no members of
21 the public with their hands raised. No written comments
22 were received for this item.

23 PRESIDENT ARREGUIN: Okay. Thank you. So
24 I'll ask the clerk to please call the roll.

25 CLERK OF THE BOARD: Roll on the consent.

1 Motion by Eklund, second by Romero.
2 Mayor Arreguin?
3 PRESIDENT ARREGUIN: Yes.
4 CLERK OF THE BOARD: Mayor Eklund?
5 MAYOR EKLUND: Aye.
6 CLERK OF THE BOARD: Mayor Fligor?
7 MAYOR FLIGOR: Yes.
8 CLERK OF THE BOARD: Mayor Hudson? Mayor
9 Hudson?
10 MAYOR HUDSON: Yes.
11 CLERK OF THE BOARD: Thank you.
12 Supervisor Lee?
13 SUPERVISOR LEE: Yes.
14 CLERK OF THE BOARD: Supervisor Mandelman?
15 SUPERVISOR MANDELMAN: Yes.
16 CLERK OF THE BOARD: Thank you.
17 Supervisor Mitchoff?
18 SUPERVISOR MITCHOFF: Yes.
19 CLERK OF THE BOARD: Councilmember Peralez.
20 Councilmember Peralez is absent.
21 Supervisor Rabbit?
22 SUPERVISOR RABBIT: Aye.
23 CLERK OF THE BOARD: Supervisor Ramos?
24 SUPERVISOR RAMOS: Yes.
25 CLERK OF THE BOARD: Mayor Romero?

1 MAYOR ROMERO: Yes.

2 CLERK OF THE BOARD: Mayor Wilson. Mayor
3 Wilson is absent.

4 Motion passes. Ten votes aye, two absent.

5 PRESIDENT ARREGUIN: Okay. Thank you very
6 much. We'll now proceed to our appeal hearing. Before
7 we start, I want to read a summary of the procedures for
8 this hearing.

9 So for each jurisdiction, the hearing begins
10 with the jurisdiction's presentation on its appeal, and
11 the information arguments presented by the applicant or
12 appellant should be limited to what was presented in the
13 written appeal submitted.

14 This will be followed by a response from ABAG
15 MTC staff, and the applicant will then have an
16 opportunity to rebut or provide comments in response to
17 the ABAG staff presentation.

18 Members of the public will then have an
19 opportunity to comment on the arguments presented in
20 each appeal.

21 Based on the appeal procedures adopted by
22 ABAG, which were posted to our website, speakers will be
23 two minutes for public comment, but I, as the chair,
24 have the discretion to adjust time if necessary in order
25 to ensure the orderly conduct of the proceeding.

1 To be fair to all jurisdictions and to ensure
2 their appeals are heard in a timely manner on the day in
3 which they are noticed, if there are more than five
4 members of the public who wish to comment on appeal,
5 each speaker will have one minute to speak.

6 If the time for public comment related to a
7 jurisdiction's appeal exceeds 30 minutes in total, then
8 consideration of the jurisdiction's appeal may be
9 suspended and continued until later in the day after
10 hearing appeals from other jurisdictions in order to
11 hear those other appeals on time.

12 Following public comment, the administrative
13 committee will have the opportunity to discuss the
14 appeal, and then a roll call vote will be taken on a
15 preliminary decision on the appeal.

16 I want to emphasize it is a preliminary
17 decision. As a final vote on all the appeals will be
18 taken at the close of public hearing in order to ensure
19 uniform decision making.

20 ABAG will then issue final allocations that
21 incorporate any adjustments as needed as a result of any
22 successful appeals, with a public hearing and adoption
23 on the final RHNA plan scheduled for December 2021.

24 I just want to note that staff is maintaining
25 a running list of issues or questions that have been

1 raised by committee, which will then be presented to the
2 executive board for future consideration.

3 And if there is an updated list, I would like
4 to respectfully suggest that be sent to the ABAG
5 committee members today.

6 So I just want to summarize the procedure for
7 the hearings today, and we will now take up Item 7, the
8 continuation of the public hearing on the Regional
9 Housing Needs Allocation appeals.

10 The public hearing is now reopened, and a
11 certified shorthand reporter is transcribing these
12 proceedings.

13 When it is time for public comment, if you
14 wish to testify, please use the raise hand feature on
15 Zoom or press *9 and please wait to be recognized.

16 With that we'll proceed to Item 7.a. This is
17 a report on the Regional Housing Needs allocation appeal
18 for the town of Fairfax.

19 Before I take up the item, Mayor Eklund, do
20 you wish to be recognized?

21 MAYOR EKLUND: Thank you very much, President
22 Arreguin, for calling on me, and thank you for asking
23 for an updated list. I have not received it yet, and I
24 think the last list that I received was dated
25 September 28th.

1 I think it's important for those who have not
2 been participating in previous appeals, especially the
3 public and the applicants, that this list is a list of
4 topics that the ABAG Executive Board or Administrative
5 Committee will be taking up and looking at in the future
6 that definitely has some relationship to establishing
7 the regional housing needs allocation.

8 And there -- unfortunately, there are issues
9 that cannot be dealt with as part of the appeals because
10 they were not part of the methodology.

11 So I just think it's important for the public
12 and applicants to realize the significance of that list.
13 So I look forward to getting it before we move too far
14 down the list on the appeals. And thank you.

15 PRESIDENT ARREGUIN: Thank you very much.

16 I also want to note for the record that in
17 late August and September legal notices were published
18 in multiple languages in newspapers in each of the nine
19 counties of the Bay Area announcing the dates of the
20 public hearings. The dates of the public hearings are
21 posted on the ABAG web page, and it is now in order for
22 us to consider these appeals.

23 With that we'll go to the appeal from the Town
24 of Fairfax. We'll start with a presentation from the
25 Town of Fairfax on their appeal, and they'll have five

1 minutes.

2 Who will be presenting. I believe Ben Berto
3 is presenting on the town of Fairfax?

4 MR. BERTO: That is correct.

5 PRESIDENT ARREGUIN: Let's pull up the
6 presentation. Great.

7 MR. BERTO: Thank you.

8 Thank you, Chair and committee members, for
9 this opportunity to present our appeal.

10 As you've undoubtedly read, there are three
11 bases for our appeal. The first is fire risk and
12 evacuation factors are inaccurate and incomplete as
13 presented by ABAG. The second is that the jobs/housing
14 ratio will not be improved with the additional housing.
15 And the third is that our water supply is currently
16 inadequate.

17 Next slide.

18 The reduction request is fairly modest. The
19 draft RHNA for the sixth cycle for Fairfax is 490
20 housing units, and our requested reduction is 370
21 housing units. I just note that the current request or
22 proposed draft RHNA is an 800 percent increase over our
23 current number.

24 Next slide.

25 I want to make this point clearly. Fairfax

1 supports housing. We are on schedule to build basically
2 double our current fifth cycle RHNA. We have already
3 doubled our current cycle RHNA in the low and very low
4 income category. And, again, our request is for 370
5 housing units, which will still represent an increase in
6 our RHNA allocation by over 500 percent.

7 Next slide, please.

8 So in terms of appeal bases, fire evacuation.
9 The housing element site selection tool inaccurately
10 depicts over half of Fairfax's containing potential
11 housing site, whereas, that the Cal Fire fire risk maps
12 that are used to determine the HES tool in terms of
13 potential or constrained show the entire town is
14 constrained.

15 Furthermore -- and this is something that we
16 are still developing -- Fairfax has uniquely hazardous
17 evacuation circumstances. Basically, a high percentage
18 of our roads are one way in and out. They're narrow,
19 less than 20-feet wide, hilly and winding.

20 Furthermore, our position at the end of the
21 Ross Valley means that we have the longest and most
22 congested evacuation to any realistic point of safety of
23 any jurisdictions in Marin.

24 Next slide.

25 And what you can see on the left, the yellow,

1 is what's considered potential housing sites. And if we
2 wanted to zoom in -- I won't take the time to do that --
3 but what we've done is superimpose the Cal Fire fire
4 risk severity zone, and the entire area shown as yellow
5 on that map is, in point of fact, should be red. So
6 every location in Fairfax is constrained.

7 On the right what you see are the roads that
8 are one way in and one way out. And I don't think any
9 of us need to think too long about towns like Paradise
10 that were similarly constrained and the absolute
11 disastrous consequences in the event of a wildland fire.

12 So keep that in mind. Our streets are really
13 in bad shape for evacuation, and adding considerable
14 housing density will only worsen the fire risk.

15 Next slide.

16 In terms of jobs/housing ratio, one of the
17 stated goals for the RHNA is to improve jobs and housing
18 mix. And ABAG's own data shows that Fairfax has a
19 jobs/housing ratio that's one-third that of the overall
20 Bay Area and one-half that of the rest of Marin.

21 We are a bedroom community. Over 90 percent
22 of our employed residents commute outside the
23 communities, the largest location by far, and, in fact,
24 by a considerably higher number than our entire RHNA,
25 commutes to San Francisco. Significant additional

1 housing will worsen traffic congestion and pollution and
2 will not assist with vehicle miles traveled. And I also
3 want to emphasize we are committed to truly affordable
4 housing.

5 Next slide.

6 And this just recaps that. What you can see
7 is there's roughly 1600 people, nonresidents commuting
8 in.

9 CLERK OF THE BOARD: One minute.

10 MR. BERTO: 3,300 commuting out. And 300
11 residents, only 300 residents, who are employed locally.

12 You can see on the left that this comes
13 directly from the United States Census Bureau, their
14 most recent statistics.

15 Next slide.

16 This is the detail showing where the actual
17 commute locations are.

18 Next slide.

19 The third bases for our appeal is the severe
20 water shortage, and it's recognized that the state is in
21 much the same boat as the county. The county is
22 actually in an unprecedented drought, and we're heading
23 into what looks like a dry winter.

24 Marin County, unlike most of the state, has no
25 options for outside water. We derive the vast majority

1 of our water from in-county water supplies. There isn't
2 another large user, for example, agriculture, where land
3 can be fallowed and water reallocated.

4 Adding 15 percent to the town's overall
5 housing stock in the next eight years ignores a
6 fundamental limit to growth.

7 Next slide.

8 This is Lake Nicasio, one of our primary water
9 supplies two months ago. So it's only gotten lower.

10 Next slide.

11 In conclusion, Fairfax is committed to
12 providing a fair share of new homes, as already
13 demonstrated in the current housing cycle, meaning the
14 amount of housing proposed for our town is not supported
15 by ABAG data and overall housing goals. And our
16 requested reduction is fairly modest, from 490 to 370
17 housing units.

18 Next slide.

19 And I'm ready to take any questions you may
20 have. Thank you.

21 PRESIDENT ARREGUIN: Thank you. So much for
22 your presentation, and there will be questions -- there
23 may be questions after the public comment period. And,
24 once again, you'll have an opportunity to provide a
25 response to the ABAG staff presentation.

1 So I'd now like to ask ABAG MTC staff to
2 provide their response to the Town of Fairfax's appeal,
3 and you'll have five minutes.

