



Friends of Los Altos, Inc. (FOLA)

A non-profit, non-partisan, volunteer-run organization

Alphabet Soup...

Everything you ever wanted to know about RHNA, HCD, ABAG, BMR and what it means to Housing and Affordable Housing in Los Altos

Alphabet soup. Brings back memories of your childhood, eating steaming hot soup along with a peanut butter and jelly sandwich? (By the way the concept of combining peanut butter along with jelly or jam is viewed as somewhat bizarre outside the United States, but we digress). Or perhaps for others it conjures up visions of the behemoth otherwise known as Google. But surprise, the subject of this article has nothing to do with either subject. It has to do with the tangle of abbreviations used to describe the housing allocation that Los Altos will need to meet over the next State mandated cycle of 8 years.

For those who want more information and another perspective other than ours on this subject, there will be a webinar hosted by Los Altos Affordable Housing Alliance on Monday February 22 starting at 7 pm *Understanding RHNA* <https://mailchi.mp/bfb8ff634f5f/understanding-rhna> . We encourage you to read our article so that you gain a better understanding of the background and issues.

And for those of you who want the short story, here it is: Los Altos has to ensure that approximately 2,000 new housing units are built in town by 2030, with half affordable (known in the trade as below market rate). The City doesn't have enough available land for that much additional housing short of some draconian steps (more about that later). Nor does the City have the money to build the housing, particularly the affordable units. Or to put it in another light, if your aged neighbor were to die, should the children who inherit the property be able to or be required to build a 4-5 story housing unit regardless of zoning? That may be far-fetched. But what about allowing an owner to split a lot in two and put in two houses, two detached accessory dwelling units and two junior accessory dwelling units (i.e., attached to the main residence) with limited setbacks? This is actually something the State may allow in the near future or may require we allow in order to meet our housing requirements. We have a problem that may be lacking good solutions. Interested in learning the details? Then please read the rest of the article.

Is this a plug for or against housing?

Neither, it is about facts. We would like to set the stage by saying that this isn't about whether you are for or against housing. It is about four things-first to understand the targets that Los Altos has to meet by State law and how feasible it is to meet those targets. Secondly to assess whether the numbers, as developed by the State and applied to Los Altos are fair and appropriate. Thirdly we will discuss the consequences of the RHNA numbers and the impact on our City, and finally what other cities and counties have done to address housing.

So what do HCD, ABAG, RHNA and BMR mean?

HCD, The *California Department of Housing and Community Development*, or HCD, determines the total number of new homes the State needs to be built—and how affordable those homes need to be—in order to meet the housing needs of people at all income levels.

ABAG is the *Association of Bay Area Governments*, an organization that has representatives of each City and County within the Bay area. It is an intercounty organization that works on coordinating activities such as transportation, air quality, and housing throughout the region.

RHNA is the *Regional Housing Needs Assessment*, a calculation that is done by the state HCD to determine how much additional housing will be needed throughout the state over the upcoming 8 years. HCD determine an absolute number for each region within the state based upon an assessment of economic growth, job creation, household formation as well as other factors.

ABAG, which covers the 9 bay area counties, distributes the regional housing number from HCD among individual cities and counties. The last completed cycle is from 2015 to 2022 and the next update of RHNA is for the 2023 to 2030 timeframe. Each local government must then update the Housing Element of its general plan to show the locations where housing can be built and the policies and strategies necessary to meet the community's housing needs as *assigned* to the community by ABAG.

BMR is short for *Below Market Rate*, and is used to describe housing, either for sale or rent that is created to allow those under certain income levels to be able to buy/rent. BMR units are created in one of two ways—either by private developers, who as part of a city requirement must build a certain percentage of units that are affordable at their income level (i.e., that's why the housing is sold or rented at below market rate), or housing which a public entity (city, county, not for profit) has built, sometime with funds that a private developer would pay in lieu of building affordable units. In the past the state had money set aside for affordable housing as well.

Santa Clara County recently purchased land at 330 Distel Circle to build what is currently estimated to be a 90 unit multifamily building that is almost 100% affordable housing. The City of Los Altos is helping cover the cost of the housing by waiving the normal fees (approximately \$4M) that a developer would pay when constructing a new building.

