AFFORDABLE HOUSING CRISIS
DENSITY IS OUR DESTINY

Civil Grand Jury of Santa Clara County

June 21, 2018

TABLE OF CONTENTS

Summary 2

Background 3

Methodology 4

Discussion 4

Regional Housing Needs Assessment
Suggested Solutions
- Communications Campaign 11
- Strengthening RHNA 11
- As Goes San Jose RHNA Performance – So Goes the County 14
- Inclusionary Housing Ordinances 17
- Density Bonus Implementation and Density Near Transit 18
- California Versus Its Cities 18
- Housing and Employment – Commercial Linkage Fees 19
- Employer Contributions 21
- Accessory Dwelling Units 23
- Residential Impact Fees and Parcel Taxes 23
- VTA Serves as Model for Public Entities 24

Findings and Recommendations 25

Required Responses 30

Appendix 31

Glossary and Abbreviations 42

SUMMARY

The critical need for affordable housing is the issue of the day in Santa Clara County … and our cities are flailing. Higher densities are a necessary solution, but cities are not fully embracing this solution in the face of resident resistance, and a lack of funding, land and urgency. In addition, there is confusion as to the effect of higher densities on traffic congestion.

California's report card gives Santa Clara County (County) cities an F. Everyone shares the blame and the challenge. A city marches to the beat of its populace, and with citizen resistance, the affordable housing crisis continues.

However, innovation-focused Silicon Valley points to some affordable housing successes. In December 2017, the Mountain View City Council approved general development plans for nearly 10,000 housing units. This North Bayshore plan includes 2,000 affordable units, 30% more than officials envisioned just a few years earlier. The County's other successes include the new 262-unit Alexander Station in Gilroy, with every unit priced for below-median-income households, and the Santa Clara Valley Transportation Authority's (VTA) organized housing efforts.

An increasing number of people are one missed pay check away from relocation or homelessness. The lack of affordable housing is destined to have an increasingly profound impact on the County. Ironically, the County's great economic success is a cause of the exceedingly high housing costs.

The 2017-18 Santa Clara County Civil Grand Jury (Grand Jury) tackled the issue of affordable, or below market rate (BMR) housing. The Grand Jury's investigation made one thing clear — drastic action is long overdue. Greater communication about the need for every city to do its share will help. Cities can increase densities and enact policies to spark more BMR housing. Yet, there are only minimal repercussions for cities that do not meet State-set BMR housing objectives.

Passage of Measure A, a $950 million housing bond, in 2016 demonstrates that County voters are willing to pay a price to help solve the problem. Housing officials estimate Measure A will create and preserve 5,000 housing units for the neediest.[1] That is a start, but the County needs more than 67,000 such units.[2]

Besides cities, other governmental entities and the County's largest employers must step up. There is no getting around that higher densities are needed, with a greater focus on putting housing near jobs and near transit hubs, taking pressure off regional infrastructure. Increasing fees that developers can pay in lieu of providing BMR units within projects is

[1] https://www.sccgov.org/sites/scc/Pages/Affordable-Housing-Bond-Measure-A.aspx

[2] Ibid

critical. Some cities need to boost their inclusionary ordinances, which require that developments include BMR units. Accessory dwelling units (ADUs) should be encouraged. Employers must shoulder some of the load, perhaps via a BMR housing impact fee based on number of employees.

San Jose, which accounts for more than half the County population, has long had more housing than jobs and has not implemented commercial linkage fees. However, the time has come for the nation's 10th-largest city to take that step. Smaller cities with little commercial sites should consider residential impact fees or parcel taxes.

Cities can create a Regional Housing Needs Allocation (RHNA) sub-region that pools the resources of more than one city to meet housing needs. Cities should have to report not just housing permits issued, as is now the case, but also the number of BMR units actually constructed.

BACKGROUND

The phrase "below market rate" itself reveals a big part of the challenge. Funding for BMR housing comes from a variety of federal, state, local and private sources.

The need for more housing has challenged the County for more than a decade. The Grand Jury focused on BMR housing, which consists of households with incomes designated as Extremely Low Income (ELI), Very Low Income (VLI), Low Income (LI) and moderate. (See Table A1 in the Appendix.)

The average monthly rent for a two-bedroom apartment in San Jose jumped 21% to $2,834[3] this year from $2,350[4] five years ago. As for single-family homes, the middle class is being priced out. In February 2018, the median price of a single-family home in the County rose a staggering 34% from February 2017, to $1.29 million[5]. From 2012-16, wages in Santa Clara County, San Mateo County and San Francisco County areas have risen an average of 2.8 percent a year, while average housing rents have risen roughly 9 percent a year.[6]

Housing growth continues to fall far behind job growth in the County. The San Francisco Bay Area Planning and Urban Research Association reports that from 2010 through 2015, San

[3] https://www.rentcafe.com/average-rent-market-trends/us/ca/santa-clara-county/san-jose/

[4] San Jose Housing Market Update Q2 2013, referenced source is RealFacts, http://www.sanjoseca.gov/DocumentCenter/View/19820 , page 4

[5] https://www.mercurynews.com/2018/03/22/bay-area-home-prices-keep-going-up-one-county-sets-a-new-record/

[6] https://www.mercurynews.com/2017/07/17/bay-area-rent-increases-far-outstrip-wage-gains/

Jose created 171,000 jobs, but just 29,000 housing units. From 2010 through 2016, employment in Silicon Valley jumped 29%, while housing inventory rose just 4%.[7]

METHODOLOGY

The Grand Jury interviewed over 65 people for this report, many more than once. Those interviewed included elected and appointed government officials, leaders of nonprofits and developers.

The investigation covered BMR housing challenges faced not just by the County and its 15 cities, but also by nonprofits and agencies such as the Housing Authority of Santa Clara County, as well as the VTA and Santa Clara Valley Water District (SCVWD).

The Grand Jury researched the Housing Elements for each city and for the County, as well as the Regional Housing Needs Allocation (RHNA) for the current housing cycle tracked by RHNA, 2015-2023, and the prior cycle, 2007-2014. More than 100 documents and media articles were reviewed and a visit to a homeless shelter helped the Grand Jury appreciate the impact of our BMR housing shortage in a more personal manner.