4 MR. KAPLAN: Can you pull up the slides,
5 please.

6 Thank you. Good afternoon, everyone. My name
7 is Eli Kaplan. I'm the regional housing policy analyst
8 for ABAG MTC.

9 And next slide, please.

10 The Town of Fairfax is requesting a reduction
11 of 120 units, which represents a reduction of 24 percent
12 from its draft allocation. Staff's recommendation is to
13 deny the appeal.

14 Next slide, please.

15 Fairfax argues that the housing element site
16 selection tool, or HES tool, developed by ABAG contains
17 erroneous data and that this inaccurate data resulted in
18 a draft RHNA for Fairfax that is too high.

19 Importantly, the HES tool was not used to
20 develop the RHNA allocation. The data from the HES tool
21 was not used in either the modeling for Plan Bay Area
22 2050 or as an input in the RHNA methodology itself.

23 The HES tool is a web-based mapping tool
24 developed by ABAG MTC staff to assist Bay Area
25 jurisdictions in preparing the site's inventory required

1 for their housing element updates. Therefore, critiques
2 of the HES tool fall outside of the scope of the appeals
3 process and are unrelated to Fairfax's RHNA.

4 Next slide, please.

5 As you heard in the presentation, Fairfax also
6 cites information from the HES tool to argue it does not
7 have sufficient land available to accommodate its RHNA.
8 And Fairfax specifically claims the HES tool does not
9 accurately show the development constraints the town
10 faces related to fire hazards and evacuation routes.
11 However, as I noted on the previous slide, the HES tool
12 was not used to develop the RHNA allocation. Therefore,
13 the way the HES tool categorizes sites in Fairfax has no
14 affect on the town's allocation.

15 Although staff understands Fairfax's concerns
16 about natural hazards, housing element law largely does
17 not identify areas at risk for natural hazards as a
18 constraint to housing.

19 Importantly, sites identified in the HES tool
20 as environmentally constrained due to hazard risk may
21 still be developable. Local jurisdictions may find that
22 siting housing on sites with hazards is unavoidable to
23 accommodate their housing need, in which case
24 appropriate mitigation measures should be considered.

25 ABAG is committed to assisting local

1 jurisdictions with integrating resilience into their
2 housing plan and has produced a resilient housing
3 instruction guide as part of this work and will be
4 offering additional technical assistance to make this
5 possible.

6 Fairfax's appeal has not demonstrated that the
7 town cannot accommodate its RHNA in locations within the
8 jurisdiction that are subject to lower risk of natural
9 hazards.

10 Statute requires Fairfax to consider the
11 availability of underutilized land, opportunities for
12 infill development, and increased residential densities
13 to accommodate the RHNA.

14 Next slide, please.

15 Fairfax's argument that its RHNA allocation
16 will not improve the jobs/housing relationship
17 challenges the final RHNA methodology adopted by ABAG
18 and approved by HCD, which falls outside the scope of
19 the appeals process.

20 HCD had the authority to determine that the
21 RHNA methodology furthers the statutory objectives, and
22 HCD has already found that ABAG's methodology does
23 further the objectives.

24 Importantly, housing element law requires the
25 RHNA methodology to improve the intraregional

1 relationship between jobs and housing, not just the
2 jobs/housing balance in any particular jurisdiction.

3 Additionally, even in jurisdictions where most
4 residents commute by automobile, adding more housing in
5 areas with easy access to jobs leads to shorter
6 commutes. Fairfax's own presentation showed that
7 83 percent of the 1900 people employed in Fairfax live
8 outside of the jurisdiction. So building the housing
9 that will enable these workers to live close to their
10 jobs will reduce VMT and GHC.

11 Next slide, please.

12 Staff understands the town's concern --

13 CLERK OF THE BOARD: One minute.

14 MR. KAPLAN: -- about the drought experienced
15 by the Bay Area; however, statute defines water supply
16 constraints in the terms of RHNA as those that preclude
17 the jurisdiction from providing the necessary
18 infrastructure for development during the RHNA period.

19 The town has not demonstrated that it is
20 precluded from accommodating it is RHNA allocation
21 because of a decision by Marin Water, its water service
22 provider?

23 While Marin Water has discussed a potential
24 moratorium on new water connections in response to the
25 drought, this action has not been implemented.

1 The arguments put forth by Fairfax do not meet
2 the requirements for a valid RHNA appeal, as the town
3 has not demonstrated it's precluded from meeting its
4 RHNA allocation because of its decision by its water
5 service provider.

6 Next slide, please.

7 Therefore, ABAG MTC staff recommends the
8 committee deny the appeal filed by the Town of Fairfax.

9 Thank you.

10 PRESIDENT ARREGUIN: Okay. Thank you very
11 much.

12 I'd like to give the Town of Fairfax an
13 opportunity to respond to the ABC MTC staff presentation
14 if you so choose, and you'll have three minutes. And
15 you're muted. You're muted, Mr. Berto.

16 MR. BERTO: Okay. In terms of denial, the HES
17 tool illustrates the disconnect between housing
18 allocation and fundamental hazards, and that we have
19 examples in this state of millions of acres lost,
20 thousands of homes destroyed, and hundreds of lives
21 lost. I seriously question the validity of any planning
22 tool that ignores that and ignores the severe fire risk
23 to my community; however, I do acknowledge that is
24 taking place.

25 In terms of the jobs/housing relationship or

1 the jobs/housing ratio and the intraregional
2 relationship, I would simply comment that we have
3 provided clear evidence that Fairfax is a bedroom
4 community; that more than the entire RHNA number is
5 commuting out of Fairfax and into San Francisco, which
6 is the true job generator in the region, and that these
7 ratios of incoming people commuting in for jobs and
8 commuting out for jobs is unlikely to change.
9 Therefore, staff has failed to document that providing
10 this significantly larger number of housing would not,
11 in fact, go against stated RHNA goals.

12 And, finally, in terms of the water supply
13 situation, that will likely speak for itself as this
14 drought continues to play out. I would simply further
15 make the common-sense observation that if you don't have
16 water, you can't build more housing.

17 Thank you for the opportunity to speak.

18 PRESIDENT ARREGUIN: Thank you very much. So
19 we'll now turn to the public comment portion of this
20 hearing, and we have an opportunity for members of the
21 public to testify on Zoom. I understand there's an
22 in-person location at 375 Beale Street where members of
23 the public can also provide testimony.

24 Staff will let us know if we have anyone who
25 is providing testimony at 375 Beale, but we'll now turn

1 to, our speakers on Zoom. And if you would like to
2 speak on the Town of Fairfax's appeal, please raise your
3 hand at the time or press *9 if you're phoning in. I
4 see we have several raised hands, Mr. Castro.

5 CLERK OF THE BOARD: Our first speaker is
6 Valerie Hood. Go ahead, please. You have two minutes.

7 MS. HOOD: Hi, good afternoon.

8 There are multiple problems with the RHNA
9 process, but I'll touch on two topics.

10 Fairfax has requested that the RHNA numbers be
11 reduced from 490 to 370 during the coming eight-year
12 housing circle. This quota is unreasonable. To reach
13 this unrealistic RHNA number, we have to force Fairfax
14 into adopting zoning standards that threaten safety and
15 human life for the residents.

16 These unreachable and unattainable RHNA
17 allocations is encouraging risky decision by our city
18 council by forcing Fairfax to ignore their number one
19 responsibility which is safety.

20 Why is this a crazy idea? Much of Fairfax is
21 in the wildland/urban interface zone with one road in
22 and one road out. It will be almost impossible to
23 evacuate in cars, which, per the RFD, is the best place
24 to be if there's a fire with fire engines and heavy
25 firefighting equipment coming in and out of our main

1 thoroughfare, Sir Francis Drake.

2 One accident on any part of Sir Francis Drake
3 puts the entire upper Ross Valley in gridlock. There's
4 no way we will be able to get out.

5 CLERK OF THE BOARD: One minute.

6 MS. HOOD: We're talking about 50,000 people.
7 Am I done?

8 CLERK OF THE BOARD: No. You have one minute.

9 PRESIDENT ARREGUIN: You have time.

10 MS. HOOD: Oh, good. Okay. I got
11 interrupted, I'd like that time back. There was a
12 person talking.

13 The police will help as much they can, but if
14 an evacuation happens in the middle of the night, good
15 luck. You're pretty much on your own with Fairfax
16 having at most two officers on duty at a time until
17 3:00 a.m. and only one officer between 3:00 and 7:00,
18 not to mention that we've defunded our cops, and that
19 means we're actually lacking the money that we need for
20 evacuation for -- to pay anyone.

21 So don't ignore the warnings about global
22 climate change. The MMWD has sent residents a notice
23 throughout this year here conserve water. People have
24 let their landscapes die. We are in a severe crisis
25 here.

1 Perhaps ABAG believes Marin County residents
2 should drink sewer water or what we call pee water, like
3 we do in San Diego, and I'll tell you they don't like
4 that at all. Perhaps ABAG should send out people to
5 drive our residential evacuation routes, which are
6 clogged and at a standstill during rush hour, not to
7 mention in really bad shape because money is not being
8 spent --

9 PRESIDENT ARREGUIN: I'd ask if you could
10 please wrap up your comments. Your time is up.

11 Okay. Thank you. As I announced at the
12 beginning of this hearing, if there are less than five
13 speakers, each speaker will have two minutes. If there
14 are five or more speakers, time will be reduced to one
15 minute in order to ensure the orderly conduct of the
16 hearing.

17 We'll proceed to the next speaker.

18 CLERK OF THE BOARD: The next speaker is Calum
19 Weeks. Go ahead, Calum Weeks, please. Please unmute
20 yourself.

21 MR. WEEKS: I never raised my hand.

22 CLERK OF THE BOARD: Thank you.

23 Our next speaker is Rick Hamer. Go ahead,
24 please.

25 MR. HAMER: Hello.

1 CLERK OF THE BOARD: Go ahead, please.

2 MR. HAMER: Hi there.

3 The previous speaker mentioned about how our
4 exit route, of which there's only two exit routes, which
5 are within 200 feet of each other, and that is even for
6 our infill areas, which will be considered possible
7 places in order to place our RHNA numbers, rather than
8 the extreme outlying areas, and even those numbers are
9 impacted by even the simple -- any construction, any
10 traffic accident turns them into gridlock.

11 I would like to point out not only that, but
12 on the 2019 California Fire Code Section D 106 about
13 remoteness, is that if the two exit routes are this
14 close together, they're not acceptable as Cal -- as fire
15 escape routes.

16 So I think the evacuation of Fairfax and the
17 fact that there is a lot of growth and dry growth,
18 because we're heavily forested out this way --

19 CLERK OF THE BOARD: One minute.

20 MR. HAMER: -- prevent us from being able to
21 meet the full RHNA number. So 370 is a very reasonable
22 number. Thank you very much.

23 PRESIDENT ARREGUIN: Thank you, sir.

24 CLERK OF THE BOARD: Our next speaker is Susan
25 Kirsch. Go ahead, please.

1 MS. KIRSCH: Thank you for holding these
2 hearings. And I want to underscore the importance of
3 the appeal statements and Valerie's comments about
4 safety and water, saying that those are two important
5 issues, that it seems as if we are operating in some
6 kind of world where paper is ruling the reality of where
7 is the water going to come from.