Why should I care about facts?

A well-known business school professor frequently admonished his students to “be biased by the data”. It is a good reminder that facts matter and with data we can make more informed decisions that are likely to be more often right than wrong.

Whenever the issue of more housing or affordable housing comes up, it always seems to be the subject of a heated discussion. Those in favor of more housing talk about their children or local teachers who cannot afford to live in Los Altos. Others say that the town is inherently racist because our zoning is primarily single-family residential properties. Those who raise concerns or questions about the impact of more housing are accused of being selfish, often called *Not In My Backyard* (NIMBY). You get the picture.

We are not interested in slinging any more mud. Most residents believe that creating more affordable housing is good. For many of our children, Los Altos is unlikely to be the location of their first home, as was also the case for many of those who now own houses in Los Altos. And while we don't subscribe to the concept of NIMBY, we do believe that residents who live in Los

Altos bought housing here because they were interested in a largely residential city with a small-town feel. So figuring out how to add housing without negatively affecting those who already live here is an integral part of the challenge. Our task therefore is to look at the facts and not put labels on people or differing viewpoints.

What problem should we be solving?

We have a fundamental disconnect throughout our State as well as locally. Much of the population growth is coming from those who make less than \$100K in income while most of the housing being built is for those who make more than \$100K. The result is that many people are priced out of home ownership as well as the ability to afford rents.

Where does the housing requirement come from and why do we care?

Every city in California creates a housing plan. In our region it is every 8 years and the current plan goes through 2022. The new plan is for 2023-2030. The State develops an estimate of housing need based upon estimated employment growth and other factors. This is not a straightforward process since it requires making a number of assumptions about future events. It then gets translated into a regional number which is then allocated city by city, in our case by ABAG. The RHNA is the number for both total housing and affordable housing units that each city must plan and zone for in order to allow that amount of housing to be built. In the past, if actual construction didn't yield the target number of houses, there were little to no consequences. The State legislature has changed that, creating a range of penalties, including loss of State funding and loss of local control over project approval if a city fails to issue permits for required number of housing units. The unfortunate aspect of this policy is that the additional housing needs are not assigned to the individual cities which actually create the additional jobs.

While this may sound like a good way to incent cities to approve more housing, the reality turns out to be a bit different. There are a number of cities in Silicon Valley where developers who have gotten projects approved will then delay pulling permits for those projects because they believe land and housing values will increase. The losers are the cities which get no "credit" for this housing until those permits are pulled. Given the way the State is penalizing cities who do not meet interim RHNA targets, developers in those cities can trigger SB35 staff approval for additional projects. This is a very scary, very plausible scenario, where developers are intentionally gaming the system and cities, despite their best efforts, fail to meet their requirements and suffer State imposed penalties.

But here is a key issue; the typical reason cities don't build housing units is because they have neither the money nor the land to do so. Counties often have both. Which is why a city like San Francisco, for example, which is also a county, has money and often owns land, and/or can acquire land, using county property tax revenues. And while cities can create incentives for developers, the reality is that, in fact, it is the developer who buys land and then can propose a project.

Many cities, Los Altos included, require a certain percentage of multifamily housing to be affordable, i.e., be sold or rented below market rate (BMR). In order to help pay for this, a developer will be given exceptions to existing zoning; smaller setbacks, taller buildings, more density in a project than zoning would normally allow to use just three examples. While this can help defray the cost of the BMR units, the reality is that the market-rate units essentially help subsidize the reduced price of the BMR units and cost significantly more than they would otherwise.

Are the RHNA numbers right?

This is an extremely important question, absolutely fundamental to the discussion, and the answer is: we don't know. The estimates used in creating the RHNA numbers are far from perfect. There is some controversy around the base numbers the State used in its most recent calculation as well as the number of vacant units needed for a healthy market. The housing market needs a certain level of vacancies to function; it is usually greater in apartments than in owner-owned housing. The assumption that the State used do not appear to reflect any difference between these two types of housing. That raises the question: are the RHNA numbers correct, or as some who have looked at the RHNA analysis have suggested, do those numbers overstate the housing need by hundreds of thousands of units of housing across the state?