DISCUSSION

Density is our Destiny

Density is at the heart of the many BMR housing solutions. The Grand Jury's review focused on the County's 15 cities and unincorporated area, and included these topics:

- the Regional Housing Needs Assessment (RHNA - pronounced ree-na),
- NIMBY (Not in My Backyard) vs. YIMBY (Yes in My Backyard) advocacy
- inclusionary housing ordinances
- transit-oriented development
- jobs-housing ratios
- linkage and impact fees
- employer contributions
- accessory dwelling units
- governmental entities other than cities

[7] http://svlg.org/new-study-shows-students-making-incremental-progress-in-some-key-educational-areas-and-a-vexing-exodus-of-residents-from-the-bay-area

Regional Housing Needs Assessment

California law vests most land-use regulatory authority with cities and counties. Since 1969, California has required that these jurisdictions adequately plan to meet their housing needs. Cities and counties must adopt Housing Elements, updated in every eight-year cycle, as part of their general plans.[8]

California's RHNA is crucial to the Housing Elements. The State requires cities to submit Annual Progress Reports on their Housing Elements to the California Department of Housing and Community Development (HCD) and the Governor's Office of Planning and Research.[9]

Yet, the RHNA process does little to *ensure* that housing needs are met. Cities and counties face no consequences other than bad press for failing to meet their RHNA objectives. The State Legislature is starting to force cities to increase the housing permitting pace, a source of conflict between the State and cities.

HCD determines the RHNA goals for California's regional planning bodies, which are known as Council of Governments (COGs). Each COG uses demographic data to calculate housing needs and assign RHNA goals for each city and county, in eight-year cycles.

Association of Bay Area Governments (ABAG) is the COG for the nine Bay Area counties. The RHNA process requires local governments to be "accountable" for projected housing needs. RHNA provides a benchmark for evaluating local zoning and regulatory actions.[10]

The County's BMR RHNA results for the prior cycle (2007-2014) are shown in Figure 1. This data is provided in Appendix, Table A2. None of the County's 15 cities met their BMR goals last cycle, and 11 failed to even reach half.

Figure 1 shows that the best BMR performers in the last cycle were unincorporated County (92%), Sunnyvale (85%) and Campbell (83%), while the worst were Saratoga (8%), Los Gatos (13%) and San Jose (15%).

Figure 2 shows how the cities are doing this cycle through 2017, with Los Gatos (2%), Campbell (2%) and Santa Clara (2%) barely making a dent in BMR permits and Milpitas AWOL (0%). This data is provided in Appendix, Table A3.

Los Gatos and San Jose requested that their 2014 permits be counted in the current 2015-

---

[8] California Department of Housing and Community Development, "Regional Housing Needs Allocation and Housing Elements", http://www.hcd.ca.gov/community-development/housing-element/index.shtml

[9] Ibid.

[10] California Department of Housing and Community Development, "Projected Housing Needs – Regional Housing Needs Allocation", http://www.hcd.ca.gov/community-development/building-blocks/housing-needs/projected-housing-needs.shtml

2023 cycle.[11] The request was granted so now these two cities have an extra year of units credited compared to the other cities in the County. For these two cities, the numbers in Figure 2 include 48 months of performance, vs. 36 months for the other cities. The RHNA need in the current cycle is calculated from Jan 1, 2014, through Oct 31, 2022. (See "RHNA current cycle" definition in the Glossary.)

Figure 3 shows performance in BMR and overall permits for the prior cycle and current cycle through 2017. Three cities struggled to provide BMR units but succeeded in above-moderate housing: Milpitas (19% of BMR vs. 366% of above-moderate), Los Altos (13% vs 645%) and Los Altos Hills (41% vs 375%). This data is provided in Appendix, Table A4.

Trailing in BMR units are Los Gatos (7%), Saratoga (7%), San Jose (10%) and Cupertino (10%).

As the Figures on the following pages show, no city met its BMR objective in the prior cycle and only Gilroy is close to being on pace in the current 2015-2023 cycle. Proposed SB 828 says RHNA goals should be viewed as the ***minimum*** numbers needed. Worse yet, the Grand Jury found that many BMR permitted units have not been built. Because there is no requirement that constructed units be reported, the permitted units might never be built.

San Jose is presented in gold in Figures 1 through 4 to highlight its importance to the County, as discussed below in the section headlined As Goes San Jose's RHNA Performance, So Goes the County's.

[11] San Francisco Bay Area Progress in Meeting 2015-2023 Regional Housing Need Allocation (RHNA), https://abag.ca.gov/planning/housingneeds/pdfs/2015-2023%20_RHNAProgressReport.pdf