8 And your responses -- staff responses to what
9 I've heard in other presentations about the water are
10 part of what contribute to this feeling like such an
11 antagonistic process.

12 We have displayed, both last week and now
13 today with the Fairfax presentation, of dedicated city
14 staff who are working to do the best to protect the
15 health and well being and safety and the basics of water
16 for their communities. And we get responses from the
17 staff saying, oh, it's not our problem, you should find
18 mitigation measures.

19 So I want to underscore the dissatisfaction of
20 the methodology that is guiding this and the results
21 that it's bringing us to.

22 CLERK OF THE BOARD: One minute, please.

23 MS. KIRSCH: I'm finished on this.

24 CLERK OF THE BOARD: Thank you.

25 PRESIDENT ARREGUIN: Thank you.

1 CLERK OF THE BOARD: Our next speaker is Kevin
2 Curtis. Go ahead, please.

3 MR. CURTIS: Thank you. I'm just a local
4 community member supporting Mr. Berto's staff in the
5 city appeal and that they successfully demonstrated a
6 reduction is justified by the methodology.

7 So my personal appeal is 490 housing units
8 will be built into Fairfax across nine years. That's
9 potentially finding 32 acres of available sites for the
10 15 housing unit densities estimated for some building
11 locations.

12 And we know what savvy developers will do.
13 They will leverage the right to state density bonuses of
14 an additional 25 percent by right. So that same
15 one-acre site will be developed and allowed 25 housing
16 units instead. This will happen. This is going to
17 happen.

18 In Fairfax it's different than many other
19 cities in the Bay Area, given the same smaller
20 percentage of allocations. No ferry service. No
21 proximity of 35-mile-an-hour roadways directly feeding
22 into a freeway --

23 (Simultaneous colloquy.)

24 CLERK OF THE BOARD: One minute, please.

25 MR. CURTIS: -- and two 25-mile-per-hour lanes

1 in or throughout the town. That's it.

2 And while Fairfax would benefit from more
3 transportation infrastructure investment as part of the
4 2050 Bay Area Plan, it receives just a miniscule number
5 that may not even correlate to the same percent of
6 housing unit allocations given for the sixth cycle.

7 But in asking you to vote to approve Fairfax's
8 reduction of numbers, I ask you consider three things.

9 One, they are not asking for a huge reduction,
10 but closer to the same or less than 25 percent density
11 increase that developers will be asking for, meaning
12 that even with the approval of a reduction now, you and
13 Fairfax will still attain larger numbers instead of
14 being overbuilt.

15 Two, that you consider Fairfax staff's appeal
16 content in a way that is evident to the unique
17 characteristics of the environment, total concerns, and
18 lack of infrastructure.

19 And, three, that you improve the reduction
20 based on the ability to move the small number of reduced
21 housing units closer to the main transportation
22 corridor, knowing that the same developers will be
23 asking for and generating a loss 20-plus percentage
24 point density bonuses.

25 Lastly, I'd like to say I'm for the new

1 housing. We do it. You've been doing a great job.

2 Thank you so much.

3 PRESIDENT ARREGUIN: Thank you.

4 CLERK OF THE BOARD: Our next speaker is
5 Pamela Meigs. Go ahead, please.

6 MS. MEIGS: Hello, everyone. I've been in
7 Fairfax since 1987. I am a registered nurse for the
8 last 40 years. I have been very involved here on the
9 general plan for ten years and the planning commission
10 for nine years, but I'm calling in because I want to
11 bring up the issue of the quality of life, and density
12 does not create a quality of life, nor do we have the
13 water.

14 I'm also involved with the Firewise community
15 here, and we are in a terrible zone to get emergency
16 vehicles in and out of here. And we've witnessed this
17 recently where we had gridlock.

18 I also want to bring up I'm also on the Sierra
19 Club. I'm on the executive committee. And, you know,
20 building is so destructive. I do believe in affordable
21 housing. I understand it. I was raised in the Bay
22 Area. My own children can't live here. But it has to
23 be done in a reasonable, liveable way and let people
24 have input.

25 I also want to say there is many, probably

1 that I know of in town, ADUs that are not legal. So we
2 need to do that and get ways to figure out where are
3 these units and make them legal.

4 So I think what's needed is some time. The
5 number is too high. And I'm just hoping you'll be more
6 reasonable and let the town come together and figure it
7 out. Thank you.

8 PRESIDENT ARREGUIN: Thank you.

9 CLERK OF THE BOARD: Our next speaker is
10 Johnson 49. Go ahead, please. Johnson 49.

11 JOHNSON 49: Yes. I'd like to turn around to
12 the water again. Marin Municipal gets 25 percent of its
13 water from Sonoma. If it loses that 25 percent, even
14 with the construction of the pipeline over the
15 Richmond-San Rafael Bridge, as the Marin Municipal head
16 said, if it brought eight million gallons a day to
17 Marin, there would not -- there would be a serious lack
18 of water and a decrease in overall pressure in the water
19 mains, which gets back to your firefighting capacity.

20 If you lower that pressure, then you're going
21 to have to -- if you have a conflagration back in
22 Fairfax, you're going to have to jump in there and
23 figure out a way of getting enough water without
24 going --

25 CLERK OF THE BOARD: One minute, please.

1 JOHNSON 49: -- without going totally to the
2 (indiscernible) bombers. I think for Marin overall, the
3 RHNA numbers should be suspended until either a
4 pipeline, a de-sal unit or some other way of getting
5 water in here is considered.

6 Thank you.

7 CLERK OF THE BOARD: There are no other
8 members of the public with their hand raised, and there
9 were public comments received after the public comment
10 period that was posted on the agenda and was sent out --
11 with links sent out to committee members.

12 PRESIDENT ARREGUIN: Are there any speakers at
13 375 Beale on this item?

14 CLERK OF THE BOARD: I received no report that
15 there were. If staff listening could verify?

16 UNIDENTIFIED SPEAKER: (Indiscernible.)

17 CLERK OF THE BOARD: I understand that there's
18 no -- there are none.

19 PRESIDENT ARREGUIN: Okay. Thank you.

20 So unless there are any other attendees that
21 wish to speak on the appeal of the Town of Fairfax, that
22 completes the public comment portion of the appeal. So
23 it's now in order for the Administrative Committee to
24 discuss and take a preliminary action on the appeal.
25 And the first committee member I'd like to recognize is

1 Mayor Eklund.

2 MAYOR EKLUND: Thank you very much, President
3 Arreguin.

4 First of all, I do have some questions for Ben
5 with the town of Fairfax, but I did want to disclose
6 that I grew up in Marin County, and I actually lived in
7 Fairfax for three years where I was going to college,
8 lived on Scenic Tamalpais, and definitely experienced
9 the one-way roads, the heavy trees and woodlands, and
10 that's one of the reasons why Fairfax is so popular, is
11 because the quality of life is really good.

12 I also wanted to disclose for all the
13 attendees as well is that I voted against the regional
14 housing needs allocation methodology. I did not support
15 it. I fought hard to try to get the methodology
16 changed. Unfortunately, those of us who were in
17 opposition were unsuccessful.

18 But as a committee member for the appeals
19 board, I am held to the standard of evaluating the
20 application based on a methodology that was approved by
21 the Board. So those are my preliminary statements.

22 My two -- my first question for Ben is: ABAG
23 indicated that the Town of Fairfax did not submit a
24 local jurisdiction survey, and that's something that I,
25 as the ABAG rep for Marin County, emphasized in my

1 reports to all the towns and at all the meetings. Can
2 you help me to understand why Fairfax did not?

3 MR. BERTO: Yes. And thank you for the
4 opportunity to speak.

5 I think you answered the question when you
6 discussed the methodology, that in evaluating the
7 methodology used by ABAG, it appeared that the primary
8 bases for doing that survey were already removed from
9 the discussion.

10 MAYOR EKLUND: Okay. I'm sure you've read the
11 staff's response, and they have indicated in here that
12 in order to -- and I mentioned this also in my ABAG
13 reports as well -- is that in order for a jurisdiction
14 to have the ability to even submit an appeal, the
15 jurisdiction must have completed that survey and
16 submitted the response back to ABAG.

17 And so my follow-up question, Ben, is that did
18 you indicate to the town council when you brought this
19 item to them that Fairfax did not submit the survey
20 response and, therefore, by California Government Code,
21 is ineligible for submitting an appeal?

22 PRESIDENT ARREGUIN: I just want to clarify
23 that. They can submit an appeal but on other bases.

24 MAYOR EKLUND: Other basis.

25 PRESIDENT ARREGUIN: One of the bases does

1 require that they have to submit the local jurisdiction
2 survey. I just want to clarify that for the record.

3 MAYOR EKLUND: Right, right.

4 Did you explain that to the town council,
5 though?

6 MR. BERTO: The council is aware that we did
7 not complete a survey, as I said, the reasons behind
8 that.

9 I would point out, though, that the appeal
10 basis that we did cite in terms of the jobs/housing
11 ratio and the fact it will go against ABAG's own stated
12 goals, that Fairfax is committed to providing affordable
13 housing and has, in fact, doubled its RHNA numbers, and
14 we are planning for ways to provide meaningful,
15 affordable housing to people who work in town I think
16 speaks well for the Fairfax -- this town's commitment to
17 affordable housing.

18 But the jobs/housing ratio in Fairfax is
19 unique to our town and is uniquely low, and that adding
20 this housing will go against ABAG's stated goals.

21 MAYOR EKLUND: I appreciate the response.
22 Thank you very much, Ben.

23 PRESIDENT ARREGUIN: Thank you.

24 Mayor Hudson.

25 MAYOR HUDSON: Sorry about that. Somebody

1 called in.

2 I have to disagree with what you just heard.
3 Fairfax is not unique. We've heard Clayton, Danville,
4 many of the others that have a ridiculous, way more
5 houses than they have jobs, and they have great reasons
6 why things should be changed. Unfortunately, what they
7 don't have is a methodology -- and if I could add on to
8 what Pat didn't tell you -- that was approved by HCD.

9 Once that was approved and you set up this
10 committee, we are bound to follow the rules of this
11 committee for the appeal. And I'm looking at the appeal
12 bases cited on two things, and neither of them is --
13 neither of them is met by Fairfax, and I will -- I'm not
14 making the motion to deny the appeal. I'll wait to hear
15 from other people. I think it would be appropriate
16 because Fairfax isn't unique. All of our cities or many
17 of our cities are running into the same problems.

18 PRESIDENT ARREGUIN: I'll just say that, you
19 know, what's driving, you know, these high RHNA numbers
20 is a significantly higher allocation from the State of
21 California that was -- that was provided due to recent
22 changes in state legislation, specifically Senate Bill
23 828. So that has roughly doubled the region's RHNA
24 numbers. So our responsibility is to come up with a
25 methodology that meets the statutory basis under state

1 law and to allocate that housing need equitably
2 throughout the region.

