

These questions were compiled from the recorded Understanding RHNA Zoom meeting on 2/22/21. Some of them were answered live by panelists (whose answers are identified) and others were written in the chat box and not answered that evening. LAAHA has tried to answer these questions as thoroughly as possible.

ADUs

1) ADUs are typically not large enough for families. Can the portion of the total RHNA need that can be attributed to ADUs be limited by the jurisdiction's need for family housing?

ANSWER 56:42, Melinda Coy, HCD: Need to provide a variety of housing types. ADUs are good for some people. Some jurisdictions have tried to accommodate all their RHNA goals with ADUs; we required them to identify locations for multi-family and other family types. Must look at housing needs, and provide housing types for those groups.

2) How can we get all ADU's built to be counted towards the RHNA numbers ?

All ADUs can count towards the city's RHNA targets, and the city can count an ADU for RHNA goals if a building permit gets issued.

3) Is there any way to ensure that ADUs are priced for lower income rather than just luxury units for well paid techies?

ADU owners are allowed to set their own rental rate, but if the city can demonstrate affordability (by collecting data about their rents), ADUs could count towards affordable RHNA targets.

Penalties

1) From my perspective, the RHNA process develops an elaborate plan for a city to develop housing for various income levels. Once the plan is accepted are there any consequences, positive or negative, for the city to execute or not execute this plan?

The city is required to have a completed Housing Element by January 2023.

“AB 72 grants HCD authority to review any action or failure to act by a local government that it determines is inconsistent with an adopted housing element or housing element law. This includes failure to implement program actions included in the housing element. **HCD may revoke housing element compliance** if the local government’s actions do not comply with state law.

In addition, **HCD may notify the California Office of the Attorney General** that the local jurisdiction is in violation of state law for non-compliance with housing element law, the Housing Accountability Act, “no net loss” law, density bonus law or anti-discrimination law.”

2) If the city is referred to the AG, what are the possible penalties?

ANSWER 1:07:39, Melinda Coy:

Fines

Receivership: judge appoints someone to “help” a city get in compliance

Freeze building permits, freeze land use decisions

3) Has any town/city been ever penalized (fines) for not meeting RHNA numbers?

The State maintains a list of cities that have not reached their affordable targets, and many cities are on this list, including Los Altos. There are two different consequences. If cities don't achieve their affordable numbers, then any project with 50% affordable gets streamlined. If a city doesn't achieve its above market numbers, or a city does not submit its annual progress report on time, then any project that has 10% affordable gets streamlined.

HCD has indicated that this year it will be stricter with cities regarding the penalties.

RHNA targets

1) Los Altos is built out and has no vacant land. How can we possibly build 2000 more houses?

ANSWER 40:51, Colin Cross, HCD:

- 1) Redevelop existing land- upzone, could be gentle
- 2) Secondary strategies: ADUs, surplus public land
- 3) Biggs: El Camino can support higher density, other sites currently zoned for housing also might

2) We know we need affordable housing, but why do we need to build market-rate housing too?

ANSWER 44:03, Annelise Osterberg, HCD: CA requires housing for all income levels, by statute. If we don't build for higher incomes, drives up prices for lower levels, which means no naturally occurring affordable housing exists which leads to more public subsidies needed for affordable housing.

“Building market rate housing is an important strategy for promoting more affordable housing in a community.”

3) What about Extremely Low Income (ELI) housing? Why isn't it a category for the RHNA targets?

ANSWER 45:15, Melinda Coy: It is included in Very Low Income (VLI) housing. The city must project ELI housing needs. A proxy for affordability is density.

4) Using our 15% inclusionary requirement, Los Altos would have to build 7433 market rate housing units to end up with the 1115 affordable housing units. If the problem is affordable housing, why doesn't the state only designate affordable housing unit targets and then provide

financial assistance to affordable housing developers to build these affordable housing units?