Figure 1: RHNA results for the 2007-2014 cycle

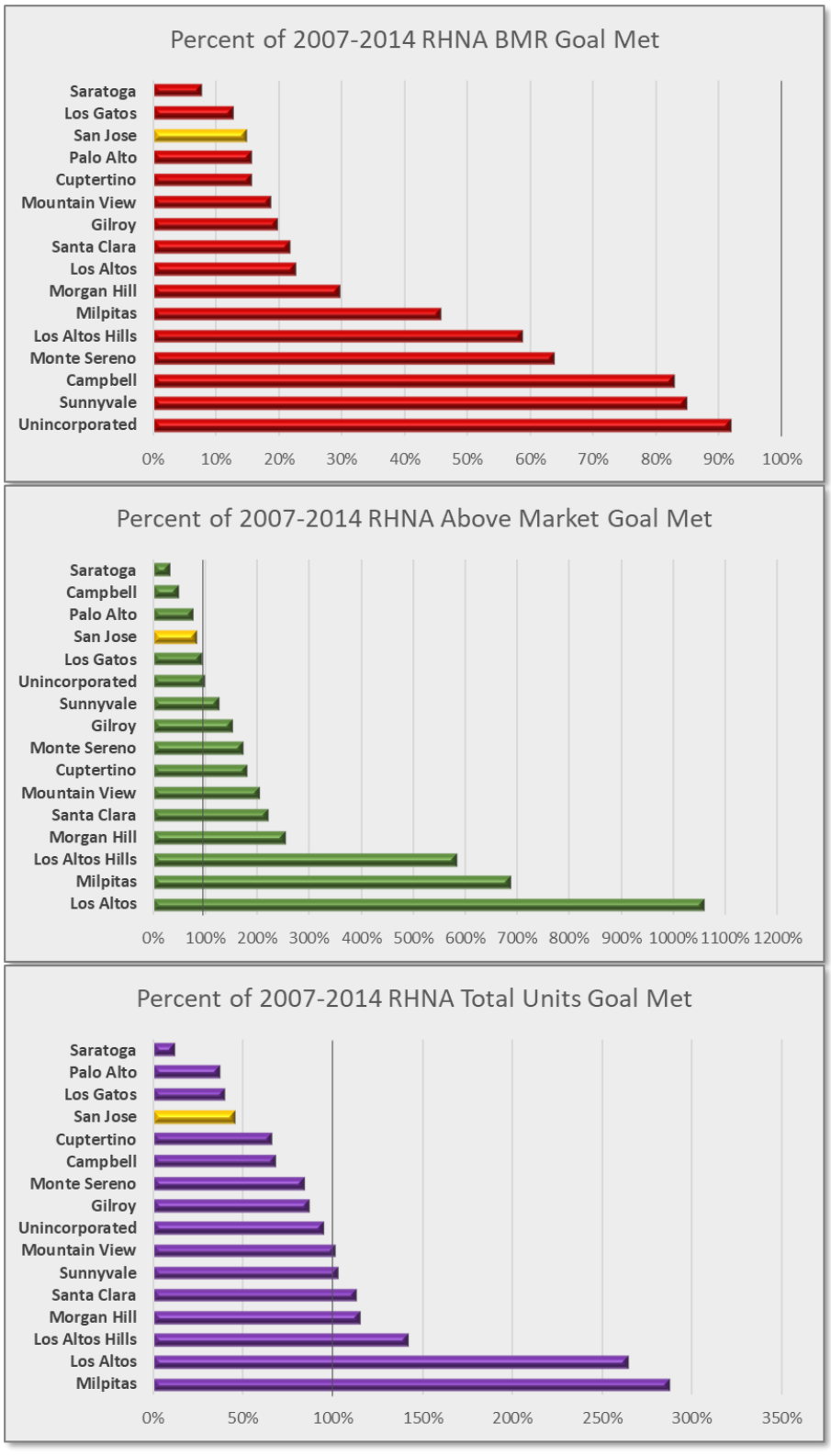
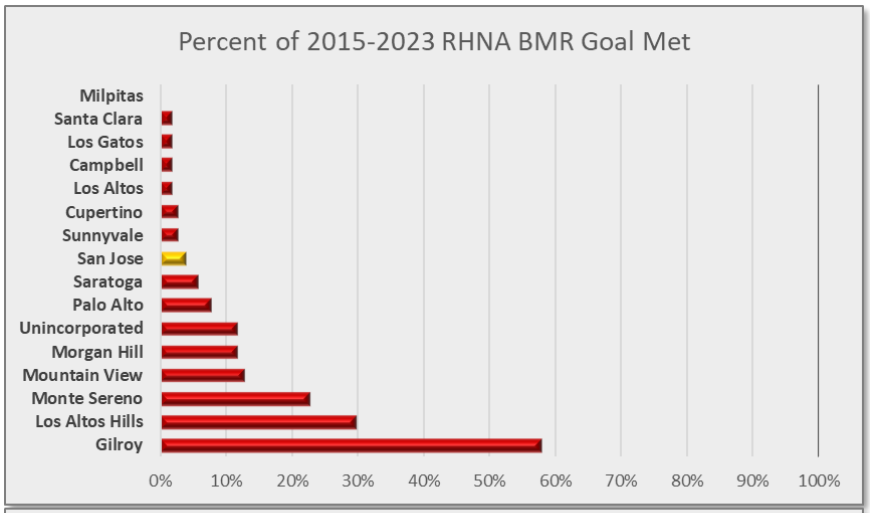
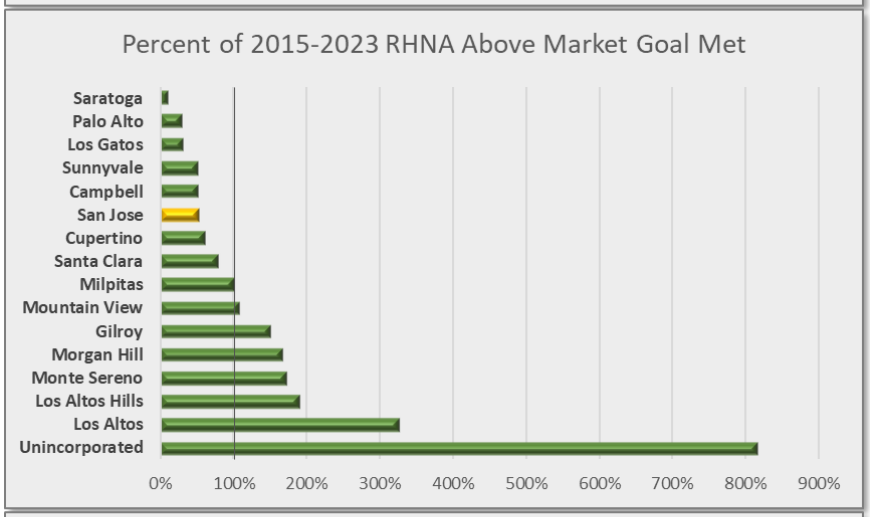
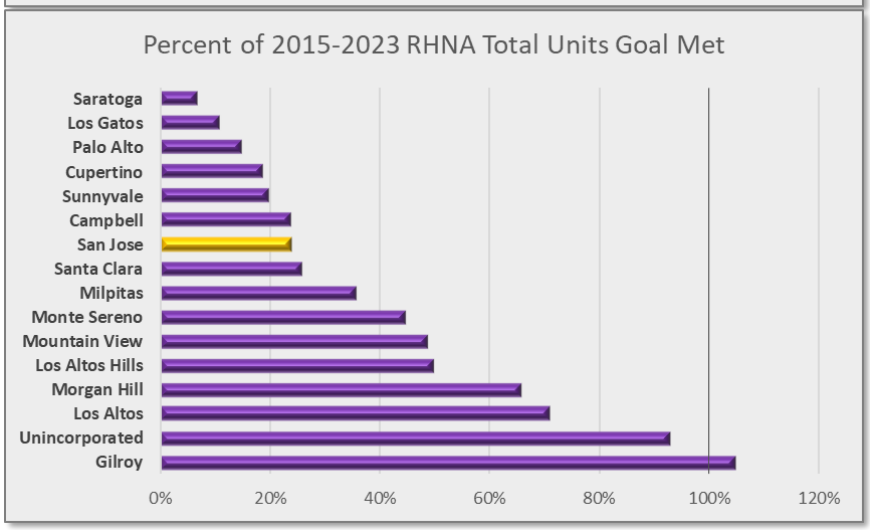


Figure 2: RHNA results for 2015-2023 cycle, through 2017[12]