3 So I just want to emphasize that, you know,
4 this is a response to significantly higher numbers the
5 state has required that the San Francisco Bay Area has
6 to meet, and I recognize the challenges that
7 jurisdictions face throughout the Bay Area. I mean, my
8 city we have a 200 percent increase in our RHNA numbers,
9 it's going to be very challenging to meet.

10 But ABAG is here to support local governments
11 as they're working to update their housing elements and
12 also to provide the funding for affordable housing and
13 infrastructure, which we know is going to be critical to
14 support the additional units that different local
15 jurisdictions have to plan for.

16 So I just acknowledge the context and
17 recognize the challenges that all of our jurisdictions
18 have to face meeting these RHNA targets.

19 Mayor Hudson again.

20 MAYOR HUDSON: I think one of the things that
21 threw me from the very beginning, and so I was asking
22 questions in the first or second round of appeals -- I
23 forget which -- is jobs/housing balance. It isn't the
24 jobs/housing balance within your city. And it was
25 interregional improvement. We asked that question. And

1 I was thinking, okay, we've got Clayton. Is Clayton in
2 Concord, is that the intraregional? No, it's the Bay
3 Area.

4 Once you do that, it's just like, okay -- you
5 know, it's kind of hard to argue that 3- or 400 is going
6 to solve the problem of 440,000.

7 But, you know, I hate to be the person that
8 keeps bringing back the bad news, and, unfortunately, it
9 was my neighbors that caught the first round of appeals.
10 So I'll play the bad guy and move to deny the appeal by
11 Fairfax on -- what are we calling these? Initial --

12 PRESIDENT ARREGUIN: Preliminary action.

13 MAYOR HUDSON: Preliminary hearing? Because
14 if we get enough of them, maybe down the road -- no, it
15 isn't. I'm not going to believe it is.

16 I'll move that the preliminary appeal be
17 denied.

18 PRESIDENT ARREGUIN: There's a motion by Mayor
19 Eklund to take a preliminary action to deny the appeal.
20 Is there a second?

21 MAYOR EKLUND: It was Mayor Hudson.

22 PRESIDENT ARREGUIN: Mayor Hudson. I'm sorry.

23 SUPERVISOR MITCHOFF: Second, Mitchoff.

24 MAYOR HUDSON: They can't tell us apart,
25 Jesse. It's okay.

1 PRESIDENT ARREGUIN: Move by Hudson --

2 MAYOR EKLUND: Now, that's sad.

3 PRESIDENT ARREGUIN: Colleagues, any other
4 questions or comments?

5 I saw Supervisor Rabbit's hand raised.

6 SUPERVISOR RABBIT: I appreciate that very
7 much. And I am sympathetic to the town. I think we're
8 all in the same boat, and we need to figure out a way to
9 move forward.

10 I did feel compelled a little bit as director
11 of Sonoma who supplies that 25 percent of water to Marin
12 County, you know, we're in constant communication with
13 our colleagues, and what we really need is to build
14 resiliency within our system. We're in the second year
15 of the drought of record.

16 Just 2-1/2 years ago there were three feet of
17 water running down the middle of Guerneville. So it's
18 really about how do we take those winter flows, bring
19 those into places that are safe for storage, which is
20 really beneath our feet in the aquifer. And those are
21 the kind of things we're moving forward on. And I know
22 that through -- and Ben at Marin Water, you're looking
23 whether the pipeline goes to the East Bay whether or not
24 the desalinization kind of approach comes back.

25 The water rights are there. The water has

1 been -- every year there have been adequate wintertime
2 flows. It's a matter for us to make sure we take those
3 wintertime flows and get the storage capabilities to get
4 the water to folks during those dry periods of time.

5 And I would say, as someone who also
6 understands evacuation/wildfire interface and everything
7 else, I'm sympathetic there as well. It sounds like --
8 and I know a family in Fairfax. There's existing
9 evacuation concerns to deal with, but it doesn't mean
10 that the housing can't be built in those locations in
11 the flatlands along Sir Francis Drake, Center, Scenic,
12 whatever it may be going forward.

13 I just want to make sure I put that out there
14 as well. So I appreciate the conversation and the
15 challenge in front of us. ABAG will be there working
16 with you.

17 PRESIDENT ARREGUIN: Thank you very much.

18 Any other questions or comments from the
19 members of the ABAG Administrative Committee on the
20 motion? Okay. Seeing no additional raised hands --
21 thank you very much, Mr. Berto, for coming today and for
22 your presentation.

23 And just, once again, just to second what
24 Supervisor Rabbit said, we're here to work with you in
25 the next step of the process. And the motion before the

1 committee is a preliminary action to deny the appeal
2 from the town of Fairfax.

3 I will ask the clerk to please call the roll.

4 CLERK OF THE BOARD: The motion was by Hudson,
5 second by Mitchoff.

6 On the motion, Mayor Arreguin?

7 PRESIDENT ARREGUIN: Yes.

8 CLERK OF THE BOARD: Mayor Eklund?

9 MAYOR EKLUND: I am sympathetic to the
10 applicant, but, unfortunately, I will be supporting the
11 motion.

12 CLERK OF THE BOARD: Thank you.

13 Mayor Fligor?

14 MAYOR FLIGOR: Yes.

15 CLERK OF THE BOARD: Mayor Hudson?

16 MAYOR HUDSON: Yes.

17 CLERK OF THE BOARD: Supervisor Lee?

18 SUPERVISOR LEE: Yes.

19 CLERK OF THE BOARD: Supervisor Mandelman?

20 SUPERVISOR MANDELMAN: Yes.

21 CLERK OF THE BOARD: Supervisor Mitchoff?

22 SUPERVISOR MITCHOFF: Yes.

23 CLERK OF THE BOARD: Councilmember Peralez?

24 Councilmember Peralez is absent.

25 Supervisor Rabbit?

1 SUPERVISOR RABBIT: Aye.

2 CLERK OF THE BOARD: Supervisor Ramos?

3 SUPERVISOR RAMO: Yes.

4 CLERK OF THE BOARD: Mayor Romero?

5 MAYOR ROMERO: Yes.

6 CLERK OF THE BOARD: Mayor Wilson? Mayor
7 Wilson is absent.

8 Motion passes ten ayes, two absences.

9 PRESIDENT ARREGUIN: Thank you very much.
10 That completes this item, and we'll proceed to the next
11 appeal hearing, which is a consideration of the RHNA
12 appeal for City of Larkspur. And this is a preliminary
13 action item.

14 As summarized, we'll first hear from the
15 appellant jurisdiction, City of Larkspur, who will have
16 five minutes to complete their appeal.

17 And I believe Neal Toft, the building and
18 planning director for Larkspur will be presenting on
19 behalf of the city.

20 Is there a PowerPoint presentation?

21 CLERK OF THE BOARD: Yes.

22 PRESIDENT ARREGUIN: Okay.

23 MR. TOFT: Thank you, Mayor Arreguin and
24 members of the Administrative Committee and ABAG staff.
25 We appreciate you hearing our appeal. We recognize this

1 is a Herculean task that you're embarked on. I'd like
2 to reiterate Larkspur's commitment to doing its part to
3 help in reaching the housing goals. I believe our
4 community is particularly committed to addressing the
5 need for affordable housing, housing for special needs,
6 and our growing elderly population.

7 Our concern is the requirement over the
8 eight-year cycle for Larkspur to make our choices to
9 develop housing for these needs in areas that may be
10 subject to hazards or otherwise served by failing
11 infrastructure and utilities and lack of service.

12 Of particular concern is the lack of water
13 supply as Marin is largely served by rainwater collected
14 in the local reservoirs.

15 Next slide, please.

16 Just quickly, again, for a small city of
17 12,000 Larkspur's RHNA is amongst the highest amongst
18 the region, at least in Marin County, in terms of
19 increase over past RHNAs and housing units per capita.

20 Next slide, please.

21 One other point I'd like to point out is, to
22 really meet the affordability component, we recognize we
23 may need to triple the amount of market units. That is
24 only -- and that's only based on meeting 50 percent of
25 our affordable units through inclusionary. It's

1 somewhat conservative.

2 But RHNA -- this RHNA of 7,979, actually
3 translates to approximately 1800 units, largely market
4 housing to meet affordability.

5 Next slide please.

6 This high requirement is driven partially by
7 our city containing transit-rich areas due to our ferry
8 landing and terminus of the commuter train in the city's
9 boundaries. We've also been assigned high resource
10 areas on our two main corridors, Sir Francis Drake
11 Boulevard and Magnolia Avenue.

12 These areas are largely developed and remain
13 subject to constraints, particularly from flooding and
14 fire hazard. There are very few vacant and/or
15 underutilized parcels, and we need substantial
16 infrastructure improvements to accommodate development
17 of this scale.

18 Next slide, please.

19 Two major constraints is water and flooding
20 and fire. One major constraint is Corte Madera Creek is
21 a waterway that divides the city and is fed by the Ross
22 Valley's watershed. It's very expansive, and Larkspur
23 is located at the confluence of the watershed and bay.

24 Significant portions of existing neighbors are
25 subject -- neighborhoods are subject in flood events,

1 and neighborhoods are further threatened by the effect
2 of storm events and sea level rise due to climate
3 change.

4 Next slide, please.

5 You see the confluence of Corte Madera Creek
6 here. It also intersects with Highway 101 and Sir
7 Francis Drake, a major east-west connector.

8 Next slide, please.

9 This constraint is limited also by the amount
10 of steep hillside terrain and woodland areas that make
11 up much of Larkspur's area. These WUI areas and severe
12 topography make up a lot of the city.

13 In 2007, the city adopted ordinance that
14 identifies WUI as very high fire hazard zones.

15 Next slide, please.

16 I'm going to do a quick flyover of the TRAs
17 and HRAs to view these constraints. This is Larkspur
18 Landing area. It is the site of the ferry landing and
19 the train terminus. There's actually very little
20 developable land due to the water and the hillsides
21 around it.

22 Next slide, please.

23 It's constrained by the creek, bay, flood
24 zones, fire hazards, freeway interchange, and East Sir
25 Francis Drake itself.

1 There's one vacant parcel, a large parcel, but
2 it's approved for mixed use with 128 units.

3 The ferry landing -- the ferry lot which you
4 see in the center here was tested for development, high
5 density, and determined unfeasible due it to being on
6 poor fill.

7 Next slide, please.

8 Another high resource area is along Sir
9 Francis Drake Boulevard. It's entirely developed, no
10 significant parcels, and it's a just adjacent to the
11 creek.

12 Next slide, please.

13 You see this, an aerial, Bon Air Shopping
14 center is the downtown for Greenbrae area. While it's a
15 potential housing site, that's what you can see, a large
16 kind of parking area, it's also is important to maintain
17 to vital commercial uses as well to maintain a walkable
18 neighborhood and minimize VMT in our community.

19 CLERK OF THE BOARD: Thirty seconds.

20 (Simultaneous colloquy.)

21 MR. TOFT: Magnolia corridor will -- is also a
22 high resource area. We've got small lots squeezed
23 between fire hazard zone and FEMA flood levels.