ANSWER 48:26, Annelise Osterberg: There are various strategies: for example by rezoning for higher development for naturally occurring affordable housing, cities set the table for development. The State provides subsidies but cities must do their part.

5) The Embarcadero Institute has produced an analysis that says the HCD number of needed houses is way too high. Can you comment on this?

ANSWER 50:02, Annelise Osterberg:

“HCD is confident in our approach to determining the Regional Housing Need Determination, both from a legal and from a methodological perspective. The large increase in RHNA seen by some regions does more accurately capture the housing needs than in previous cycles. While there are some groups that think the numbers are too high, there are others that have raised concerns that the methodology is still too conservative.”

6) Instead of forcing housing in built out communities on the Peninsula, why not encourage housing and jobs growth out in Central Valley where costs are much lower?

ANSWER 1:09:48, Colin Cross: That’s not aligned with state planning priorities. Fair housing laws require the housing to be put in the areas with good opportunities: transportation and jobs. Also state transportation goals: state wants reduction in Vehicle Miles Traveled (VMT), and sticking jobs far away from housing increases VMT.

Melinda: RHNA is rooted in fair housing law; everyone has to do their fair share in making sure that there are opportunities for housing. Central Valley has their own RHNA. We look at all our priorities, not just where it is cheapest to build.

7) Does RHNA take into account the needs of local schools? Our schools are overcrowded already. And: Does RHNA also take into account the needs for local parks? (we have minimal parks compared to other cities)

ANSWER 1:22:20 Guido Persicone, City of Los Altos: CEQA requires assessing impact to public services

Melinda: The quick answer is No, except when allocating at regional level, community colleges are considered as factors. But really, it’s what is the need based on your growth and the RHNA factors.

[Note: Enrollment for LASD has been decreasing steadily for the past 5 years, pre-pandemic.]

8) QUESTION: What are the acceptable reasons or is there a list of reasons that a City can use to appeal the numbers?

ANSWER 1:18:01 Melinda: The statute lays out acceptable reasons, but they are quite narrow. 65584.05

1)The Council of Governments (COG) failed to adequately consider the information the city submitted as part of the factors she described earlier;

2) The COG failed to allocate the numbers in a way that furthered the five statutory objectives;

3) There's a significant and unforeseen change in circumstances for the city

8) Since RHNA is about zoning, can you please clarify that what is required of Los Altos is to *zone* for the correct number of units, not to necessarily *build* those units? How do we effectively zone to meet the RHNA numbers?

To be in compliance with Housing Element law, each city must determine how they will plan for their RHNA targets. They must identify areas of the city and specific parcels that could realistically be used to develop housing in the next 8 years. A discrete part of this process for Los Altos will be rezoning and upzoning land to allow for higher densities, multi-family units, and possibly larger buildings than can exist there already.

9) How does a member of the public (the third party) submit their comments on housing elements or on RHNA allocation?

If a resident has a comment about a city's Housing Element, they can send it to their city's planning department. If a resident would like to comment on the rules regarding the Housing Element process, they can send it to HCD. If a resident has a comment about the RHNA allocation process, a comment can be submitted to the Association of Bay Area Governments (ABAG), but the public comment process has finished for this cycle.

10) If Mountain View is cheaper than Los Altos, maybe Los Altos should buy land in Mountain View and develop affordable housing and take credit with RHNA./HCD. Would that work?

Land developed in Mountain View would count towards Mountain View's RHNA targets.

11) Our current cycle calls for 477 units to be built. The City has approved all of the [proposed] projects, but they did not get built having nothing to do with the City's aggressive approvals. Aren't you setting us up for failure?

If the city zones and plans for enough sites to meet the RHNA targets, and retains a compliant Housing Element throughout the cycle, the city will be in compliance with the State.

12) We don't have many jobs in Los Altos. How come we're assigned so much new housing?

Jobs-housing balance is only one factor considered when determining the RHNA targets. For more information, please refer to HCD slides 7-10.

