



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333
CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting Date: August 21, 2018

Subject

Study Session on the potential formation of a Santa Clara County Regional Housing Needs Allocation (RHNA) subregion

Recommended Action

That the City Council provide comments on the possibility of the formation of a RHNA subregion.

Discussion

Background

The process of setting targets for housing growth, a necessary precursor to updating Housing Elements, is called the Regional Housing Needs Allocation (RHNA). The state mandates that different California regions begin their eight-year housing planning cycle on a staggered basis identified by the Department of Housing and Community Development (HCD). HCD determines housing demand for the state and subsequently, allocates this housing demand by region upon consultation with the regional Council of Governments (COG). The COG for each region must then assume the responsibility for planning for this housing demand among all of its constituent cities and counties. The task of allocating the housing need, among the nine county San Francisco Bay Area, falls to the Association of Bay Area Governments/Metropolitan Transportation Commission (ABAG/MTC). By law, the methodology the COG uses to allocate the housing must comply with State policy objectives in the Government Code and be adopted through a fair and open public process.

Once each jurisdiction receives its final RHNA, they must amend their Housing Element to show how it plans to accommodate the growth allocation, including identifying and zoning sites appropriately, according to state law requirements.

Cupertino's next Housing Element update is expected in 2022 with the housing allocation process occurring in 2021.

State law also allows the formation of subregions to conduct an allocation process parallel to, but separate from, the regional COG process. Jurisdictions that have not been satisfied with housing allocation occurring at a geographically larger regional level have formed their own RHNA subregions to develop their own methodology and allocate housing in a more locally relevant regional level. In the subregional process, the COG assigns a percentage of the region's total housing need to the subregion. The subregion is then able to allocate the RHNA to its members using its own methodology, provided that the subregion's methodology is consistent with the objectives listed in Government Code section 65584(d) and follows the state-mandated public process for assigning allocations. The most important specific limitation is that every city and county must be assigned at least some very low and low-income units under Government Code section 65584.04(i)(2).

Once a subregion arrives at a final allocation, including any trades between member jurisdictions, the subregional allocations must be submitted to the COG for approval, and the COG can further modify the allocations if necessary to meet state law requirements. In the ABAG/MTC region, of which Cupertino is a part, subregions were formed in Napa, San Mateo and Solano counties for the 2015-2023 RHNA cycle. The jurisdictions in these subregions worked together to allocate their housing allocation based on local factors, and ABAG/MTC approved agreed-upon distribution. In the fifth Housing Cycle, of the 21 jurisdictions in the San Mateo subregion, seven jurisdictions did not see any changes to their COG allocated RHNA allocations, nine jurisdictions had a reduction in their RHNA allocations and 5 jurisdictions had an increase. In most cases, jurisdictions that were willing to accept more units did so because they had already contemplated the development of a higher number of units in their adopted general plan.

Several jurisdictions in the Santa Clara county expressed their concerns with the regional housing allocation process from the prior housing planning cycle to the Cities Association of Santa Clara County¹; as a result of which, in the interests of improving the implementation of housing in a more locally relevant regional manner, the Board adopted the exploration of a Santa Clara County RHNA subregion as a priority for the upcoming RHNA cycle (2023 - 2031.) To that end,

¹ The Cities Association of Santa Clara County was formed in 1990 to represent the mutual interests of the diverse fifteen cities of Santa Clara County. The Cities Association presents a unified (and equal) voice to other agencies, organizations, and levels of government.

the Board approved the formation of a Regional Housing Task Force/Subcommittee in 2015 to:

1. Develop of a framework and process needed to form and implement a subregion in Santa Clara County for the next RHNA cycle (2023 – 2031); and
2. Review potential options for further regional response.

The Subcommittee presented its findings at the June 14, 2018 Cities Association Board meeting and requested board members to take the topic of a subregion back to each individual City Council for discussion prior to voting on the formation of a subregion (See Attachment A.)

Housing Commission: The Housing Commission held a study session on the RHNA subregion at its August 9, 2018 meeting and had the following comments:

- Better to be represented as a part of the subregion regardless of whether or not any RHNA is traded or not;
- The City should work with developers to determine how much affordable housing can be developed in the City;
- Being on the subregion can help the City justify the number of units allocated to Cupertino
- They do not have full clarity on the process the RHNA subregion would take to trade units but maybe the commissioners don't need clarity and they can understand it, if and when trades are proposed.

Several members of the public also commented on the topic:

- RHNA is a function of how much office gets built in the City. Trades will not be possible if additional office development is approved at Vallco
- San Jose has strong representation on the VTA Board. There are concerns that the RHNA subregion could also be formed the same way with some cities having more representation and others with none.
- Regional cooperation on transportation as a result of any RHNA trades is unlikely
- Questions about the affordable housing requirements in development

Analysis

The Regional Housing Task Force/Subcommittee presented a number of items for the Board's consideration in June 2018. These include an overview of the RHNA subregion (see Attachment B,) and pros and cons of forming a RHNA subregion (Attachment C,) and a draft resolution that each City Council could adopt as assent

to joining a Santa Clara RHNA subregion and proposed by-laws for the subregion (Attachment D.)

Overview: Subregions may be formed between any two jurisdictions but must include a county. A subregion is allowed to develop its own methodology, issue draft allocations to member jurisdictions, conduct the revision and appeal processes, and issue final allocations. Each subregion is also required to ensure that its final housing allocation is consistent with the Bay Area's Sustainable Communities Strategy.²

For purposes of this RHNA subregion, the Cities Association is not proposing to change the methodology for determining the allocation. The subregion would allow cities the opportunity to make mutual agreements with cities in the subregion to trade allocations, provided such agreements are consistent with State-defined objectives and that each jurisdiction retain at least some allocation of units for low- and very low income households.