24 There's concern for, again, retaining
25 commercial uses in this area.

1 Next slide. Next slide, please.

2 And we are currently entertaining a housing
3 project to replace the small shopping center.

4 Next slide, please.

5 Magnolia Avenue, small lots.

6 One lot -- one developable site is located in
7 heavily terrain and -- wooded terrain.

8 Next slide, please.

9 Downtown Magnolia Avenue, that's part of the
10 high resource area. This is a historic district in
11 historic neighborhoods, small lots, largely developed
12 and no major sites.

13 East of Highway -- next slide, please.

14 East of Highway 101, transit rich area.

15 Industrial uses are valued here. We do have mobile home
16 park sites. You can see from the slide this is entirely
17 located in flood zone.

18 Significant infrastructure -- how much time?

19 PRESIDENT ARREGUIN: Your time is up, but I'm
20 just going to give you --

21 MR. TOFT: Okay. I'm almost done.

22 PRESIDENT ARREGUIN: -- a few more seconds to
23 wrap up.

24 MR. TOFT: The last point here is
25 infrastructure is a concern.

1 Water supply, I won't repeat. You heard from
2 Ben Berto, and it's in our appeal, but we are
3 requesting -- and you can go to the last slide.

4 We are requesting that the Committee recognize
5 the challenges of focusing development in a community
6 like Larkspur, and we believe ABAG failed to recognize
7 the severe physical and environmental constraints that
8 constrain our ability to meet the RHNA requirement.
9 That development of many of these market rates will
10 continue to require displacement in services which
11 further effect our housing imbalance -- jobs/housing
12 imbalance.

13 At a minimum, we request the city's housing
14 allocation be reduced to 743 units to align with the
15 water provider's management plan.

16 Thank you.

17 PRESIDENT ARREGUIN: Thank you.

18 And as I stated, you'll have an opportunity to
19 provide a response to the staff presentation.

20 So, now it's in order for the ABAG MTC staff
21 to present on their response to the appeal and you'll
22 have five minutes.

23 MS. ADAMS: Thank you. I'm Gillian Adams.
24 I'm the project manager for the RHNA process.

25 If we could pull up our slides, please? Thank

1 you. Next slide, please.

2 So the City of Larkspur is requesting a
3 reduction of 236 units, a reduction of 24 percent from
4 its draft allocation. Staff's recommendation is to deny
5 the appeal.

6 Next slide, please.

7 Regarding the city's argument that ABAG did
8 not adequately consider the constraints and availability
9 of land, the RHNA methodology considers the development
10 constraints named in the appeal by incorporating data
11 from the Plan Bay Area 2050 final blueprint as the
12 baseline allocation.

13 The final blueprint excludes areas with
14 unmitigated high hazard risk related to sea level rise
15 and wildfires in rural geographies.

16 Although staff understand Larkspur's concerns
17 about natural hazards, with only a small exception,
18 housing element law does not identify areas at risk from
19 hazards as a constraint to housing.

20 While there may be areas at risk of flooding
21 in Larkspur, the city has not provided evidence its
22 flood management infrastructure is not adequate to avoid
23 the risk of flooding as required by law.

24 Importantly, as HCD notes in its comment
25 letter on appeals, housing element law states that ABAG

1 may not limit its consideration of suitable housing
2 sites to existing zoning and land use restrictions and
3 must consider the potential for increased development
4 under alternative zoning and land use restrictions.

5 In simple terms, this means housing planning
6 cannot be limited to vacant lands, and even communities
7 that view themselves as built out or limited due to
8 other natural constraints, such as fire and flood risk
9 areas must plan for housing through means such as
10 rezoning commercial areas as mixed-use areas and
11 upzoning non-vacant land.

12 Larkspur does not provide evidence it is
13 unable to consider underutilized lands, opportunities
14 for infill development, increased residential densities,
15 and other planning tools to accommodate its RHNA.

16 Next slide, please.

17 Larkspur argues that their RHNA methodology
18 does not further the statutory objective related to
19 promoting socioeconomic equity and encouraging efficient
20 development patterns and the objective related to
21 improving the relationship between jobs and housing.

22 These arguments challenge the final RHNA
23 methodology adopted by ABAG and approved by HCD, which
24 falls outside of the scope of the appeals process.

25 HCD has authority to determine the RHNA

1 methodology furthers the statutory objectives, and HCD
2 found that ABAG's methodology does further the
3 objectives.

4 Specifically, HCD found that the RHNA
5 methodology encourages a more efficient development
6 pattern by allocating more RNHA to jurisdictions with
7 better jobs access, as well as more RHNA to
8 jurisdictions with the lowest vehicle miles traveled.

9 Importantly, housing element law requires the
10 RHNA methodology to improve the intraregional
11 relationship between jobs and housing, as mentioned
12 earlier, not the jobs/housing balance in any particular
13 jurisdiction.

14 The RHNA methodology allocates nearly half of
15 the regions RHNA using factors related to jobs
16 proximity. These factors measure jobs access based on
17 commutesheds to better capture the lived experience of
18 residents traveling to jobs outside of their
19 jurisdiction's boundaries.

20 South Marin is near many of the region's jobs,
21 so adding housing can lead to shorter commutes, helping
22 to reduce vehicle miles traveled and greenhouse gas
23 emissions.

24 Next slide, please.

25 So staff understands Larkspur's concerns about

1 the drought currently being experienced by the Bay Area.
2 Again, as I mentioned earlier, housing element law
3 defines water supply constraints as those that preclude
4 a jurisdiction from providing a necessary infrastructure
5 for development during the RHNA period.

6 The arguments put forward by Larkspur do not
7 meet the requirements for a valid RHNA appeal. Although
8 the city indicates its draft allocation exceeds the
9 population growth assumptions in its water service
10 provider's urban water management plan, it has not
11 demonstrated that it's precluded in meeting its RHNA
12 allocation.

13 Next slide, please.

14 So staff recommends that the committee deny
15 the appeal filed by the City of Larkspur.

16 Thank you.

17 PRESIDENT ARREGUIN: Thank you very much. I'd
18 like to give the City of Larkspur an opportunity to
19 respond to the staff presentation. You'll have three
20 minutes.

21 MR. TOFT: Okay. Thank you for allowing me
22 some extended time on the presentation. I appreciate
23 that. I'll be brief.

24 I think the staff has cited the statutory
25 requirements well, and we understand that. We do have

1 concerns particularly regarding the issue about
2 infrastructure in these areas at the confluence of the
3 creek and the bay and particularly areas that are low
4 lying and currently subject to flood.

5 The combination of sea level rise, as we've
6 studied the combination of sea level rise and severe
7 storm events, will challenge development in these areas
8 that are targeted as transit rich and high resource.

9 RHNA relies largely on development in these
10 areas, and improvements will require raising roads'
11 drainage sanitary systems.

12 As cited, Plan Bay Area is a long-term plan.
13 This is a very immediate housing goal to begin
14 developing this housing in the next several years over
15 the eight-year cycle. There's very little in the way of
16 actual funding or programs planning for this
17 infrastructure improvement that's cited in plan Bay
18 Area.

19 In terms of job/housing, Larkspur is a bedroom
20 community, will continue, and we believe industry and
21 services will be displaced as a lot of this required
22 market rate housing is brought in to -- to infill sites
23 and market housing is required to support the
24 affordability, and this will further drive this
25 imbalance.

1 And in terms of water supply, I'll echo the
2 comments of the prior director Berto and some of the
3 members of Fairfax, I don't need to repeat that, but
4 that remains a concern for the City of Larkspur as well.

5 Thank you.

6 PRESIDENT ARREGUIN: Thank you very much.

7 So we'll now turn to the public comment
8 portion of this hearing. And as I stated on the last
9 appeal, there's an opportunity for in-person public
10 comment at 375 Beale, as well on the Zoom platform.

11 I'll ask: Are there attendees on Zoom who
12 wish to speak on the RHNA appeal for the City of
13 larkspur? If you would like to speak, please raise your
14 hand or press *9 if you are phoning in. I see we have
15 one raised hand.

16 CLERK OF THE BOARD: Yes. Susan Kirsch, go
17 ahead, please. Two minutes.

18 MS. KIRSCH: Thank you. I appreciate having a
19 chance to comment on this, too. And it really is with
20 appreciation for all the work that the committee and
21 everyone is doing.

22 But I want to comment about how often we hear
23 that HCD has the authority to determine the methodology
24 and how concerned many people are that this methodology
25 is tying knots in our own ability to be thoughtful and

1 have criteria by which we solve immediate and long-term
2 problems.

3 For many of us, what we're getting from HCD is
4 essentially boiling down to a lot of gibberish that is
5 very hard to make sense of for all of the detail that it
6 rolls out, parading as if it's really logical.

7 I want to give you just one example of that.
8 I'm not sure how much I can get through in the two
9 minutes, but I want to read from a letter that HCD sent
10 to ABAG where they're describing the methodology of the
11 cost/burden adjustment, and I would challenge any of the
12 members --

13 (Simultaneous colloquy.)

14 CLERK OF THE BOARD: One minute, please.

15 MS. KIRSCH: -- committee to make sense of
16 this. HCD writes:

17 "HCD applies an adjustment to the
18 protected need by comparing the difference
19 in cost burden by income group for the
20 region to the cost burden by income group
21 from the comparable regions as determined
22 by ABAG. The very low end and low income
23 RHNA is increased by the percentage
24 difference, estimated at .64 percent,
25 between the region and the comparable

1 region cost/burden rate for household
2 earnings, 80 percent of area median income
3 and below, then this difference is applied
4 to very low end income RHNA proportions
5 proportionate to the share of the
6 population these groups currently
7 represent."

8 I don't think I need to go on. There's more
9 that is equally gibberish language with unreliable
10 numbers that makes it very difficult to feel confident
11 in this process of the methodology or in the guidance
12 (indiscernible) is providing using this cost burden as
13 an example. Thank you.

14 CLERK OF THE BOARD: Thank you. The next
15 speaker is Johnson 49. Go ahead, please. Please unmute
16 yourself, Johnson 49.

17 JOHNSON 49: Thank you very much.

18 One thing that has not been brought up is the
19 overall shape of Marin Municipal's system. If you go to
20 their website, you will see that they talk of many of
21 their mains and services being in the 60 to 100-year-old
22 state.

23 And I would challenge ABAG's staff to consider
24 this, because when you add 900 or so units, you are
25 going to tap into a main. Any time you tap into a main,

1 you are putting pressure on that main, and it can --
2 it's only going to put more and more pressure, besides
3 the fact that you have now a diminished water capacity,
4 you're also going to affect --

5 CLERK OF THE BOARD: One minute.

6 JOHNSON 49: -- the infrastructure.

7 And the other thing is ABAG and RHNA calls for
8 housing. They don't call for affordable housing. Why
9 aren't all the RHNA numbers affordable rather than
10 market rate?