13) In view of the uncertainty regarding jobs growth and housing needs due to the pandemic, shouldn't HCD and ABAG suspend this process for at least 2 years until there is post-pandemic data upon which to base jobs growth/housing predictions?

"Several appeals [from Southern CA cities to SCAG] are based upon the provision described in Government Code section 65584.05(b)(3), arguing that the COVID-19 pandemic represents a

significant and unforeseen change in circumstances that will affect future population and job growth.

Ensuring everyone has a home is critical to public health. Reducing and preventing overcrowding and homelessness are essential concerns for every community. The COVID-19 pandemic has only increased the importance that each community is planning for sufficient affordable housing."

<https://scag.ca.gov/sites/main/files/file-attachments/hcd-all121020.pdf?1607715079>

Housing Element process

1) If I have property in Los Altos, can the city or the state force me to build more housing on my property?

ANSWER: No. It's not a construction requirement, city must enable development, and identify and remove constraints

2) I'm fearful the place I've come to know and love will start to look unrecognizable with all this potential development. What are the ways that I can participate in this process to give input?

ANSWER 53:24, Jon Biggs, City of Los Altos: very robust public outreach program, lots of opportunities to participate, city council meetings, planning meetings, community workshops, will soon create website, will keep public information contact list, getting out in the field and meeting community face to face, special presentations, appear at Farmers Markets

3) With recent and upcoming changes, are there really any "teeth" to enforce Housing Element compliance? In other words, for local affordable housing advocates, is Housing Element oversight and advocacy really worth it?

ANSWER 51:16, Colin Cross: HCD has a lot more power now. 2017 bill gave HCD authority to refer to Attorney General's office. HCD does monitor compliance, to see if jurisdictions are living up to the commitments they made in their Housing Element. Programs in Housing Elements include estimated completion dates. HCD will check. HCD doesn't want to revoke Housing Element compliance but if necessary, they will.

4) Does the required outreach include people who don't live in the community but would like to, such as people who work here but can't afford to live here?

ANSWER 59:12 Colin Cross: No, but HCD would encourage that participation.

Biggs: We think people outside Los Altos will be participating in the outreach we plan.

5) What has Los Altos done to streamline market-rate housing?

The City is writing objective standards so that developers know what the rules are and the process can be clearer and faster.

6) Can we make a compliant Housing Element without changing our single family neighborhoods? Can we decide we don't want to put denser housing in our single family neighborhoods, and instead put it somewhere else?

ANSWER 1:12:18, Jon Biggs: we need to take a close look at what we have in our current Housing Element, what sites are there. In our previous Housing Element, we needed to find enough sites for our 477 home quota, and we did, but we stopped there, without investigating whether there were other sites that would also be available. In the new process, we'll look at commercial areas, higher density areas, to see whether we can provide the housing without affecting our single family areas. Also, ADUs will help meet our RHNA numbers.
Guido: we've approved 48 ADUs in the last year.

7) Will we have to allow 4 stories in our downtown or other areas like Loyola Corners? 6 or 7 stories on El Camino Real?

ANSWER 1:15:42 Jon Biggs: We could increase height, but we could also require more units to be constructed in the same place. Smaller units are cheaper units.

8) When HCD is looking at our proposed sites and the projected number of homes we put there, how do you decide if the number of units we say will be built is actually the "realistic capacity"? Can we just say every site we propose will be fully built out?

ANSWER 1:18:53, Guido Persicone: The state requires documentation that the site could be built to the density claimed, because some cities in southern California were saying swampland was housing sites, city has to provide things like letters from owners indicating interest in development.

Colin: yep. The city has to prove the site can reasonably be developed at the density claimed, considering density in previously approved projects/neighboring projects, environmental constraints on the site. HCD will take a close look at that when it reviews the Housing Element.

Melinda: key is what is the realistic capacity, not maximum capacity. Show your work.

Guido: state staff is very helpful in this part of creating the Housing Element, with side consultations helping cities know what will be acceptable

9) Can the City require the inclusionary housing element to be greater than 15%?

