



City of Alameda

Staff Report

File Number:2020-8509

City Council

Agenda Date: 12/1/2020

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Recommendation to Review and Comment on Association of Bay Area Government's (ABAG) Housing Methodology Committee's Proposed Methodology for Distributing the Regional Housing Needs Allocation (RHNA) among Bay Area Cities and Counties, and Staff's Proposed Process/Meeting Schedule to Update the City's General Plan Housing Element for 2023 to 2031. (Planning, Building and Transportation 481005)

To: Honorable Mayor and Members of the City Council

EXECUTIVE SUMMARY

On November 4, 2020, the City Council requested an opportunity to review and comment on the Association of Bay Area Government's (ABAG) Housing Methodology Committee's proposed methodology for distributing the Regional Housing Needs Allocation (RHNA) among Bay Area cities and counties.

On November 17, 2020, the City Council considered a referral from Vice Mayor Knox White requesting that staff schedule a City Council discussion of how the City of Alameda (City) should plan to address Alameda's allocation and update its Housing Element for the period 2023-2031.

This report provides an overview of the Housing Element update process and background information to inform the City Council's consideration of ABAG's proposed methodology for distributing the region's housing need among the Bay Area's cities and counties.

This report also recommends a series of meetings and public process to support the City Council's efforts to direct City actions to comply with statutory requirements to update its General Plan Housing Element for the period 2023-2031.

BACKGROUND

The State Department of Housing and Community Development (HCD) have determined that the Bay Area's housing need for the period 2023-2031 is 441,176 housing units. In accordance with State Law, ABAG has developed a proposed methodology for distributing the RHNA among Bay Area cities and counties.

On November 4, 2020, in response to a referral from Councilmember Daysog, the City Council

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directed staff to send a letter stating the City's opposition to an alternative methodology proposed by the Tri-Valley Cities of eastern Alameda County, and to schedule a December City Council meeting for consideration of ABAG's proposed methodology. The letter from the Tri-Valley Cities to ABAG is attached to this report as Exhibit 1.

On November 17, 2020, the City Council considered a referral from Vice Mayor Knox White requesting that staff schedule a City Council discussion of how the City should plan to address Alameda's allocation and update its Housing Element.

Exhibit 2 to this report is a fact sheet produced by ABAG describing the RHNA.

DISCUSSION

What is the Housing Element?

Under the Planning and Zoning Law (Gov. Code, §§ 65000-66499.58), a community (such as the City of Alameda) has the "responsibility to ... make adequate provision for the housing needs of all economic segments of the community." (§ 65580, subd. (d).) This is accomplished through the adoption, amendment, and implementation of a general plan for the community (§§ 65300-65302), including a mandatory housing element (§§ 65580-65589.11).

The mandatory housing element "shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobile homes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community." (§ 65583.) The housing element shall further include a statement of the community's goals, quantified objectives and policies regarding maintaining, preserving, improving and developing housing. (§ 65583, subd. (b)(1).) However, the Legislature also recognized:

"[T]he total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period." (§ 65583, subd. (b)(2).)

In the event that the City is unable to provide adequate sites to meet the need, the City will need to "identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be

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accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, ***including multifamily rental housing [emphasis added]***, factory-built housing, mobile homes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.” (§ 65583, subd. (c)(1).)

How is the Regional Housing Need Determined?

State law requires that the City’s housing element be updated every eight years. The next eight-year cycle begins in 2023, which means the City Council must update the Housing Element in 2022. HCD starts the Housing Element revision process by determining how many additional units of housing each region in the State will need over the next revision period. HCD considers the projected population increase to determine the anticipated household growth rate, household sizes, household formation, vacancy rates and jobs-housing balance to determine an allocation of housing need for the region. Each region of the State is allocated a specific number of housing units to meet the housing needs of people in four income categories, very low, low, moderate, and above moderate. (Income categories are measured based on Area Median Income, discussed below.) This allocation is termed the Regional Housing Needs Allocation or “RHNA.”

HCD has determined that the Bay Area’s housing need for the period 2023-2031 is 441,176 housing units.

After determining the need for additional housing in each region, HCD allocates that need to the regional Council of Governments (COG). ABAG is the COG for the nine-county Bay Area. After HCD determines how many units of affordable housing will be necessary to meet the needs of the population in a given region over the projection period, it allocates that number to the COG.