Cities can choose not to make any agreements and simply accept the regional allocation. However, being a member of the subregion would allow each city a vote in the final subregional RHNA allocation. If a city chooses not to be a part of the subregion, they would neither have the opportunity to trade allocations nor have a vote in the proposed trades and allocations within the subregion.

Pros and Cons: The Subcommittee identified several advantages of forming a RHNA subregion, these include:

- Allowing jurisdictions flexibility and an opportunity for them to trade RHNA allocations. For e.g., notwithstanding the subregions allocation, a city could choose to accept the regional allocation or choose to make agreements with cities in the subregion for trading allocations.
- Empowering cities to have a say in regional planning. For e.g. should a city's appeal on their regional allocation get upheld, it is up to ABAG/MTC to decide how to redistribute the appealed allocation. However, with a subregion, a city can trade allocations with another city.

² The Sustainable Communities Strategy or SCS is a state-mandated, integrated long-range transportation and land use plan. As required by Senate Bill 375, all metropolitan regions in California must complete a SCS as part of a Regional Transportation Plan. In the Bay Area, ABAG/MTC is responsible for developing and adopting a SCS that integrates transportation, land use and housing to meet greenhouse gas reduction targets set by the California Air Resources Board (CARB). The most recent SCS for the San Francisco Bay Area is the Plan Bay Area 2040, which was last amended in 2017.

- Allow cities to collaborate on better planned development since they can work together to address regional issues such as transit and would not necessarily be confined by a city boundary.
- Create a forum to discuss sharing of planning resources. For e.g. in the San Mateo subregion, all 21 jurisdictions share in the cost to pay a consultant to assist in the preparation of their housing elements and data needs.

It also identified disadvantages of the formation of a subregion, which include:

- Putting in time, effort and resources and ending up with the same result as the regional allocation.
- Lack of trust for a fair and equitable process.
- Loss of political distance from ABAG/MTC which may result in pressure on the community to produce additional housing.
- No role model since no other existing subregion has such large variance in population in each of the cities.

Proposed Structure: The SC county RHNA subregion is proposed to consist of one member of each City Council and one member of the County Board of Supervisors. The by-laws also consider the establishment of several standing committees that would assist in the goals of the RHNA subregion. The roles of each of these standing committees are outlined in the proposed by-laws. These include the:

- Policy Committee – elected officials provide policy direction, review the Technical Advisory Committee recommendations and adopt policy consensus for transmittal for cities and counties for ratification;
- Technical Advisory Committee – Senior staff technical experts in the field of housing and land use from each jurisdiction to develop recommendations for the City Manager’s Association to consider;
- City Managers Association – monthly outreach through the City Manager’s Association to allow ongoing input and consideration of the Technical Advisory Committee recommendations, prior to approval of the final by the Policy Committee;
- City Councils and Board of Supervisors – Ratify the final allocation; and
- ABAG – Final approval of the RHNA Final Allocation.

Impact of new housing laws: Recent and proposed changes to housing laws may also impact the effect of subregions in future housing cycles. For example, SB 166 was adopted in 2017 to require jurisdictions to make specific findings or upzone additional property if development on housing element sites is proposed and approved at different affordability levels than are shown in the housing element's inventory. This requirement may make jurisdictions more hesitant to accept

additional lower income RHNA allocations than they have been previously, because there are greater consequences of not approving housing for lower-income households. Other 2017 changes in housing element law have increased the standards for designating acceptable sites to accommodate housing development, so even if a jurisdiction wants to accept a higher allocation of RHNA, it may not have adequate sites available to do so. Finally, two bills being proposed in the current legislative session, AB 1771 and SB 828, would give HCD additional review authority over regional and subregional allocations and, in general, would assign more units to high-income, high-job cities. If these bills are adopted, it could further impact potential subregional processes in Santa Clara County and throughout the state, particularly in job-rich cities.

Fiscal Impact

It is expected that there will be costs associated with the establishment of a RHNA subregion related to administration, legal review, outreach, noticing and communicating with ABAG/MTC. The Cities Association Subcommittee recommends that those costs be shared between participating jurisdictions. For example, the San Mateo County RHNA subregion is spearheaded by the County, which devotes significant staff time to the effort. The cost of the staff is shared by the participating jurisdictions. In the case of a Santa Clara County subregion, the budget will depend on the scope of the subregion, the services provided/expected of the subregion etc. The Cities Association expects that an estimate for the Santa Clara County RHNA subregion will be available when cities are required to make the decision to join the subregion.

Conclusion

The City Council should consider the proposed subregion format and provide comments for the Cities Association of Santa Clara County Board to consider.

Next Steps

The City Council's comments will be forwarded to the Cities Association of Santa Clara County Board's consideration prior to its decision on whether or not to initiate formal proceedings to begin the process of forming a RHNA subregion and adopt bylaws.

Following action by the Cities Association Board, each city will have to adopt resolutions to affirm their decision to join the subregion or not. The RHNA subregion needs to be formed no later than September 2020 since state law requires that all RHNA subregions be formed at least 28 months prior to the Housing Element due date of January 31, 2023 (Govt. Code Section 65584.03(a)).

Prepared by: Piu Ghosh, Principal Planner

Kerri Heusler, Senior Planner

Reviewed by: Aarti Shrivastava, Assistant City Manager

Approved by: Amy Chan, City Manager

Attachments

- A. Staff Report from Cities Association of Santa Clara County Board Packet (June 14, 2018) and Subcommittee's Guiding Principles (May 2018)
- B. RHNA Subregion Overview
- C. Pros and Cons
- D. Reso and Bylaws