For those of you who follow City Council meetings, the argument that arose at the February 9th Council meeting was a result of three council members who were unwilling to allow discussion on whether or not the RHNA numbers might have been calculated incorrectly and thereby overstating housing needs by more than 900,000 units in four regions around the State, including the Bay Area.

The Embarcadero Institute, which is not lobbying for lower RHNA numbers across the state, is only interested in ensuring that the numbers and underlying assumptions are understood by policy makers and the public. They have done a detailed analysis of HCD's estimate of future California housing needs and concluded that some adjustment factors were most likely double counted. The new State numbers are substantially greater than those which used the prior model. The new model nearly doubles the number of new housing units in six Southern California counties and are higher by 160,000 units in the greater Bay Area. We are not taking a stance as to whether the Embarcadero Institute is correct or not. However, if their analysis is in fact wrong, Los Altos residents should be told why. A number of Los Altos City Council members have not been open to discussing this issue, nor has the organization responsible for developing the RHNA numbers. Accountability matters, particularly since the RHNA numbers will require significant changes to zoning and may have a material impact on residential neighborhoods in Los Altos.

Are the RHNA numbers fair?

The answer to this question is not clear as well. There are many more people who want to live in Los Altos than there is available housing, as is common knowledge. Many would-be residents simply cannot afford the cost of housing here. So, from the viewpoint of a potential resident wishing to live in Los Altos, more housing is better. The question is whether the RHNA numbers for Los Altos are fair compared with, for example, Sunnyvale, Mountain View, or San Jose?

The housing numbers allocated to any one city are not based upon the ratio of jobs-to-housing in an individual community. Nor do they take into account the availability of land suitable for housing development in individual cities. Thus a city like Los Altos which has relatively few in-town jobs compared to the available housing (meaning that the jobs-to-housing ratio trends in the direction of 1 to 1) and little or no underdeveloped parcels of land, is at a huge disadvantage in comparison to a city like Mountain View. Mountain View has more jobs and job growth than available housing (meaning that in Mountain View the jobs-to-housing ratio is much greater than 1 to 1—perhaps more like 3 to 1), and many undeveloped or underdeveloped parcels of land. Yet the housing allocation for Mountain View does not fully factor in that reality.

Does the math even work to be able to add more housing in Los Altos?

Los Altos' current allocation of housing units for the next cycle is 1,958 units, of which 1,105 are to be affordable. Assuming the City doesn't change its 15% requirement for affordable housing it would mean that the City would need to add 7,366 units of total housing to get to the BMR numbers. Even if the City somehow required developers to build only affordable housing, the 1,958 units of housing would need to go somewhere.

A typical building site on El Camino Real will provide about 50 units of housing, some could conceivably have more (the site at 5150 El Camino was slated for 196 units in a 5 story building on nearly 4 acres of land) and the City's proposed affordable housing project on Distel Circle is projecting 90 units in a .87 acre site. A new downtown project is combining 4 parcels on First Street and is proposing 50 units over 4 stories on .63 acres. Other parcels on First Street have 10-20 units of housing.

Obviously there is a range of building size/units that can be accommodated on a given parcel of land. For simplicity sake we ask the question; if we assume that we need about 2,000 units, how many available lots would we need to use? While there are a few large sites (the shopping plaza across the street from Chef Chu's, the South Los Altos Lucky's and the shopping center on Homestead), most available parcels in the City will only accommodate approximately 10 -15 or so units in downtown and 50-60 along El Camino. If we assume that 40-50 units per parcel of land was a reasonable midpoint, we would then require 40-50 sites where new housing can be built over the next 8 years. We have a hard time seeing how that math works as there simply aren't that many vacant or underdeveloped parcels of land in town.

But here is where the math goes completely upside down. Our RHNA numbers for the next 8 years require about one BMR unit for every unit of market rate housing. The issue is who is going to pay for the BMR housing and, in the meantime, how do we prevent too much market rate housing from using up all the available parcels of land? In a constrained land environment such as we have in Los Altos, market rate housing will always get built first. That is a public policy issue which the State is not addressing and an issue which individual cities have no authority to address.

Does a post COVID world change anything?