Next, ABAG assigns each jurisdiction within the region with its “fair share” of the RHNA for the Housing Element planning period, based on an allocation methodology developed as part of the process. The assigned need is broken down by the same income categories: very low, low, moderate, and above moderate. ABAG’s final distribution of the entire region’s total housing needs numbers must account for the region’s total RHNA. Therefore, if ABAG reduces the regional housing need number for Alameda or any other jurisdiction, it must increase the number in another jurisdiction. Once ABAG determines the final distribution, it must be reviewed by HCD. In addition, if the local government does not accept ABAG’s regional housing needs determination, the local government can appeal the draft allocation both administratively and then judicially. The RHNA is used by jurisdictions to work with their communities to plan for future housing development, typically through a General Plan Housing Element Update process.

In accordance with State Law, ABAG has developed a proposed methodology for distributing the RHNA among Bay Area cities and counties. The proposed methodology assigns 4,896 units to

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Alameda or approximately 1% of the region's total housing need.

What is ABAG's methodology?

On October 25, 2020, ABAG initiated a public comment period on its recommended methodology for distributing the State's requirement that the Bay Area plan for 441,176 additional housing units during the 2023-2031 RHNA cycle among the region's counties, cities and towns. ABAG's proposed methodology assigns 4,896 housing units (approximately 1% of the region's housing need) to Alameda.

The allocation methodology is a formula for accommodating the Bay Area's total housing need by quantifying the number of housing units - separated into above-moderate, moderate, low and very-low income categories - that will be assigned to each city, town and county in the Bay Area. The allocation must meet statutory objectives and be consistent with the forecasted development pattern from Plan Bay Area 2050.

Exhibit 3 includes a report from the ABAG Executive Director describing the factors and policy considerations that influence the ABAG recommended methodology.

In January 2021, after the close of the comment period, ABAG will submit the draft methodology to HCD for review, and then use HCD's recommendations to develop a final methodology and draft allocation in spring 2021. Release of the draft allocation in 2021 will initiate a review and appeals period for local jurisdictions in the summer of 2021, with the final allocation assigned to each of the Bay Area's local governments in late 2021.

In the spring of 2021, after the draft allocations are released, the City Council will need to decide whether to appeal the RHNA for Alameda. After the close of the appeal period and any final adjustments by ABAG, each city in the region will receive its final housing unit allocation in December 2021. The City Council will need to consider whether to adopt a program of Housing Element and zoning amendments to accommodate Alameda's RHNA housing responsibility or take other potential actions, including possible legal actions, if the City Council finds that the RHNA obligations could not be accommodated, before January 2023.

How can the City Council direct City actions to address the statutory housing requirements?

To support the City Council's efforts to direct City actions to comply with statutory requirements to update the Housing Element by the end of 2022, staff is recommending that the City Council conduct a series of public meetings, including:

December 1, 2020: Review and Comment on Regional Methodology for RHNA. The December workshop is an opportunity for the City Council and the community to review and discuss ABAG's proposed methodology for distribution of 441,176 housing units across the region between 2023 and

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2031.

January or February 2021: Review and Comment on Alameda Plan to Accommodate Local RHNA. The meeting in January or February is an opportunity for the City Council and community to review and discuss alternative strategies for addressing local regulatory constraints and requirements to accommodate the RHNA for the period 2023-2031. At this meeting, staff will plan to present a range of options for City Council consideration and a draft map showing potential zoning amendments and describing site specific programs to accommodate an anticipated allocation of between 3,500 and 5,000 units. (Although the proposed methodology allocates 4,896 housing units to Alameda, the City will not know its actual allocation until spring of 2021, when draft allocations are released.) At this meeting, the City Council will be able to provide direction to staff and the Planning Board on a preferred strategy. (If the City Council elects to move forward with General Plan and Zoning amendments to accommodate the City's assigned RHNA, the Planning Board, with assistance from staff, must prepare a final recommended set of General Plan and Zoning amendments for final City Council consideration in 2022.)

Spring 2021: Decide Whether to Appeal Draft Allocation. Upon receipt of Alameda's draft allocation, this meeting will provide an opportunity for the City Council and community to consider whether to file an appeal of Alameda's RHNA allocation during the ABAG appeal period, which will occur in summer 2021. Staff expects the draft allocation to be between 3,500 and 5,000 units.

December 2021: ABAG anticipates releasing final RHNA allocations in December 2021. Upon receipt of final RHNA allocation, schedule public hearing to provide direction to staff and Planning Board on Alameda's plan to respond to its assigned RHNA. Based on City Council's direction, Planning Board will begin conducting public hearings to develop a draft Housing Element, Site Inventory, and Zoning Amendments to accommodate RHNA. The Housing Element must be completed before January 2023.

Summer/Fall 2022: Upon conclusion of the Planning Board public hearings and receipt of the Planning Board's recommended Housing Element and AMC amendments to address Alameda's RHNA for 2023-2031, schedule public hearings to provide for the City Council to consider and take final action on the necessary Housing Element and AMC amendments to address Alameda's RHNA for 2023-2031.