11 Thank you.

12 CLERK OF THE BOARD: Thank you.

13 There are no other members of the public with
14 their hands raised and no members of the public at 375
15 Beale Street. There were public comments received after
16 the public comment period, and that was posted online
17 and the link sent to committee members.

18 PRESIDENT ARREGUIN: Okay. Thank you very
19 much. That completes public comment on the City of
20 Larkspur's RHNA appeal. It's now in order for the
21 administrative committee to discuss and take a
22 preliminary action on the appeal. The first committee
23 member I'll recognize is Mayor Eklund.

24 MAYOR EKLUND: Thank you very much.

25 I, too, am I also very sympathetic to this

1 applicant as well, but Neal, I have one question. The
2 City of Larkspur also did not submit the local
3 jurisdiction survey response. Can you help me to
4 understand why Larkspur did not?

5 MR. TOFT: Thank you, Mayor Eklund, and I
6 would say because of the continuing evolving process
7 that was working through with the studies, whether it
8 was Plan Bay Area and the housing, the RHNA process,
9 there was a number of, you know -- and in addition to
10 that, the new state mandates regarding housing
11 implementing ADUs, et cetera, et cetera, there is just
12 simply a lack of resources and time and getting really
13 packed, too, and digging into those issues. It's been a
14 continuous.

15 We did work with MTC and ABAG on the process
16 for the Plan Bay Area, reviewing the initial -- and I
17 try to remember the terms for that process two years ago
18 by going through and evaluating the sites at that time,
19 but I think that was part of the process, and it's
20 unfortunate we didn't participate sooner.

21 I don't know that it may have changed much.
22 We're still trying to grasp exactly what the criteria
23 are for what sites are considered available or viable as
24 opposed to what sites are not.

25 Just earlier today I received response on the

1 HES tool, which is the tool to help evaluate sites, and
2 even then it was identified we have over a thousand
3 sites that are identified in red, but those, in fact,
4 may be changed and may be considered viable. They're
5 still working on that tool.

6 So it's challenging for a small community to,
7 if I may say, kind of keep up with the ever-moving
8 process here.

9 MAYOR EKLUND: And --

10 MR. TOFT: I take some responsibility for
11 that.

12 MAYOR EKLUND: I really appreciate that
13 response, Neal, and I think that's something that we
14 should put on the list for future discussion.

15 When you have jurisdictions like Fairfax or
16 Larkspur or even small and even large jurisdictions,
17 sometimes a regional entity that is just asking for a
18 lot of feedback on a lot of different things at the same
19 time, the capacity of that community is very limited,
20 and I think that we need to put that down as a future
21 discussion list, because you can definitely understand
22 how Larkspur was looking at this.

23 There's what? Very few planning people based
24 on the number of requests that we're getting. I
25 appreciate your response very much.

1 Unfortunately, I will be supporting staff's
2 recommendation. The methodology, I wish it wasn't
3 approved, but it was. So, unfortunately, I feel very
4 conflicted.

5 Okay, great. Thank you.

6 PRESIDENT ARREGUIN: Thank you. And I think,
7 you know, once again I think we've identified an issue
8 which we discussed previously, which is really
9 emphasizing the importance of local governments
10 participating in this survey and what the implications
11 of not participating in the survey are and, you know,
12 providing support so that local governments are aware of
13 their sort of obligations and opportunities to
14 participate in this process. I think it's extremely
15 important as we plan for the next RHNA cycle.

16 But I'll ask, are there any other questions or
17 comments or a motion to take a preliminary action?

18 Mayor Hudson? Mayor Hudson, I think you're
19 muted.

20 MAYOR HUDSON: I think that's the way most of
21 these people want me.

22 I'm trying not to be coldhearted about it, but
23 the reality comes down to all of the discussion we're
24 getting is about the methodology, and I really don't
25 think if we were to make findings on you should change

1 the methodology, whether we have a leg to stand on.

2 This one, the appeal basis, I'm reading the
3 overview, is ABAG failed to determine the jurisdiction's
4 draft allocation in accordance with the final RHNA
5 methodology. So I would ask the question is, what is
6 the number that is different that you're saying the
7 mistake was made?

8 There's also a second part that says in a
9 manner that furthers and does not undermine the RHNA
10 objectives. Well, when you go to Page 4 of what staff
11 put up about housing element law and the improved
12 intraregional relationships, that part of the discussion
13 really is out the door. It's what mistake was made.

14 And in these appeals, nobody has attacked,
15 although the county did in Pittsburg, but you can guys
16 can be -- I guess I conveniently kicked the cord and
17 didn't get to hear the end of it.

18 There is no basis for us to do anything other
19 than to deny the appeal under what we've heard today. I
20 will make a motion that we do the preliminary denial of
21 the appeal. Or what are we calling it?

22 PRESIDENT ARREGUIN: Preliminary action.

23 MAYOR HUDSON: Temporary action to deny the
24 appeal of Larkspur.

25 SUPERVISOR RAMOS: I will second the motion.

1 PRESIDENT ARREGUIN: Who seconded the motion?

2 Was that Eklund or --

3 SUPERVISOR RAMOS: Ramos.

4 PRESIDENT ARREGUIN: Ramos, okay. So seconded
5 by Vice President Ramos to take a preliminary action to
6 deny the appeal in this case.

7 So, Mayor Fligor, you raised your hand.

8 MAYOR FLIGOR: It was to second the motion,
9 but the vice president beat me to it, so I'm good.

10 PRESIDENT ARREGUIN: Okay, okay. Colleagues,
11 any other questions or comments on the appeal? If not,
12 I'll ask the clerk to please call the roll on the motion
13 to take a preliminary action to deny the appeal.

14 CLERK OF THE BOARD: Motion was by Hudson, the
15 second by Ramos.

16 Mayor Arreguin?

17 PRESIDENT ARREGUIN: Yes.

18 CLERK OF THE BOARD: Mayor Eklund?

19 MAYOR EKLUND: Aye.

20 CLERK OF THE BOARD: Mayor Fligor?

21 MAYOR FLIGOR: Yes.

22 CLERK OF THE BOARD: Mayor Hudson?

23 MAYOR HUDSON: Yes.

24 CLERK OF THE BOARD: Supervisor Lee?

25 SUPERVISOR LEE: Yes.

1 CLERK OF THE BOARD: Supervisor Mandleman?

2 SUPERVISOR MANDELMAN: Yes.

3 CLERK OF THE BOARD: Supervisor Mitchoff?

4 SUPERVISOR MITCHOFF: Yes.

5 CLERK OF THE BOARD: Councilmember Peralez?

6 Is absent.

7 Supervisor Rabbit?

8 SUPERVISOR RABBIT: Aye.

9 CLERK OF THE BOARD: Supervisor Ramos?

10 SUPERVISOR RAMOS: Yes.

11 CLERK OF THE BOARD: Mayor Romero?

12 MAYOR ROMERO: Yes.

13 CLERK OF THE BOARD: Mayor Wilson? Is absent.

14 Motion passes, ten votes aye, two absences.

15 PRESIDENT ARREGUIN: So I want to emphasize
16 once again this is a preliminary action. Final action
17 on all appeals will be taken after the close of the
18 public hearing, and all jurisdictions will be notified
19 of the date and time of that meeting.

20 So thank you to the City of Larkspur for
21 coming today and your presentation.

22 Now we'll proceed to our last appeal for
23 consideration today, which is the report on the regional
24 housing needs allocation appeal for the City of Mill
25 Valley. This is a preliminary action item, and we will

1 first hear from the city of Mill Valley who will have
2 five minutes to present the appeal.

3 Who will be representing the city of Mill
4 Valley?

5 MS. STAUDE: I will, Danielle Staude, City of
6 Mill Valley.

7 PRESIDENT ARREGUIN: Great. Thank you. I
8 believe there's a presentation. Thank you.

9 MS. STAUDE: So thank you for the opportunity
10 to discuss the City of Mill Valley's appeal.

11 Next slide.

12 The RHNA statutory objective of promoting
13 infill development through the efficient development
14 patterns is not achieved. We continue to argue that
15 there's a failure to your account for the environmental
16 and topographical constraints that are true barriers to
17 housing and intensification of land use. This is an
18 error in both the methodology and how it was applied and
19 listening to the local survey, which we did respond to.

20 These environmental barriers directly result
21 and correlate with also the city's roadway
22 infrastructure with a majority of roadways being less
23 than 20-foot wide, with only two access points into and
24 out of town.

25 That's also why there's limited transit

1 opportunities and why you only see a very small portion
2 of the eastern part of Mill Valley being in ABAG's
3 growth geography.

4 Next slide.

5 The ABAG response indicates that those cities
6 with local barriers should consider rezoning commercial
7 areas, which we've done, to mixed use, and the response
8 also mentions upzoning non-vacant land, and that's a
9 great idea when the land is not constrained.

10 This slide demonstrates the severity of Mill
11 Valley's situation with 33 percent of the parcels in
12 very high fire severity zones, another 30 percent in the
13 high fire severity zones.

14 Next slide.

15 Both these areas, which account for 63 percent
16 of our area, they're highly forested, steep slopes and
17 served with limited roadway access. Many of the roads
18 are actually only 16 feet or less in width and are
19 compromised in terms of access and egress opportunity.

20 Safety and emergency access remains a key
21 concern for residents, emergency response personnel, and
22 our city council.

23 Next slide.

24 So, again, it's important to acknowledge that
25 65 percent of the parcels, when you include also the

1 FEMA floodway do not allow for much change or growth.

2 Next slide.

3 When thinking of opportunities to increase
4 density or accommodate new housing, that leaves Mill
5 Valley approximately 35 percent of its land. It's hard
6 to believe that was taken into consideration with an
7 allocation of 865 units for an eight-year cycle.

8 Next slide.

9 Mill Valley's local conditions are a
10 constraint and barrier, as I mentioned. Moving past the
11 fire severity information, Mill Valley has small
12 parcels. The majority are not vacant.

13 The response indicates from ABAG that the
14 underutilized opportunities include the infill. There
15 are 35 parcels that are considered unimproved outside
16 these fire zones. Of the 35 parcels, two, two are over
17 an acre. Twenty-six of the parcels are less than a
18 quarter acre.

19 So the response also notes that we could
20 increase these densities, and that is all well and good,
21 but, again, putting that theory to the local level being
22 built out, having these fire zones, the illustration is
23 the typical 8,000-square-foot lot, which is the typical
24 of what's going on.

25 So we have fourplexes and sixplexes, 25 units

1 an acre, with one parking spot. We could increase these
2 densities and create an incentive to tear down these
3 affordable units, placing -- displacing local community
4 members and replacing units with more expensive units
5 that will likely increase the number of units on these
6 lots, maybe two. So that's a huge disconnect.

7 The response also claims that the city hasn't
8 provided enough evidence. I'm not sure what more
9 evidence we need when 97 percent of your parcels are
10 built out, 65 percent of the land is in hazard zone on
11 less than 20-foot wide, and the assessor data identifies
12 35 parcels, 35 parcels unimproved.