The world has changed in the past year. The State put together its projections prior to the pandemic and assumed that Bay Area employment would continue to grow. That was then; today the picture looks very different in the short term and perhaps different in the longer term as well.

Numerous large companies in the Bay Area have announced that their employees can *Work From Home* (WFH), in many cases indefinitely. But as we process what that means to housing demand we need to realize what WFH really means. While over the past year it may have meant work from your existing residence in the Bay Area. In the future, many people's home may not be in the Bay Area, may not be in California and may not even be in the United States. While it is too early to tell what the full impact will be, as most experts still predict some workers will use offices one or more days a week, there will be changes in commute patterns and where "Bay Area employees" actually live and work. To date no one has adjusted housing estimates to account for this new reality. Our question is why, given the impact RHNA numbers will have on cities throughout the State?

What is orderly development?

Zoning is the law that organizes how land may be used. It establishes an orderly pattern of development across neighborhoods by identifying what and how much may be built on a piece of property. Zoning is used to divide land into districts where similar rules are in effect. Zoning regulations are assigned to these districts based on relevant land use issues. The City promotes orderly growth and land use while protecting existing property owners by grouping together compatible development. The result is what we see all around us. There are defined residential neighborhoods with single family housing, neighborhoods with multifamily, those with commercial office buildings and others with retail stores. Each allows for different heights and setbacks, with the goal of clustering like buildings and usage together. Doing so prevents a retail store or a tall office building, or an auto repair shop, in the middle of a residential neighborhood. Good zoning helps prevent conflicts; the restaurant or bar with outdoor seating doesn't need to worry about how late it stays open because there are no nearby residents to be disturbed. Multifamily housing, with medium sized buildings is often used as a buffer between commercial and single family residential neighborhoods.

When addressing the need for higher density housing, putting those buildings in the middle of a single family residential neighborhood creates issues that many of us are familiar with. Lack of on-street parking (and issues for those who walk our streets that lack sidewalks), and loss of privacy and daylight for those whose residence is adjacent to a large building.

If other cities and counties can add housing, why can't we do the same in Los Altos?

Los Altos has indeed added substantial housing, both market rate and affordable, over the last housing cycle. From 2017 through March 2020 the City entitled (ie approved, but that doesn't necessarily mean the developer has built the units yet) 302 units, of which 257 were market rate, 45 BMR. But not as much as the State wanted in the last housing plan cycle (the 2015-2023 current cycle targets 477 units, 97 market rate and 380 below market) and the numbers for the next cycle are significantly higher. Unfortunately, the City doesn't build housing in large part since it has neither the land, the money nor the expertise to do so; it depends on developers to build new units. Other counties address the housing allocation issue in different ways. As mentioned earlier, San Francisco has the advantage of being both a city as well as a county, so the City of San Francisco can fund the construction of housing with a portion of the property tax revenues the County of San Francisco collects.

San Mateo County takes a different approach, it has a very common-sense collaborative solution to the issue. Basically, the cities within the County pool resources to support affordable housing being built where there's available land with access to public transportation. The way the process works is developers pay money into a fund for affordable development instead of being required to provide affordable units themselves in their projects. Those funds are pooled throughout the County and the money is used to purchase land and build affordable housing. This process is more fair to all the cities in the county, and it keeps ABAG and the State happy.

The challenge we have in Santa Clara County is that one city, San Jose, dominates the county and they haven't been keen on having the majority of affordable housing dropped on their doorstep, even though they have by far the most land available as well as by far the most public transportation alternatives compared with any other city in the county. Of course, San Jose also has the most jobs and job growth in the county as well. What this means is that in some sense, communities like Los Altos are subsidizing the growth of other cities by being forced to supply the

housing for the workers who work in those cities. In addition, to make matters worse, without the same commercial property tax base as those cities, Los Altos is also challenged to pay for the new infrastructure that is required by a significant increase in our population.

Economics 101-have we created a vicious cycle?

When you “up-zone” a piece of land, that means you allow more development on the property. For example, our homes are mostly located in a residential-only neighborhood which limits the total square footage of the house and how tall it can be. If the City were to change the zoning to allow a structure to cover more of the lot and also allow a taller building, the net result would be a building with more square footage. When that happens the value of the land increases, since allowing more development (i.e., allowing more square footage) makes the property more valuable. That’s why a parcel of land along El Camino is worth more than a similar piece of land in downtown Los Altos, and far more than an undeveloped lot zoned residential in Los Altos Hills.