Of course, this proposed schedule is preliminary and subject to change based on a multitude of potential future changed circumstances, including any legal actions that the City Council may direct.

Can Alameda accommodate its RHNA for 2023-2031, based on current plans and regulations?

Alameda likely cannot accommodate its projected RHNA for 2023-2031 without amending its General Plan and Zoning Ordinance, notwithstanding Article 26 of the City Charter.

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As was the case in 2012, when the State certified the City's 2006-2014 Housing Element, and in 2014, when the State certified the City's 2015-2023 Housing Element, one potential option for future City Council consideration may be adoption of a Housing Element and Zoning amendments despite Article 26's prohibition on multifamily housing and prohibition on residential densities over 21 units per acre.

As stated by HCD in a 2009 letter to the City regarding Article 26 (Measure A) and Housing Element requirements:

"Prohibiting multifamily or limiting density is a fundamental constraint with significant impacts on the cost and supply of housing and particularly a variety of housing types. In addition, Measure A severely restricts promoting higher density housing and mixed-use development near jobs and transit to maximize land resources and address climate change."

"Pursuant to Government Code Sections 65583.2 and 65583(c), the City is required to make zoning available to encourage and facilitate multifamily development and address and remove constraints. As a result, the element must include programs to address and remove or modify the constraint, including making zoning available to allow multifamily housing."

To comply with State Law with respect to the 2023 to 2031 Housing Element update, the City could once again adopt a Housing Element and Zoning amendments to permit multifamily housing by right at residential densities in excess of 21 units per acre as it did in 2012 and in 2014.

For more information on the conflicts between the City Charter and State Housing Law and the Multifamily Zoning districts established in 2012 and 2014, this report includes:

- The July 7, 2020 City Council staff report (Exhibit 4).
- The January 2020 Staff Analysis of Measure A describing the conflicts between Measure A, State Law and existing City Policy (Exhibit 5).
- The July 2012 Staff Report to City Council describing a program of General Plan and Zoning Amendments to bring City of Alameda into compliance with State Housing Law and override City Charter constraints on City's ability to comply with State Law (Exhibit 6). The exhibit includes a 2009 letter from HCD pointing out conflicts between the City Charter and State Housing Law.

What happens if Alameda does not accommodate the RHNA?

If the City is unable to accommodate its assigned RHNA, a number of legal options may be forthcoming, both affirmative and defensive. Consistent with City Council direction, the City Attorney's Office intends to first confidentially brief the City Council on the range of available legal options and consequences. The City Council then could direct what level of confidential information, if any, is

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appropriate for open session discussion. It is important to note that cities with noncompliant housing elements are ineligible for many state and federal funding opportunities.

ALTERNATIVES

The purpose of this report is to inform the City Council's review and comment on ABAG's proposed methodology. The City Council may choose not to review and comment on the methodology and/or provide other direction related to the upcoming housing element update.

FINANCIAL IMPACT

There is no fiscal impact from reviewing and commenting on the methodology.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

The Alameda Municipal Code and policy references for this report are provided in the body of the report.

ENVIRONMENTAL REVIEW

Reviewing and commenting on the ABAG methodology is not a project subject to the California Environmental Quality Act (CEQA).

The later actions to adopt the Housing Element and amend the General Plan and Zoning Ordinance to accommodate the RHNA are projects subject to CEQA, and will require additional environmental analysis pursuant to CEQA.

CLIMATE IMPACT

A Housing Element that accommodates the RHNA supports the region's Sustainable Communities Strategy to reduce greenhouse gas emissions. A decision by the City to not meet the RHNA would have a negative impact on the region's ability to reduce greenhouse gas emissions. That being said, ABAG's methodology impacts where housing will be planned for in the region. Putting housing near jobs and transit can have a significant impact on greenhouse gas emissions. However, the methodology has to balance environmental considerations with other competing priorities.

RECOMMENDATION

Review and comment on Association of Bay Area Governments (ABAG) Housing Methodology Committee's draft methodology for distributing the Regional Housing Needs Allocation (RHNA) among Bay Area cities and counties and staff's proposed draft process and meeting schedule to update the City's General Plan Housing Element for 2023 to 2031.

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CITY MANAGER RECOMMENDATION

This provides the City Council an opportunity to review and comment on ABAG's draft methodology and to review how it relates to the City's General Plan future Housing Element.

Respectfully submitted,
Andrew Thomas, Planning, Building and Transportation Director

Financial Impact section reviewed,
Annie To, Finance Director

Exhibits

1. Letter to ABAG
2. RHNA Fact Sheet
3. ABAG Executive Director Staff Report
4. July 2020 Staff Report
5. January 2020 Staff Analysis
6. July 2012 Staff Report

cc: Eric Levitt, City Manager