13 The city intends to address and accommodate
14 its housing needs for the future and for today, but it's
15 really apparent that based on the suggestions --

16 CLERK OF THE BOARD: One minute.

17 MS. STAUDE: -- of upzoning and changing
18 densities, we can't accommodate what's being asked of
19 us.

20 It also seems like the wrong approach, really,
21 to tell our local community members your existing land
22 use is not valued or wanted anymore because it doesn't
23 provide adequate housing. I think the local hardware
24 store and mechanic shop would disagree with that.

25 Next slide, please. I'll skip this. Next

1 slide.

2 During the last RHNA cycle, it was also
3 acknowledged that there's an economic downturn. I would
4 encourage a similar approach related to population
5 growth. There is a trend in population growth
6 declining. We use the census data as part of the
7 housing element. I encourage the region to do so also.

8 Next slide.

9 So, in summary, the city continues to assert
10 the assignment of 865 units does not meet the statutory
11 objectives, nor does it address the local (audio
12 interruption) continue to address.

13 Next slide.

14 I understand this is tough and housing is
15 serious. We want to do our part. We're interested in
16 really doing our part for affordable housing and use the
17 limited land opportunities we have for the
18 below-market-rate housing. Thank you.

19 PRESIDENT ARREGUIN: Thank you very much. As
20 with the other appeals this afternoon, there will be an
21 opportunity for rebuttal or response to the staff
22 presentation after they respond to the appeal.

23 So now I would like to turn it over to ABAG
24 MTC staff to present the response to the appeal from
25 Mill Valley.

1 MS. ADAMS: Thank you. If you could pull up
2 the slides, please.

3 Thank you. Next slide.

4 So the City of Mill Valley is requesting a
5 reduction of 286 units, a reduction of 33 percent from
6 its draft allocation. Staff's recommendation is to deny
7 the appeal.

8 Next slide, please.

9 Mill Valley argues that the RHNA methodology
10 does not promote infill development and associated
11 economic equity through efficient development patterns
12 that achieve greenhouse gas emission targets.

13 This argument challenges the final RHNA
14 methodology adopted by ABAG and approved by HCD, which
15 falls outside the scope of the appeals process.

16 HCD has the authority to determine if the RHNA
17 methodology furthers the objectives (indiscernible) does
18 so.

19 The RHNA methodology considers the development
20 constraints named in this appeal by incorporating data
21 from the Plan Bay Area 2050 final blueprint as the
22 baseline allocation. The final blueprint includes
23 information from local governments about plans, zoning,
24 and physical characteristics that might affect
25 development.

1 The strength of the land use model used for
2 the final blueprint is it assesses feasibility,
3 including the higher costs of building on parcels with
4 physical constraints.

5 And although staff, again, understands Mill
6 Valley's concerns about natural hazards, housing element
7 law does not identify areas at risk from hazards as a
8 constraint to housing.

9 Furthermore, statute forbids ABAG from
10 limiting its consideration of suitable housing sites to
11 a jurisdiction's existing zoning and land use
12 consideration.

13 In its comment letter on appeals, HCD
14 specifically noted that housing planning cannot be
15 limited to vacant land, and even communities that view
16 themselves as built out or limited due to other natural
17 constraints, such as fire and flood risk areas, must
18 plan for housing through means such as rezoning
19 commercial areas as mixed-use areas and upzoning
20 non-vacant land.

21 Mill Valley does not provide evidence that it
22 cannot consider these other strategies for meeting its
23 RHNA numbers.

24 Next slide, please.

25 Mill Valley argues that the Plan Bay Area 2050

1 strategy H3 should only apply to the eastern part of the
2 city as a high resource area near transit and outside of
3 areas at risk of hazards.

4 MAYOR EKLUND: President Arreguin, I can't
5 hear.

6 PRESIDENT ARREGUIN: It's the Blue Angels.

7 MS. ADAMS: Sorry.

8 MAYOR EKLUND: Oh, okay.

9 MS. ADAMS: It's very distracting.

10 Strategy H3 is not in conflict with the city's
11 argument, as it only applies to the growth geographies
12 which encompass the small area of Mill Valley shown on
13 the map.

14 Regardless, this argument again challenges the
15 final RHNA methodology that was adopted by ABAG and
16 approved by HCD.

17 The city also argues that its RHNA allocation
18 is not consistent with Plan Bay Area 2050. Although
19 statute requires RHNA to be consistent with the plan's
20 development plan, it does not specify how to determine
21 consistency. This gives ABAG the discretion to define
22 its approach.

23 The final blueprint growth forecasts are
24 adopted at the county and subcounty levels only and the
25 approach used throughout the RHNA methodology

1 development process deems RHNA consistent with the plan
2 if the eight-year RHNA does not exceed the plan's
3 35-year housing growth at the county or subcounty
4 levels.

5 The evaluation shows that RHNA is consistent
6 with Plan Bay Area 2050, including in the South Marin
7 super district where Mill Valley is located.

8 Next slide, please.

9 Mill Valley has argued that ABAG made an error
10 in calculating the city's draft allocation, but ABAG MTC
11 staff has determined that there was no error. The
12 city's calculations did not include the steps shown in
13 the draft RHNA plan to adjust the factors for us for all
14 jurisdictions to ensure that the methodology allocates
15 100 percent of units in each income category as assigned
16 by HCD. When the calculations include this step, the
17 results are consistent with the city's draft allocation.

18 Next slide, please.

19 Mill Valley argues that the factors in the
20 RHNA methodology are all within the same area and should
21 only be counted once. Again, this argument by the city
22 challenges the RHNA methodology and, thus, is outside
23 the scope of the appeals process.

24 Next slide, please.

25 Regarding the area's --

1 CLERK OF THE BOARD: One minute.

2 MS. ADAMS: Sorry.

3 In its comment letter, HCD specifically noted
4 that increased wildfire risk is not a valid basis for
5 appeal as the issue does not affect one city, county, or
6 region in isolation.

7 Also, the RHNA methodology is not in conflict
8 with the state's fire hazard planning technical
9 advisory, as the city can choose housing sites in
10 lower-risk areas and can use the recommended risk
11 reduction measures for development in higher risk areas.

12 Next slide, please.

13 Regarding the city's argument that ABAG should
14 modify its forecasts based on California's slower
15 population growth, housing element law states that
16 stable population numbers cannot be used as a
17 justification for reducing a jurisdiction's RHNA.

18 Next slide, please.

19 Thus, ABAG MTC staff recommends the committee
20 deny the appeal filed by the City of Mill Valley.

21 Thank you.

22 PRESIDENT ARREGUIN: Thank you very much.

23 I'd like to give the city of Mill Valley an
24 opportunity to provide a response to the staff
25 presentation if you so wish. You'll have three minutes.

1 MS. STAUDE: Sure. I guess one thing I would
2 like to verify, if the very high fire severity zone was
3 not included somehow in the analysis. There was some
4 response that was made, but then there was also a
5 response that said if there is an unmitigated high
6 hazard risk, it was considered. So I'd just like more
7 information on that.

8 And we just respectfully disagree that our
9 local conditions have not been taken seriously or as
10 part of the process. Thank you.

11 PRESIDENT ARREGUIN: Okay. Thank you.

12 And if staff would like to respond to that, we
13 can do so after the public comment portion, but I do
14 want to just ensure that you don't have any other
15 comments? You have two more minutes if you would like
16 to use your time.

17 MS. STAUDE: I'll just say we did respond to
18 the survey, so I'll be interested to see if that does
19 make a difference or not.

20 We did mention the local conditions that I
21 presented in my presentation and as part of the response
22 letter. So please take that into consideration. And
23 that's it.

24 PRESIDENT ARREGUIN: Thank you very much.

25 So we'll now open public comment on the City

1 of Mill Valley's appeal of its RHNA allocation, and
2 we'll be taking public testimony, not only on Zoom, but
3 if there are any speakers at 375 Beale.

4 So I'll ask, are there any attendees that wish
5 to speak on the RHNA appeal for the City of Mill Valley?
6 If so, raise your hand if you are on Zoom or press *9.
7 I see we have one raised hand, Mr. Castro.

8 CLERK OF THE BOARD: Yes. Our first speaker
9 is Susan Kirsch. Go ahead, please. Two minutes.

10 MS. HIRSCH: Hi. Thank you. I want to thank
11 Danielle and support the case that she made for Mill
12 Valley's appeal hopefully being accepted and approved.

13 So in previous comments I've talked about the
14 issue about the water, about the risk factors that are
15 being denied, about the gibberish that comes out of HCD.

16 I would acknowledge Dave Hudson's repeated
17 statement that this often is seeming to come down to the
18 issue of RHNA methodology. So I want to point out a
19 couple of things.

20 One, we know that state senators and assembly
21 members frequently rewrite legislation because they
22 didn't get it right the first time, and I would like to
23 suggest at some point this methodology, for all of the
24 contention it's made creating, ought to be looked at
25 again to get it right, rather than intending to go

1 forward with all of the errors that seem to be pointed
2 out by city planning staff.

3 I'd like to also point out a couple of other
4 things that I think should be taken into consideration.
5 One is that this methodology apparently used census data
6 from 2014 to 2018, where we know that patterns have
7 changed, and we also know the current census data for
8 2020 is now available. So if there were to be
9 corrections for the RHNA methodology, the new census
10 data ought to be taken into account.

11 We also know that there was a study done at
12 the Embarcadero Institute and many of --

13 CLERK OF THE BOARD: Thirty seconds.

14 MS. HIRSCH: -- the people have said, oh,
15 we're not going to pay attention to that, but I would
16 encourage everyone to go back to look at that fastidious
17 research that was around Senate Bill 828, which is a
18 part of what's driving all of this with what many people
19 are agreeing is double the numbers and wouldn't make any
20 sense. The Embarcadero Institute -- and you can Google
21 it and find that report -- will point out why that's a
22 problem.

23 And third, there is enough concern about how
24 HCD and RHNA is going forward. I just want to say that
25 they're looking into an audit of HCD because of the kind

1 of peculiar decisions and methodologies and practices
2 that they're pushing.

3 So thank you for taking my comments.

4 PRESIDENT ARREGUIN: Thank you. Any other
5 speakers?

6 CLERK OF THE BOARD: Yes. Our next speaker is
7 Aaron Eckhouse. Two minutes, please. Go ahead.

8 MR. ECKHOUSE: Hello. Thank you. Apologies
9 for the noise in the background. I'm on Caltrain at the
10 moment. My name is Aaron Eckhouse. I'm the regional
11 policy manager with California YIMBY, Yes in My
12 Backyard.

13 I know I've interacted with many of you in the
14 course of developing the RHNA methodology. I think
15 those of you involved in that deserve to be commended
16 for having produced a strong methodology that HCD
17 certified.

18 I think the previous comments basically boil
19 down to a contention that the housing crisis is actually
20 not so bad and we should do less about it. I think that
21 deserves to be wholly rejected, just like these appeals
22 from wealthy and exclusionary jurisdictions that are
23 feeling consternation over the fact that, for the first
24 time in many years, they are being asked to actually
25 contribute and do their fair share to address our

1 housing needs as a region.

