MEMORANDUM

Office of the City Manager

DATE: November 19, 2020

TO: Mayor and Council

THROUGH: Steve McHarris, City Manager   *Steve McHarris*

FROM: Sharon Goei, Building Safety and Housing Director

SUBJECT: **Update on Regional Housing Needs Allocation (RHNA), 2023-2031 Housing Element, and Assessment of Fair Housing**

Summary

This memorandum provides the City Council with an update on the Regional Housing Needs Allocation (RHNA) and Housing Element process. The first step in the process was for the California Department of Housing and Community Development (HCD) to determine the state-wide housing need for the next Housing Element cycle, HCD then allocated a portion of the state-wide housing need to the nine-County Bay Area. The Association of Bay Area Governments (ABAG) is responsible for working with regional, county and city governments to adopt a methodology for distributing the allocated housing units among Bay Area jurisdictions. ABAG formed a RHNA Housing Methodology Committee (HMC) for this purpose, which began meeting in October 2019. The Cities Association of Santa Clara County and the City of Milpitas have also provided comments to ABAG and the HMC.

HCD has determined that the Bay Area must plan for 441,176 total housing units during the next Housing Element cycle (2023-2031). This number is 2.3 times higher than the housing units identified for the previous Housing Element cycle (2014-2022). Discussion during the past year has focused on the methodology for distributing these total units among Bay Area counties and cities. This memorandum discusses the factors that were considered in arriving at the recommended methodology. On October 15, 2020, the ABAG Executive Board voted to move forward with a methodology recommended by the HMC. Public comment on the proposed methodology will be accepted through November 27, 2020.

If the proposed methodology is adopted by ABAG, the City's next Housing Element will need to identify potential sites and appropriate zoning to accommodate approximately 6,579 new housing units. This figure compares to 3,290 housing units in the current 2014-2022 Housing Element. A table is included in this memorandum that delineates the required units by income category (very low, low, moderate, and above moderate). It is expected that many of the units could be assigned to the Milpitas Metro Specific Plan area.

Another component of the next Housing Element pertains to a state law requirement for an Assessment of Fair Housing (AFH). All jurisdictions are required to ensure that their laws, programs, and activities affirmatively further fair housing and demonstrate compliance with the AFH law in their Housing Element. Along with obtaining a consultant to assist the City in preparing the next Housing Element, contract services will also include preparing the AFH component.

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Background
Since 1969, California law has required all cities and counties to plan to meet housing goals for residents at all income levels. Every eight years, the California Department of Finance forecasts population and demographic trends and how much new housing construction will be needed. This year the model includes additional factors including vacancy, overcrowding, and housing cost burden.

Based on these projections, the California Department of Housing and Community Development (HCD) issues a Regional Housing Needs Determination (RHND) to each region. The RHND is the number of affordable and market rate housing units that need to be permitted for construction during the next eight-year cycle. After HCD allocates RHND to each of the twenty regional council of governments (COG) and the nineteen countywide regions not represented by COGs, each region allocates the projected growth to local jurisdictions within that region.

For the nine-county Bay Area, the COG is the Association of Bay Area Governments (ABAG). In June 2020, ABAG received from HCD the 2023-2031 RHND of 441,176 total units, a figure that is 2.3 times larger than the region's previous RHND of 187,990. This larger housing goal is due to population and job growth, the long-term underproduction of housing statewide, and recent state law changes.

Serving as the Bay Area's COG, ABAG is responsible for creating a methodology that distributes the RHND among the Bay Area's local jurisdictions. This process incorporates both affordable and market rate housing and is known as the Regional Housing Needs Allocation (RHNA). ABAG has some flexibility in how it allocates housing growth to Bay Area jurisdictions, but its RHNA methodology must meet several important statutory requirements that are summarized below:

1. Increase the housing supply and mix of housing types, tenure, and affordability;
2. Promote infill development and socioeconomic equity, protecting environmental and agricultural resources, and encouraging efficient development patterns;
3. Promote an improved intraregional relationship between jobs and housing;
4. Balance disproportionate household income distributions;
5. Affirmatively further fair housing through land use and more (AB 686, 2018); and
6. Must be consistent with Plan Bay Area 2050, the region's long-term plan to reduce greenhouse gas emissions, reduce traffic congestion, and to create equitable and livable communities.

ABAG Housing Methodology Committee
In October 2019, ABAG convened the RHNA Housing Methodology Committee (HMC) to advise the ABAG Executive Board on how to distribute RHNA housing growth for the period between 2023-2031. The purpose of the HMC was to ensure that the methodology and resulting allocation meets statutory requirements and is consistent with the forecasted development pattern in Plan Bay Area 2050, a regional land use and transportation plan.

The HMC was comprised of elected officials; jurisdiction housing and planning staff; equity, open space, health, and transit advocates; and a representative from the state. The HMC process provided a forum for these representatives, as well as various stakeholders and members of the public, to formulate a data-driven proposed methodology. Milpitas staff attended each HMC meeting to hear HMC discussions and analysis and monitored progress and direction.