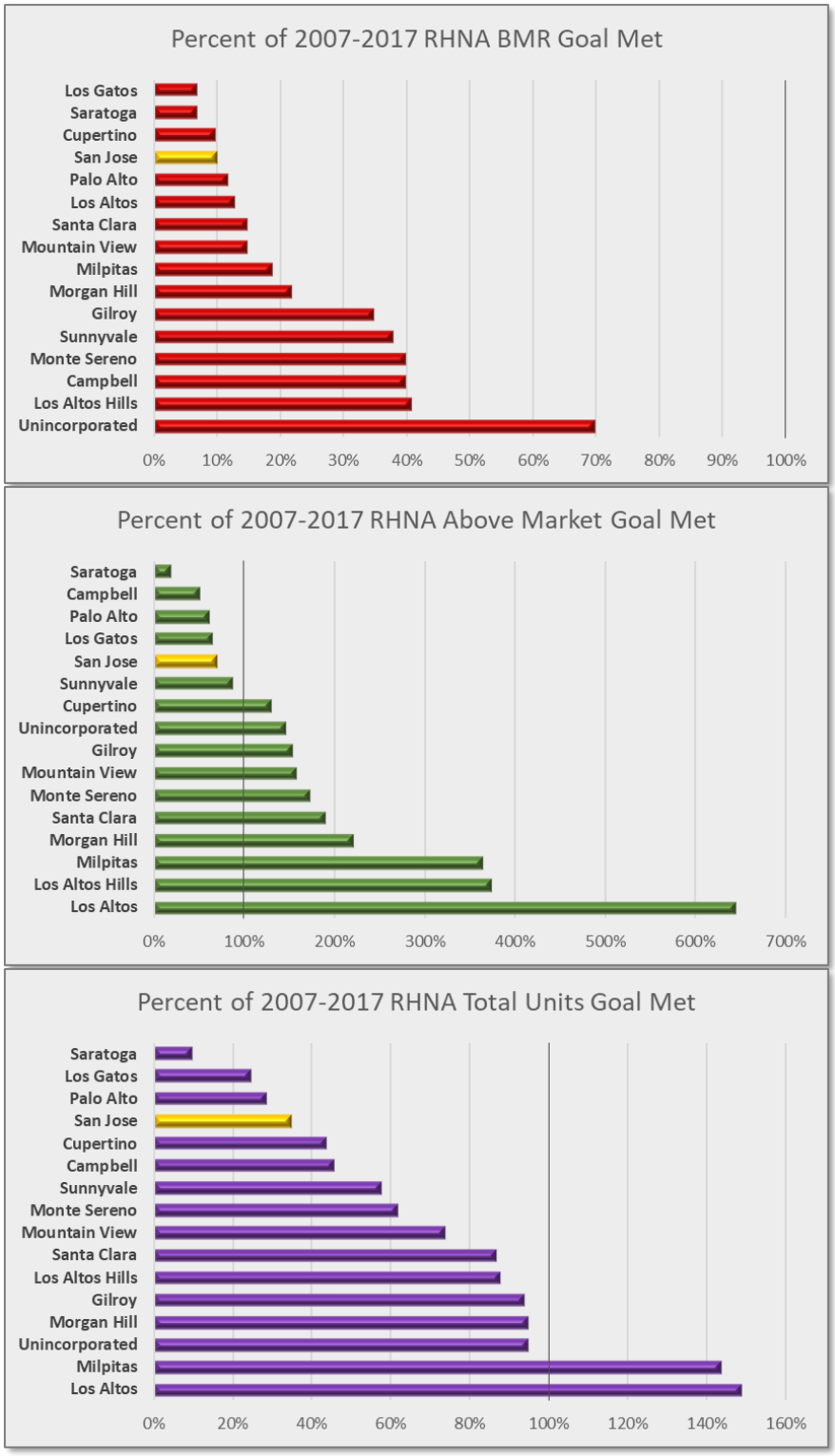






[12] Regional Housing Needs Allocation and Housing Elements, 5th Annual Progress Report Permit Summary, http://www.hcd.ca.gov/community-development/housing-element/index.shtml
f

Figure 3: RHNA results for 2007-2017



The Debate and Suggested Solutions

The Grand Jury reviewed scores of topics that cover aspects of the BMR housing challenge. This report focuses on several potentially impactful solutions. But first, there is a need to understand the resistance to continued growth.

The Debate

There often are sound reasons to limit development. Too much development stresses infrastructure, as vocal local residents often are quick to point out. The NIMBY (Not in My Backyard) mindset can be strong, with arguments that sway politicians and discourage BMR developers.

NIMBY arguments often center on transportation and schools. Greater housing density requires acceptance of greater traffic congestion and therefore the need for modes of travel other than the automobile. Improving transportation is often an elusive piece of the housing puzzle, especially in cities with a high jobs-to-employed resident imbalance. Commute times have increased by 17% in Silicon Valley this past decade. Commute times have more than doubled to 66,000 additional vehicle hours daily.[13]

Another big piece of the puzzle is the stress that added population puts on overburdened schools.

A grassroots movement known as YIMBY (Yes In My Backyard), led largely by millennials, has started to exert influence in support of denser developments.[14] YIMBYs support more affordable housing and backed the failed SB 827, which would have forced cities to increase development densities near transit hubs.[15]

The no-more-growth/no-more-jobs constituency is vocal. They want to cap jobs and population near current levels. The ramifications of these views for our economy must be clearly communicated.

Planners must consider which key variables should be monitored and optimized when considering growth implementation and limits. The Grand Jury urges leaders in the County to clearly articulate their views regarding the most critical variables to monitor and manage in determining the preferred pace and limits for housing and employment growth.

---

[13] 2018 Silicon Valley Index, Rachel Massaro, Institute for Regional Studies and Joint Venture Silicon Valley, page 9 https://siliconvalleyindicators.org/download-the-2018-index/

[14] https://cayimby.org/

[15] Ibid.

Communications Campaign

The Grand Jury found strong support among both public-sector and private-sector leaders for a unified communications campaign to educate County citizens regarding the critical need for BMR housing and the necessity of every jurisdiction doing its RHNA share.

Many residents *do* understand the need. The proof came on Nov. 8, 2016, when more than 450,000 County residents voted to approve affordable housing Measure A, needed to issue $950 million in bonds to fund BMR housing countywide. Still, the margin of approval was a thin 1.21 percentage points above the two-thirds required.

SB 3[16] is on the Nov. 6, 2018, ballot. It authorizes the issuance of $3 billion in bonds for BMR housing statewide. But officials say Measure A and SB 3 won't be enough to meet demand for BMR housing.

Officials say more outreach describing the magnitude of the problem is needed. While the Cities Association of Santa Clara County is among entities that could lead the way, the Grand Jury believes the County is the logical choice to facilitate a unified communications campaign that aims to convert NIMBYs into YIMBYs and ease the road ahead for higher densities and more BMR housing.

A communications campaign could inform residents about a lesser-known component of Measure A. It includes support of social services such as counseling and job training for the ELI, VLI and LI segment. As one County official put it, "Housing is actually a treatment," a part of whole-person care. That message, properly articulated, can go a long way toward overcoming the objections of the NIMBYs.