If a single-family residential parcel is rezoned to allow more than one unit of housing on it, what happens? A study done by a prominent Canadian professor and author examined that very subject and concluded that upzoning, while quadrupling the *density of housing* in Vancouver, BC, did not decrease the *cost of housing* on a per-square-foot basis. That is, Vancouver ended up with four times the density of housing, but the housing still cost the same or more as housing in the less dense pre-development version of Vancouver. The reason, of course, is what we described in the paragraph above; the more square-footage built on a parcel, the more valuable (and therefore more expensive) that parcel becomes. Although the building on that parcel will have more square feet to rent or sell, those individual square feet will still cost as least as much as the square feet in a smaller building built on the same parcel. The study found that allowing more development on a property did increase the amount of housing but it did not reduce housing costs.

The other phenomenon that occurs is that our zoning requires a builder of a multifamily structure with more than 10 units to provide at least 15% of those units as below market rate units. The cost of selling those units for less is supposed to be made up by the city providing the developer with “incentives”. Such incentives allow for construction of additional units than would normally be allowed and the height to accommodate them. Those concessions are supposed to provide economic “make up” for the reduced revenue from the BMR units. Unfortunately, historically these concessions typically do not cover all the costs. So the non BMR units must be priced higher in order to compensate for the revenue lost because of the presence of BMR units. Thus, although it seems counter-intuitive, the overall price of housing within the City increases, making housing throughout the town actually *more* expensive.

Is the State making the problem better or worse?

There is a concerted effort in Sacramento to allow multifamily units on what are currently single family lots. The theory is that it increases the supply of housing and lowers prices. While it does the former, it actually raises the prices of housing, not lowers it as we just discussed above. The State at one time provided substantial funds to build affordable housing; however, it no longer does. Without those funds the majority of new housing built as a result of State legislation will be market rate. And housing prices are unlikely to come down. Los Altos’ experience of getting more market rate housing but a dearth of below market rate housing is consistent with what has happened in numerous other towns in the State. While the State is using the threat of loss of funding and imposing State control over housing decisions, the State is not providing the funds necessary to support the building of affordable housing.

How to get more affordable housing

Affordable housing can only be built in significant quantities if there is money to subsidize the cost of land and construction and (and this is a big AND) there is available land. Neither of those exist in Los Altos, especially the available land. So adding more housing is hard and adding affordable housing is even harder. For comparison, in the past three years, Los Altos entitled 257 units of market rate housing, but only added 45 units of affordable housing. Given that the housing numbers for the next cycle are 1,948, of which 1,105 are BMR's, we need to think about both questioning the numbers and looking at other ways to do this in conjunction with neighboring cities.

What is our bottom line?

Supporting more housing and housing options in Los Altos is a good thing. But it appears that the RHNA numbers may be wrong by as much as 50% or more. The distribution of RHNA housing units within Santa Clara County may be fatally flawed and allocated so that cities like Los Altos will ultimately fail to meet the housing requirements. Working with other municipalities to challenge the numbers is a good first step. Finding ways to fit more housing in that doesn't entail changing the character of residential neighborhood should be an integral part of that solution. Few want to swap out the neighbor next door for a multistory building.

We hope that residents and the City Council push for more scrutiny of the housing numbers and more support from the State in the form of funding and more thoughtful policies. We want a plan that can succeed without negatively impacting the city we all moved here to enjoy and raise our families. If you want to learn more, attend the upcoming webinar on February 22nd. There are also a number of reports which have been prepared which delve into the numbers further.

<https://embarcaderoinstitute.com/wp-content/uploads/2020/09/Double-counting-in-the-Latest-Housing-Needs-Assessment-Sept-2020.pdf>

<https://www.livablecalifornia.org/vancouver-smartest-planner-prof-patrick-condon-calls-california-upzoning-a-costly-mistake-2-6-21/>

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB9

Friends of Los Altos

Los Altos, CA 94022 & 94024

<https://friendsoflosaltos.org>