2 Thank you.

3 CLERK OF THE BOARD: There are no other
4 members of the public with their hands raised. No
5 members of the public are at 375 Beale Street. There
6 were public comments received after the public comment
7 period that was posted online and emailed to committee
8 members. Thank you.

9 PRESIDENT ARREGUIN: Thank you. That
10 completes public comment.

11 It's now in order for the Administrative
12 Committee to discuss and take preliminary action on this
13 appeal.

14 Mayor Eklund.

15 MAYOR EKLUND: Thank you very much, President
16 Arreguin.

17 First of all, I wanted to thank Danielle very
18 much for a great presentation, and I'm very sympathetic,
19 obviously, to Mill Valley's concerns.

20 And I'm really very heartened to see that you
21 did you complete the survey, which I really emphasized
22 in my -- in the MTCMC meetings that cities should do,
23 and I'm glad that you heard that call.

24 I would like to have staff, though, address
25 the concern that Mill Valley raised about for some

1 reason the very high severity fire zones were not
2 addressed adequately. Can we get a response to that?

3 MR. VAUTIN: Sure. I'm happy to provide a
4 response. Dave Vautin, assistant director of major
5 plans with MTC ABAG.

6 So just to clarify, the growth geographies in
7 Plan Bay Area 2050 exclude very high fire hazard
8 severity areas within cities, and they exclude very high
9 and high in the unincorporated areas. So that was
10 reflected.

11 The language that the city was raising about
12 the unmitigated hazard areas is really referring to sea
13 level rise.

14 So while there are mitigations for fire in
15 Plan Bay Area 2050, what we've incorporated into the
16 mapping of growth geographies is really focused in terms
17 of sea level rise zones where the mitigations protect
18 the area and those areas can continue to be included as
19 growth geographies because there's a seawall or levy or
20 something else protecting that land from flooding.

21 So we have appropriately excluded the fire
22 severity areas from the growth geography maps.

23 MAYOR EKLUND: Right. But only very high fire
24 severity areas in cities were factored in. I think that
25 we -- I did not get an updated list of the topics, and

1 so I believe that we have added having a discussion
2 about high severity zones and very high severity zones
3 for cities being considered the same way as counties. I
4 don't understand. Then also a discussion about the
5 different maps, Cal Fire and also with WUIs, too.

6 So I did not get an updated list, but I think
7 that we need to make sure that we have that discussion
8 in the future.

9 Even though I'm sympathetic, unfortunately,
10 Danielle, I will be supporting staff's recommendation.
11 Again, I just wish we were more successful in making
12 sure that the methodology was different, but we were not
13 able to do that.

14 So anyway, thank you.

15 PRESIDENT ARREGUIN: Mayor Hudson?

16 MAYOR HUDSON: Yeah, I think that the two
17 speakers actually brought up the same important question
18 we've been talking about for the last three appeal
19 sessions.

20 This RHNA methodology, according to everybody
21 that's appealing, it's just terrible, we don't want it,
22 you can change what HCD -- we can't even change what the
23 Board is doing. We're a subcommittee looking at a very
24 narrow reason to deny or uphold an appeal.

25 I just want to say to the people that think

1 this methodology is bad and it's hurting all the cities,
2 the majority of the emails that I got during the
3 discussion period of the methodology said that the
4 number of homes that we are responsible to allot to all
5 the 101 cities in the Bay Area and the counties was
6 about half of what it should be. I had more emails to
7 make that number a million than I did supporting the
8 441,000 or reducing it.

9 I don't think the cities that are filing these
10 appeals want -- we can't do it anyway, but they do not
11 want this RHNA methodology opened up, because there was
12 lot of different things available. I'm not envying us
13 on this appeal committee, but I really have no desire to
14 be part of that methodology committee and go back and
15 redo it again, because the numbers are still the same.
16 What Aaron Eckhouse said is correct, we're behind, and
17 we have to fulfill this responsibility, or we're going
18 to get further behind.

19 So I will be supporting the denial of this
20 appeal.

21 PRESIDENT ARREGUIN: I will also add, in
22 response to that, by reopening the methodology right
23 now, you're basically setting up cities to fail as well,
24 because we have a year -- a little bit over a year to
25 update our housing elements, and the state has not

1 adjusted that timeline.

2 We all have to January 2023 to adopt updated
3 housing elements, or else we will be denied, you know,
4 funding from the State of California. State can take
5 legal action. We know the state has taken much more
6 aggressive action enforcing housing element law.

7 So I think the responsible thing to do is to
8 move ahead with the methodology that was approved over
9 the last year by democratically-elected representatives
10 representing the nine Bay Area counties, and identify
11 and address any issues in future legislation for the
12 next cycle of RHNA.

13 Mayor Romero.

14 MAYOR ROMERO: Yes, I concur with both you,
15 Jesse, as well as Dave Hudson.

16 But I do want to give kind of the broader
17 perspective. We are indeed at ABAG charged to look at
18 the nine counties regionally, how we are interconnected,
19 how we kind of move together in terms of our development
20 of transportation systems, where we place housing, so
21 that, indeed, we can grow. It is, I think, one of the
22 tenets of capitalism, that growth is necessary.

23 And I think that one of the speakers said that
24 the state has the opportunity to rewrite its wrong or
25 incorrect legislation. I think that's exactly what the

1 state did over the last three to four years, is they
2 understood the legislation that was out there to address
3 our housing issue across the state, or to choose a draw
4 state, clearly was inadequate and was not working at the
5 local level. And what they did was provide a framework
6 for us for the MPOs, for the council of city -- of
7 government organizations throughout the state to apply
8 that new methodology, that new approach so that we could
9 indeed eliminate that vastly popular parochialism
10 throughout the state that has really vulcanized our
11 cities and not allowed to us work collaboratively to fix
12 an issue that has been with us for decades.

13 So I think the state -- our state legislators
14 got it right, and I think that we at ABAG over, I would
15 say, two years in putting together methodology and
16 having the public comments, and, indeed, in responding
17 to all the concerns were able to land on an approach
18 that none of us liked but that we felt we all had to
19 accept and that was buttressed and based on study,
20 research and reasoned discourse.

21 I will be voting yes to deny the appeal.

22 PRESIDENT ARREGUIN: Thank you.

23 Supervisor Rabbit?

24 SUPERVISOR RAMOS: Thank you very much. I
25 appreciate the comments, I really do.

1 I think for some, though, they're appealing
2 the location and not the number. I mean, that's the
3 case in our particular county, and it goes back to the
4 methodology and those things. I'm not going to rehash
5 that, because you'll hear from our county later.

6 I think, to me, it also points out maybe the
7 approach that we've taken in the past about -- like not
8 entering the numbers and coming up with the methodology
9 in this vacuum, to me it's better to have a stronger
10 communication from the get-go, and that really -- I am
11 really disappointed that the majority of cities in our
12 county did not want to form a subregion, because the
13 location then could be figured out amongst ourselves,
14 and we're the ones that know that the best, quite
15 frankly.

16 And I think that, ultimately, I'm sure next
17 time around, knowing what the numbers are this time,
18 it's going to be more of a push to make sure we do that.
19 Again, the overall number is fine. We just think city
20 center growth is a better way to go, in our case
21 particularly.

22 For some I think there's some other issues at
23 play, and certainly I'm sympathetic to, as I said
24 earlier, the wildfire interface, the water issues, all
25 of those things that's, you know -- but that can't be an

1 excuse to hold back housing either, and that's also
2 been, quite frankly, used in the past, too.

3 So I think it's time for us to break out of
4 that, be housing advocates together with our city
5 brethren and county brethren and push in the same
6 direction.

7 PRESIDENT ARREGUIN: Thank you. I'll ask, is
8 there a motion to take a preliminary action on the
9 appeal?

10 MAYOR HUDSON: I'll move to deny the appeal.

11 PRESIDENT ARREGUIN: So the motion is to take
12 a preliminary action to deny the appeal from the city of
13 Mill Valley.

14 MAYOR ROMERO: And I second the motion,
15 Romero.

16 PRESIDENT ARREGUIN: Any other questions or
17 comments before we vote?

18 MAYOR HUDSON: I'll have one comment. Can I
19 be the first vote? I have to go out and perform a
20 wedding.

21 PRESIDENT ARREGUIN: That's no problem. Mayor
22 Hudson first.

23 CLERK OF THE BOARD: On the motion by Hudson
24 and second by Romero, Mayor Hudson?

25 MAYOR HUDSON: Yes.

1 CLERK OF THE BOARD: Mayor Arreguin?
2 PRESIDENT ARREGUIN: Yes.
3 CLERK OF THE BOARD: Mayor Eklund?
4 MAYOR EKLUND: Yes.
5 CLERK OF THE BOARD: Mayor Fligor?
6 MAYOR FLIGOR: Yes.
7 CLERK OF THE BOARD: Supervisor Lee?
8 (Audio interruption.)
9 CLERK OF THE BOARD: Supervisor Lee?
10 SUPERVISOR LEE: Lee, yes.
11 CLERK OF THE BOARD: Supervisor Mandelman?
12 SUPERVISOR MANDELMAN: Yes.
13 CLERK OF THE BOARD: Supervisor Mitchoff?
14 SUPERVISOR MITCHOFF: Yes.
15 CLERK OF THE BOARD: Councilmember Peralez is
16 absent.
17 Supervisor Rabbit?
18 SUPERVISOR RABBIT: Aye.
19 CLERK OF THE BOARD: Supervisor Ramos?
20 SUPERVISOR RAMOS: Yes.
21 CLERK OF THE BOARD: Mayor Romero?
22 MAYOR ROMERO: Yes.
23 CLERK OF THE BOARD: Mayor Wilson is absent.
24 Motion passes, ten ayes, two absences.
25 PRESIDENT ARREGUIN: Okay. Thank you. That

1 completes this matter. I want to thank you City of Mill
2 Valley for attending today and for your presentation.

3 And I believe that completes our business for
4 this afternoon. So unless there are any other comments,
5 we'll move to Item 8, Adjournment.

6 The ABAG Administrative Committee will
7 continue this public hearing on RHNA appeals to Friday
8 October 15th, 2021, from 1:00 to 5:00 p.m. virtually,
9 and also at the Bay Area Metro Center.

10 With that, this meeting of the ABAG
11 Administrative Committee is adjourned. Thank you all.

12 (Proceedings adjourned at 3:45 p.m.)

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1 STATE OF CALIFORNIA)
 2) SS
 3 COUNTY OF CONTRA COSTA)
 4

5 I hereby certify that the foregoing in the
 6 within-entitled cause was taken at the time and place
 7 herein named; that the transcript is a true record of
 8 the proceedings as reported by me, a duly certified
 9 shorthand reporter and a disinterested person, and was
 10 thereafter transcribed into typewriting by computer.

11 I further certify that I am not interested in
 12 the outcome of the said action, nor connected with, nor
 13 related to any of the parties in said action, nor to
 14 their respective counsel.

15 IN WITNESS WHEREOF, I have hereunto set my
 16 hand this 28th day of October, 2021.

17
 18
 19 
 20 _____
 21 JOAN MARIE COLUMBINI, CSR 5435
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