The communications campaign should analyze the need for higher densities in the context of the leadership consensus for preferred pace and limits for housing and employment growth.

Strengthening RHNA

One avenue for possible cooperation among cities is to form one or more RHNA sub-regions. ABAG encourages forming sub-regions. San Mateo, Napa and Solano counties have done so, but not Santa Clara County.

Sub-regions offer promise of encouraging more BMR housing. A sub-region gives cities more control and flexibility to meet their RHNA housing goals by sharing the burden with adjacent cities. Sub-regions must be a combination of geographically contiguous local governments and require ABAG's approval. The Cities Association of Santa Clara County[17] is considering

[16] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB3

[17] http://citiesassociation.org/

the possibilities of sub-regions.

BMR categories are defined by the countywide median income (Table A1 in the Appendix). The consequence is widely different ratios between cities in the median price of housing (which is a city statistic) and the median income of buyers (which is a countywide statistic). As a result, fewer developers are willing to consider BMR developments in the cities with the highest-priced real estate: Los Altos, Los Altos Hills, Palo Alto, Saratoga, Los Gatos and Monte Sereno. Their high real estate values make it harder for developers to meet their target return on investment without greater public subsidies.

As of late 2017, 83% of County residents earning less than $50,000 a year were rent-burdened, defined as paying more than 30% of pretax income to monthly rent.[18] The workforce the County needs to maintain Silicon Valley's vibrant economic engine is all too frequently leaving for more affordable places. Studies show that even tech engineers struggle to afford homes in the County.[19]

The total cost of BMR units, as with any housing, largely depends on the underlying real estate values. The Grand Jury calculated the hypothetical cost to developers, government entities, buyers and all other stakeholders in creating a BMR unit. This was done in order to look at the potential to create more BMR units in a sub-region that combines lower-cost with higher-cost cities.

The County's median purchase price for a two-bedroom ranges from $609,000 in Gilroy to $4,090,000 in Los Altos Hills, according to real estate firm Zillow's website on May 25, 2018 (Figure 4 and Table A6[20]). The high end price is 6.7 times greater than the low end. The 6.7 value is referred to as location leverage for obtaining BMR housing.

Housing officials stress, and the Grand Jury agrees, that BMR housing should not be concentrated in the lowest-cost areas in part because this would result in a burden shift from wealthier cities to less wealthy ones. Still, there can be win-win situations. Cities with higher real estate prices and little developable land could form a sub-region with adjacent cities having lower prices to leverage more BMR units for the County overall for a given amount of investment.

For example, a Los Gatos-San Jose sub-region would provide a location leverage of about 2 because the Los Gatos median price for a two-bedroom home is $1.43 million and San Jose's $773,000. Nearly twice as many BMR units could be created in San Jose as in Los Gatos, for the same cost of development and therefore purchase price.

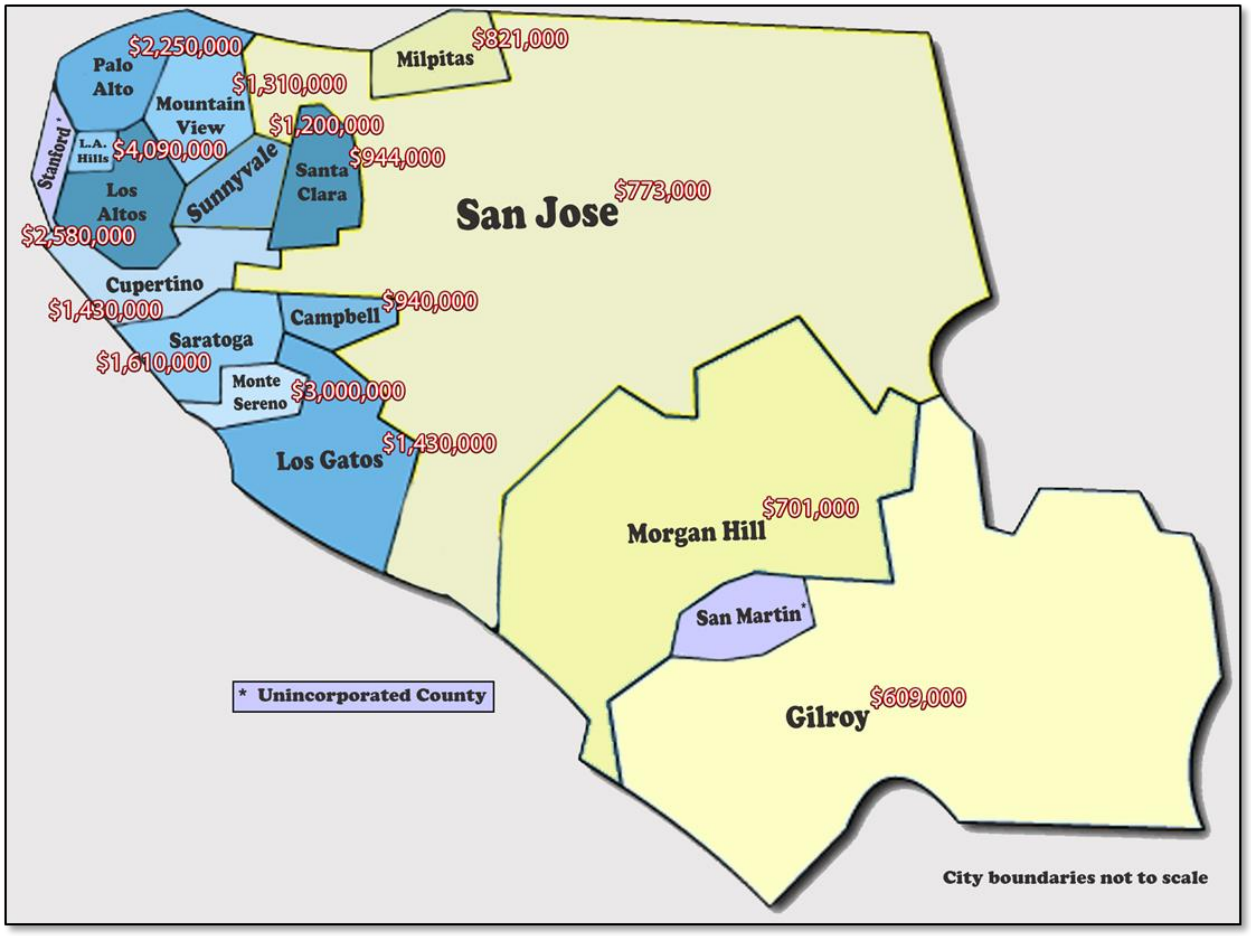
---

[18] https://www.mercurynews.com/2017/10/05/lifestyle-switch-more-bay-area-residents-are-choosing-to-rent-than-ever-before-and-theyre-paying-through-the-nose/

[19] https://www.mercurynews.com/2018/02/14/buying-a-bay-area-home-now-a-struggle-even-for-apple-google-engineers/

[20] Data from 15 Zillow.com city sites including https://www.zillow.com/palo-alto-ca/home-values/ and https://www.zillow.com/gilroy-ca/home-values/

Figure 4: Median Prices of Two-Bedroom Homes in Santa Clara County



The potential cost benefit of creating a single sub-region comprising the entire County is presented in Appendix, Table A6. The cities in such a sub-region would strike their own alliances depending on their mutual needs. The data in Table A6 describe two extreme situations for the expected sales cost of creating the BMR units needed in the County to meet its RHNA objectives. The highest cost option is where no sub-regions are created. The total sales price for the 32,791 BMR units required in the current cycle would be $31.9 billion with an average price of $975 thousand.