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The HMC considered a starting baseline to use for allocating housing growth and then applied additional factors with weights to fine tune allocations up or down. By far, the baseline had the largest impact on the allocation while the factors only caused minor changes. The following table compares the three baseline alternatives that were considered for the Milpitas allocation:

Comparison of Baseline Alternatives

Jurisdiction	2019 Households	Future Year 2050 Households	Future Housing Growth (2015-2050)
Milpitas	3,450	5,420	11,110

On August 10, 2020, the Santa Clara County Cities Association submitted a letter to ABAG calling for more moderated housing growth in the South Bay. On August 27, 2020, the Milpitas City Manager submitted a letter to ABAG HMC with a similar message. The letters are included as **Attachments A** and **B.**

The HMC's final recommendation was to use the "Future Year 2050 Households" baseline. Utilizing "Future Year 2050 Households" as the baseline allocation (before applying factors with weights) means that the baseline allocation is based on each jurisdiction's share of the region's total households in the year 2050 according to Plan Bay Area 2050. This baseline takes into consideration the number of households that are currently living in a jurisdiction as well as the number of households expected to be added over the next several decades. In alignment with the City of Milpitas comment letter to the HMC, the HMC preferred using "Future Year 2050 Households" as the baseline because it provides a middle ground between the current households (2019 Households) and the forecasted housing growth from Plan Bay Area 2050.

After a baseline was chosen, the HMC selected a few factors from the following list and weighted them:
- Access to High Opportunity Areas;
- Divergence Index (a measure of racial, ethnic and income segregation);
- Job Proximity – 30-minute auto commute;
- Job Proximity – 45-minute transit commute;
- Vehicle Miles Traveled per worker;
- Jobs-Housing Balance;
- Jobs-Housing Fit (low-wage jobs to low-cost rental units);
- Future Jobs;
- Transit Connectivity; and
- Natural Hazards such as wildfire risk and sea level rise.

Out of the list, the HMC used the following factors and weights to allocate housing to the following income categories:

Very Low- and Low-Income Housing:
- 70% Access to High Opportunity Areas
- 15% Job Proximity – Auto
- 15% Job Proximity – Transit

Moderate- and Above Moderate-Income Housing:
- 40% Access to High Opportunity Areas
- 60% Job Proximity – Auto

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The HMC's final recommendation used the Future Year 2050 Households baseline with the above factors and weights in order to distribute housing growth into "High Opportunity Areas" with easier access to job centers and to distribute growth more equitably. High Opportunity Areas are defined by the state using an index of local poverty levels, adult educational attainment, employment rates, proximity to jobs, environmental factors such as pollution, and school performance indicators. Through these data sources, High Opportunities Areas identified by the state have high resources and characteristics that have been shown to support positive economic, educational, and health outcomes for low-income families. The factors based on job proximity consider the relationship between jobs and transportation and encourage more housing in areas with easier access to the region's employment centers.

On September 18, 2020, the HMC concluded its year-long process and voted on final recommendations to the ABAG Executive Board. On October 15, 2020, the ABAG Executive Board voted to move forward with the HMC's RHNA methodology. The table below compares the current Milpitas RHNA allocation with what the HMC recommended and the ABAG Executive Board moved forward with for Milpitas in the 2023-2031 cycle:

Comparison of Milpitas Regional Housing Needs Allocations (RHNA)

Income Category	2014-2022 RHNA	2023-2031 proposed RHNA (based on ABAG proposed RHNA methodology)
Very Low	1,004	1,653
Low	570	952
Moderate	565	1,108
Above Moderate	1,151	2,866
Total	3,290	6,579

ABAG has indicated that these figures are illustrative allocations from the proposed RHNA methodology. The ABAG Executive Board adopted changes to the strategies for Plan Bay Area 2050 in September 2020. The changes adopted will affect information about the Future Year 2050 Households, which was used as the baseline allocation for the proposed RHNA methodology. When updates to Plan Bay Area 2050 (and thus data on Future Year 2050 Households) become available in December 2020, they could lead to changes in the allocations.

Public comment period for the proposed RHNA methodology opened on October 25 and will continue through November 27, and a public hearing is scheduled for the November 12 meeting of Regional Planning Committee, after which both the committee and the Executive Board will again discuss the methodology. The Executive Board will vote and ABAG will submit the draft methodology to HCD for review, likely in January 2021. ABAG will use HCD's recommendations to develop a final methodology and draft RHNA allocation in spring 2021. Cities and counties will have an opportunity to appeal their draft RHNA numbers in summer 2021. RHNA allocations will be finalized by late 2021.