ANSWER 1:16:40 Biggs: The City Council could look at it. Other communities have higher inclusionary zoning. Guido: Pretty common to have 20%, we have 15%. [Note: The typical inclusionary zoning percentage is 15%, although some cities are lower and a small number are higher. The inclusionary zoning percentage a developer chooses can change based on what type of housing is being proposed. For example, in Los Altos, developers usually choose 15% inclusionary zoning for very low income units, however it's feasible to have 20% inclusionary

zoning for low income units. In general, an inclusionary zoning percentage that is too high discourages development because the project becomes financially infeasible for a developer.]

10) What are some ways HCD works with communities?

ANSWER 1:01:35, Colin: Once the city has sent in a draft Housing Element, HCD's review is a conversation. HCD identifies areas of concern, works with cities to adjust, giving city a call and saying what the city needs to adjust.

HCD's technical assistance: workshops for cities while they're making Housing Element, lots of technical documents, office hours, and more to work directly with jurisdictions.

Also HCD is required in Housing Element reviews to consider third-party comments. Members of the community and advocacy organizations' comments must be considered and HCD might reach out to third-party advocacy organizations. HCD relies on stakeholders to "ground-truth" what's going on in community.

Implementation side, on programs: model ordinances for local govts, help to implement, visits to City Councils

11) Is there one HCD contact?

Currently, contact HCD, or any of Colin, Annelise, Melinda. Eventually there will be single point of contact.

12) As you plan for housing do you review and check on the infrastructure of those towns/cities. eg. wide roads, PGE having enough power to provide

HCD does not review the infrastructure in cities.

13) What happens if our Housing Element isn't certified? What happens if our Housing Element is certified, but then we don't rezone the sites we said we'd rezone? sewer, water, schools etc.?

HCD works closely with cities to create a Housing Element that is compliant with state laws. If a city does not have a compliant HE, the city could be referred to the State Attorney General's Office. HCD will be working to make sure cities are doing what they said they would be doing in their Housing Element, including rezoning if that was part of the plan. If an area is upzoned and turns out to have insufficient sewer which renders the site infeasible for development, the Housing Element would have to be amended if the RHNA targets were no longer attainable. A city is required to have a compliant Housing Element at all times. It will be important for our Housing Element to account for this type of scenario and to overestimate how many parcels will need to be developed to reach the RHNA goals.

Financials

1) Why isn't the state funding many more developments like the 330 Distel Circle project in order to actually achieve the affordable housing needs of low and very low-income individuals and helping cities to meet their need for affordable housing?

The state has several programs to fund affordable housing and there are currently bills in the legislature to allocate more money to affordable housing, but the state doesn't have unlimited funds.

2) Can the state offer money to buy up the older homes. Providing money to cities such as Los Altos to buy those types of homes would allow families to move into the area in an affordable way.

Buying property is a very costly way for the state or a city to provide affordable housing, so this is rarely used.

There are non-profits called Community Land Trusts that separate the land from the property, therefore keeping the price of the property affordable and holding the land in perpetuity. However, buying the land requires a lot of capital.

Other Questions

1) How do other cities make permitting faster?

Permitting is indeed very slow and this could help to alleviate one of the barriers to housing construction. Mountain View just completed a survey to determine how to streamline their process.

2) What do other cities do to encourage more affordable housing to be built in their city?

They act as reliable partners to affordable housing developers.

They contribute money to affordable housing projects.

They create clear expectations and clear guidelines for developers to minimize unknowns in the process.

3) I didn't understand the point made about Los Altos being a high resource area. Does that mean it doesn't matter where we plan for growth in Los Altos as far as affirmatively furthering fair housing goes?

Los Altos being a "high resource area" is one of the reasons why our RHNA target is what it is. Also, in terms of affirmatively furthering fair housing, we can plan for growth in all areas of our city because all areas are "high resource."