The lowest cost sub-region option would be to place all of the BMR units in the least expensive city (Gilroy). The total sales price for all of the BMR units needed to meet the County's RHNA objective using this lowest cost option would be $20.1 billion (at an average cost of $609 thousand), which would be an $11.9 billion savings. The lowest cost sub-region option is presented only for comparison purposes. There is no political or social justification for this lowest cost option. It is presented only to compute the lowest possible cost of BMR housing that meets the Countywide RHNA objectives.

The higher cost cities are encouraged to evaluate their potential savings with lower cost cities using an RHNA BMR objective sharing approach, and to determine where savings and

regional considerations support such sharing. Such regional considerations include the impact of BMR units on critical infrastructure and services, including; public safety, transportation, schools, retail access, parks, and social and health services.

Cities that take on additional BMR units would need to be incentivized by their sub-region partners, perhaps with extra funding for transportation infrastructure, parks, schools, safety and social services.

There are other scenarios where a RHNA sub-region makes sense. The Grand Jury envisions combining cities that have few vacant buildable parcels and no rail transit hubs with adjacent cities that could accommodate more dense transit-oriented developments (TOD).

As Goes San Jose's RHNA Performance, So Goes the County's

San Jose's roughly 1.05 million residents comprise more than 55% of the County population. San Jose has long complained of its lack of jobs vs. housing, a challenge because commercial development brings in more tax revenue than the cost of services, while residential development demands are just the opposite. San Jose has the highest housing-jobs imbalance of any of the largest U.S. cities.[21]

San Jose has ambitious goals for both commercial and residential development. In September 2017, Mayor Sam Liccardo established an objective of 25,000 new housing units in five years, starting in 2018, with 10,000 (40%) of those units below market rate.[22] That would require almost a doubling of San Jose's permitting pace. The 10,000 BMR target would require a permitting pace five times faster than the average over the past 11 years.

The Liccardo plan directs staff to identify barriers to meeting this objective. Developers characterize the city's approval process as overly burdensome, which critics attribute to the city:

- being too conservative regarding litigation risks
- maintaining unrealistic open space requirements
- requiring full approval of its Urban Village plans before construction can start
- maintaining architectural requirements that are too expensive
- having high turnover in the city's planning department

Developers indicate they require a 10% to 14% return on investment (ROI) to deem a project viable.[23] They say high land, materials and labor costs in this County make achieving the

[21] US Suburbs Approaching Jobs-Housing Balance, Wendell Cox, Apr. 12, 2013
http://www.newgeography.com/content/003637-us-suburbs-approaching-jobs-housing-balance

[22] Sam Liccardo's 15 point plan for "Responding to the Housing Crisis" – 9/28/2017,
http://sanjose.granicus.com/MetaViewer.php?meta_id=667033

[23] "Construction costs could limit where homes are built in San Jose" by George Avalos, 5/1/2018

target margins challenging.

San Jose's General Plan provides valuable elements for BMR housing. In December 2014, San Jose amended its General Plan, establishing a goal that at least 15% of new housing be priced for ELI, VLI and LI households.

In December 2016, the city amended its General Plan to:

- Establish a 25% goal for affordable housing in each Urban Village
- Allow 100% restricted (deed or income) affordable housing to move forward ahead of market-rate development in Urban Villages
- Allow selected commercial sites of at least 1.5 acres to convert to mixed-use residential-commercial developments if the project includes 100% restricted-affordable housing

But developers say the city's slow pace in approving Urban Villages has delayed development. San Jose officials say 12 of 64 total Urban Villages have been approved, and a 13th was pending at the time of this report.

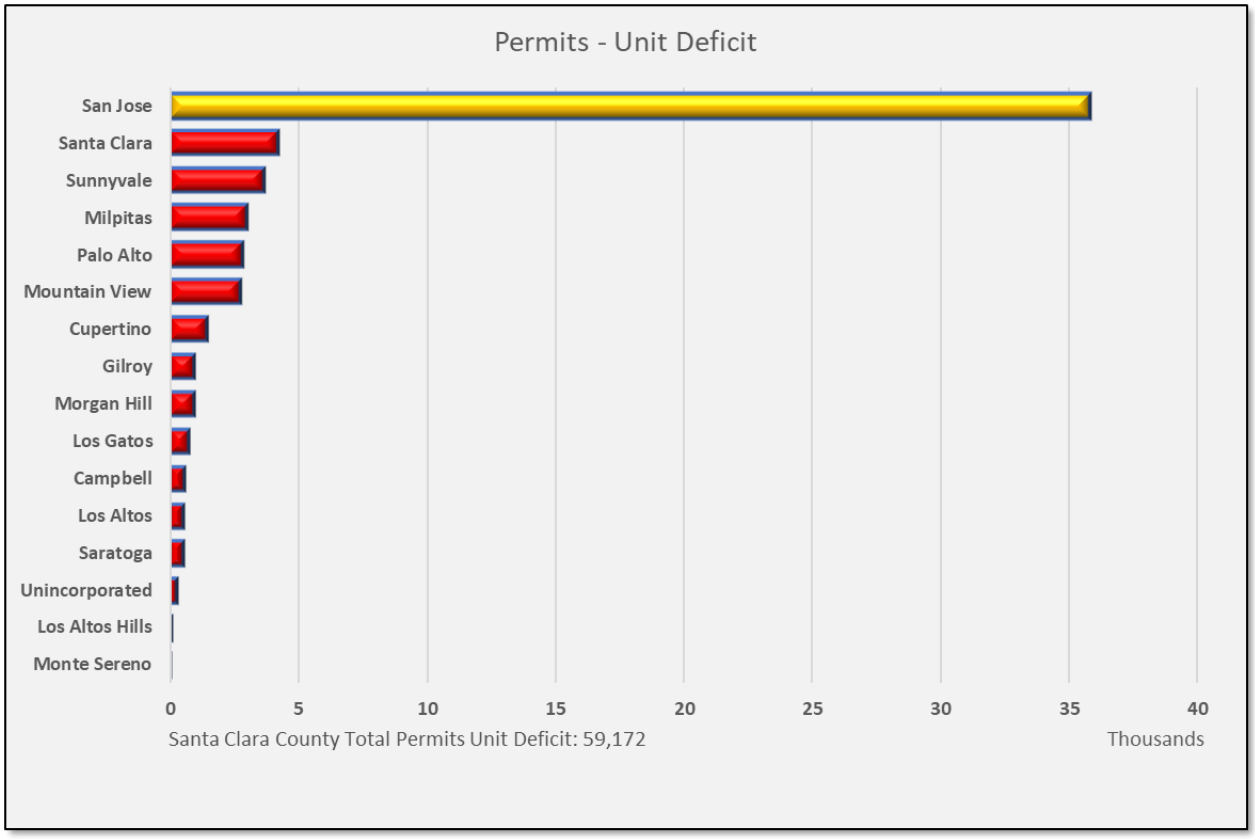
Figure 5 and Appendix, Table A7 show that San Jose is 36,000 units short of meeting its BMR objectives for the prior and current RHNA cycles. The current cycle runs until October 2022, so San Jose has only four years to catch up.