City of Milpitas Housing Element Update
As the ABAG Executive Board finalizes the RHNA, cities must begin the process of updating their Housing Element (a chapter in the General Plan) to show how they will accommodate their share of the RHNA, facilitate housing growth, and respond to local housing needs for residents at all income levels. The Housing Element must consider demographics, housing needs, fair housing issues including access to opportunities and racial and economic segregation, land and infrastructure capacity,

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feasibility of new development, development constraints, development resources, and strategies that reduce barriers to housing construction.

The next Housing Element planning process will be more challenging due to a much larger RHNA, more restrictive state laws on where capacity for affordable and market rate housing can be counted, and new state laws requiring cities to plan for affordable housing within their jurisdiction and especially in areas of high opportunity.

Assessment of Fair Housing

In 2015, the Obama administration created a regulation requiring federal grantees to prepare an Assessment of Fair Housing (AFH) that is consistent with the federal Affirmatively Furthering Fair Housing (AFFH) Rule to implement portions of the 1968 Civil Rights Act. The AFFH Rule provided a framework for local governments to take meaningful actions against discrimination and segregation in housing – and work proactively to promote equity, integration, and inclusive communities – in order to receive federal funding. The AFH planning process required jurisdictions including cities to address how to increase affordable housing in high opportunity areas, invest in disadvantaged neighborhoods, increase accessibility and more. Jurisdictions who failed to complete an AFH would lose their federal entitlement grants, such as Community Development Block Grants. AFH plans were carefully reviewed and certified by the U.S. Department of Housing and Urban Development (HUD).

Over the last several years, the Trump administration dismantled the 2015 Affirmatively Furthering Fair Housing (AFFH) regulation. Meanwhile, the State of California passed Assembly Bill 686 in 2018, requiring all jurisdictions to ensure that their laws, programs, and activities affirmatively further fair housing and to complete an AFH as part of their future Housing Element updates. On July 23, 2020, the federal government officially replaced the 2015 AFFH rule with a much lower bar allowing local jurisdictions to determine what they wish to do. Regardless of this change, California jurisdictions are required under state law to complete a 2015 style AFH in order to have their Housing Element certified. Those that fail to have their Housing Element certified by the state risk legal action from the State Attorney General and ineligibility for a variety of state funding programs.

An Assessment of Fair Housing generally includes the following components:
- Assessment of past fair housing goals and actions;
- Meaningful community participation process;
- Analysis of data and local knowledge to identify segregation/integration, disparities in access to opportunity, disproportionate housing needs, displacement, disability and access analysis, and more;
- Assessment of factors that contribute to fair housing issues;
- Identify priorities and goals to address significant disparities in housing needs and access to opportunity, and to replace segregated living patterns with more integrated living patterns; and
- Concrete strategies and actions to implement priorities and goals.

For details on what the state expects from local AFH plans, see the HCD memo AB 686 Summary of Requirements in Housing Element Law.

Santa Clara County, Cities, and the Santa Clara County Housing Authority have been working with a consultant to prepare local Assessments of Fair Housing per HUD's 2015 AFFH Rule to update their HUD Consolidated Plans for Community Development Block Grants. These jurisdictions conducted extensive outreach in 2019 and will bring forward drafts for public hearings in summer 2021. As these jurisdictions are preparing their Assessments of Fair Housing in conjunction with their participation in

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federal programs, HCD indicated that they may adapt relevant sections into their Housing Elements. Milpitas did not participate in this regional effort because the City is on a different schedule for updating its HUD Consolidated Plan for the Community Development Block Grant funding. The City therefore did not participate in the consultant work for AFH.

Milpitas staff is currently exploring consultant services for the preparation of an AFH for Milpitas. This plan would help inform where the City is planning for new affordable housing and where it plans to preserve existing affordable housing. The AFH plan would commit the City to implement programs that meet local needs and the intent of California Assembly Bill 686.

Next Steps

Staff from the Building Safety and Housing Department is coordinating closely with the Planning Department on a workplan to align the Housing Element Update and AFH with the various land use planning initiatives through 2023. Below is a snapshot of this timeline:

	2020	2021	2022	2023
Metro Specific Plan Update	████			
General Plan Update	████			
Gateway Specific Plan		████		
LEAP Housing Opportunity Zone		████	████	
Assessment of Fair Housing (AFH)	███			
Housing Element Update	███	████	████	██

In the next few months, staff will work to procure consultants and technical assistance. Over the next two years, staff will conduct initial stakeholder outreach, analyze housing needs and constraints, prepare an Assessment of Fair Housing, analyze development feasibility for a sites inventory, and draft the Housing Element. In mid-2022, staff plans to conduct a second round of stakeholder meetings and solicit feedback from HCD. Staff will then make edits before presenting a final draft in late 2022 for Council approval. Staff will submit a Council-approved Housing Element to HCD before the January 1, 2023 deadline.

Attachments
    A. Comment letter to ABAG Housing Methodology Committee from City of Milpitas, dated 08/27/2020
    B. Comment letter to ABAG from Cities Association of Santa Clara County, dated 08/10/2020

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