https://www.mercurynews.com/2018/05/01/construction-costs-could-limit-where-san-jose-homes-are-built-google-adobe-diridon/

Figure 5: BMR Permits - Unit Deficit

To make up that deficit, San Jose would have to issue 9,000 BMR permits per year through this cycle, while it has averaged only 400 per year between 2007-2017. This BMR deficit emphasizes why San Jose must maintain a strong BMR push even as it focuses on adding jobs.

The San Jose BMR deficit dwarfs that of any other city in the County. The city with the next-highest BMR deficit is Santa Clara, at 4,200 units. This enormous difference in BMR unit deficit demonstrates San Jose's shortcomings and that the County cannot make substantial



progress in meeting its RHNA BMR goals if San Jose does not perform. San Jose's importance is why it is highlighted in Figures 1, 2, 3 and 5.

San Jose is ahead of pace for above-moderate housing, as Figure 3 shows. This housing is needed, but it shouldn't come at the expense of BMR housing. In 2013, San Jose expanded and extended its Downtown High-Rise Development Incentive Program, which in three downtown areas provides exemptions to the inclusionary housing ordinance and reduces in-lieu fees to half of the rest of downtown.[24] This shows San Jose's willingness to relax BMR requirements. Given, the lack of BMR unit production by San Jose, the Grand Jury encourages San Jose to push as hard as possible to use tools to create BMR units to their fullest advantage.

[24] City of San Jose 2014-2023 Housing Element, page IV-33

Inclusionary Housing Ordinances

Inclusionary housing ordinances (IHOs) require that developers allocate a percentage of units for BMR housing. Eight cities in the County allow developers to pay fees in lieu of providing the units on-site.

As Appendix, Table A8 shows, Los Altos Hills, Monte Sereno, Morgan Hill and Saratoga do not have inclusionary ordinances. All but Morgan Hill have residential zones with large lot sizes and few sites for large housing developments. Due to the small number of potential multi-unit developments in Los Altos Hills, Monte Sereno and Saratoga, inclusionary ordinances would generate few BMR units in these cities and are not a priority.

As shown in Table A8, seven Santa Clara cities have BMR inclusionary requirements of 15% to 20%. But the inclusionary ordinances for Los Altos, Milpitas, Palo Alto and Sunnyvale require less than 15%. Raising that percentage could help spark more BMR housing.

Setting the percentage too high, however, can be a problem. San Francisco's housing development applications sank after the city hiked its BMR inclusionary percentage to 25% from 12% for new rental projects, forcing the city to compromise at 18%.[25] Palo Alto, much coveted by developers, is considering a 25% requirement but only in some situations.

Morgan Hill has a voter-approved Residential Development Control System [26] (RDCS) instead of an IHO. The RDCS makes developers compete for development permits based on how well their applications meet the city's goals.

One issue that weakens inclusionary ordinances is the use of in-lieu fees. Cupertino, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale give developers the option of paying these fees instead of creating BMR units within their development. Many officials interviewed by the Grand Jury said these fees are a bargain for developers, who often choose that option. In-lieu fees usually go into the cities' BMR housing funds, but it can be many years before the fees translate into BMR units. Officials say in-lieu fees usually produce fewer BMR units than the on-site requirement would have realized.

The Grand Jury believes that in-lieu fees should be avoided and that cities should incentivize developers to build BMR units within their developments. If cities retain in-lieu fees, they should be raised above comparable inclusionary requirements. The fee should be set at least one-third higher than the inclusionary requirement to encourage on-site BMR units. For example, Santa Clara has a 15% BMR inclusionary requirement. So, at one-third higher, the in-lieu fee would be no lower than the cost equating to a 20% inclusionary requirement.

---

[25] Roland Li, May 18, 2017, https://www.bizjournals.com/sanfrancisco/news/2017/05/18/sf-affordable-housing-compromise-development.html

[26] http://www.morgan-hill.ca.gov/109/RDCS-Process

Density Bonus Implementation and Density Near Transit

All cities must offer density bonuses to allow developers to build more units overall so long as they allocate more units for BMR. Density bonuses can generate more BMR units, especially in Transit-Oriented Developments (TODs). Transit experts advocate densities of at least 50 units per acre for TODs.[27] Such densities can effectively increase transit system usage and enable developers to meet their profitability goals.

A 2016 State law[28] extends density bonuses to mixed-use developments [29] and offers related incentives and concessions to make projects financially feasible. Mixed-use development can be especially attractive near transit hubs because both employees and residents can readily access mass transit and thereby ease traffic congestion. Mixed-use projects also have the advantage of generating tax revenue from the commercial component, offsetting the cost of the residential component.

One alternative to denser in-fill developments is housing in exurbs where land is less costly and housing is therefore more affordable. However, persons who work in the County and find lower-cost housing outside the County find that high transportation costs eat into their housing cost savings.[30]
Residential, commercial and mixed-use TOD appeals to cities and developers for a variety of reasons.[31] TOD encourages use of mass transit by persons who live or work near a transit hub. Parking requirements for TOD are often eased to encourage use of mass transit.

Recently defeated SB 827 would have mandated high densities near transit hubs. It failed in part due to organized multi-city opposition. However, cities can still move forward with their own TOD efforts. Caltrain, VTA and BART create opportunities for BMR units in cities with transit hubs. Cities should identify parcels within one-half mile of a transit hub and work to bring high-density BMR-related developments on those sites.

California Versus Its Cities

Cities have failed to meet their BMR and the overall housing challenge. State lawmakers increasingly are proposing to take some control from cities in an effort to force more housing to be built.

---

[27] VTA interview

[28] An act to amend Section 65915 of the Government Code, relating to housing
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB2501

[29] California Government Code §65915(i)

[30] Mixed-Income Housing Near Transit: Increasing Affordability with Location Efficiency, TOD 201, by The Center for Transit-Oriented Development, page 5
http://www.reconnectingamerica.org/assets/Uploads/091030ra201mixedhousefinal.pdf

[31] Id., page 8

SB 828, as of June 1, 2018, proposes to modify current law[32] to state that cities and counties should undertake all necessary actions to encourage, promote and facilitate the development of housing to accommodate the entire regional housing need. The proposed measure also requires reasonable actions be taken by local and regional governments to ensure that future housing production meets, *at a **minimum***, the RHNA objectives.

The League of California Cities leads the cities' fight with the State over control of land use decisions. Local governments strongly object to any loss of local control, but State lawmakers are looking to give RHNA allocations more teeth. Cities will increasingly face such threats if they don't move faster to create more BMR housing.

Housing and Employment, Commercial Linkage Fees

Figure 6 and Appendix, Table A9 provide jobs to employed resident ratios for the 15 cities in the County. The values range from 0.33 for Monte Sereno to 3.02 for Palo Alto. A jobs to employed resident ratio of about 1.0 is viewed as balanced by the Local Agency Formation Commission (LAFCO) of Santa Clara.[33]

A balanced ratio is associated with lower traffic congestion impact compared to an unbalanced ratio. However, striving to have each city attain a ratio of 1.0 would likely lead to unnecessary inefficiencies. Given that many employed residents commute to other cities in the region, regional balance may be as important as balance within a single city. The Grand Jury believes a city with a ratio of 0.9 to 1.1 reasonably balances jobs and housing. The cities that fall within the ratio range of the translucent vertical bar (0.9 to 1.1), meet this reasonable balance. They are represented by yellow horizontal bars in Figure 6.

Cities with jobs to employed resident ratios above 1.1 have substantially more jobs than employed residents and typically create more road congestion flow from employees commuting to and from their jobs. These cities are represented by the upper cluster of red bars in Figure 6. These cities could alleviate regional traffic congestion by adding more housing.

Cities with jobs to employed resident ratios below 0.9 have substantially more employed residents than jobs and typically create more road congestion as well from employees commuting to and from their homes. These cities are represented by the lower cluster of red bars in Figure 6 and could alleviate regional traffic congestion by adding more jobs.

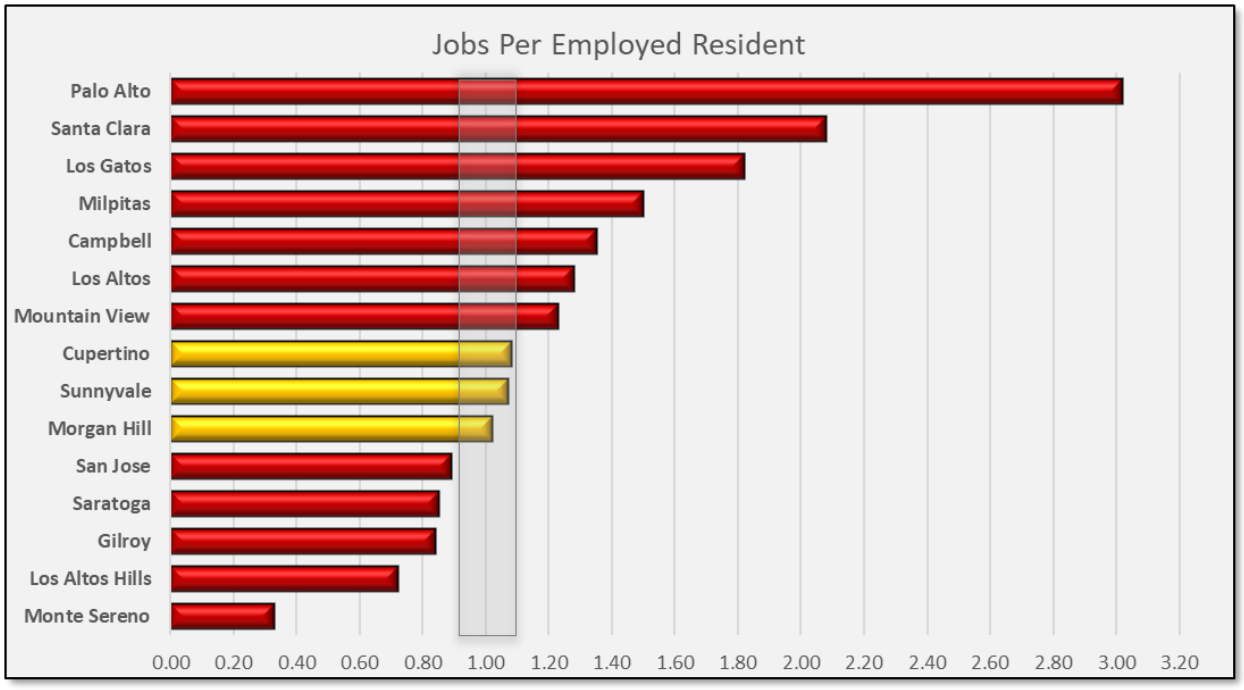
Commercial developments tend to raise revenue for cities. That puts more services and corresponding financial burden on cities with more housing and less employment. For cities

[32] Government Code (GC) Section 65584(a)(2)

[33] LAFCO of Santa Clara County, Cities Service Review, Section 22, "Sprawl Prevention/Infill Development, pages 314-315, http://santaclaralafco.org/file/ServiceReviews/CitiesSR2015/23CSRR_FA_Sprawl.pdf

with high employment, higher density can place more employees near their jobs. The larger pool of potential skilled employees makes these cities more attractive for employers.
Milpitas and Palo Alto have many differences, but among their similarities are they have fallen short on BMR housing and have jobs to employed resident ratios above 1.1. Their commercial linkage fee revenue could be leveraged in a RHNA sub-region to provide more BMR housing. Additionally, higher-density residential zoning would bring in more BMR units and improve their jobs to employed resident ratios.

Figure 6: Jobs Per Employed Resident



Google and the city of Mountain View, in the North Bayshore project, set an example of providing substantial BMR housing for the community. By comparison, Cupertino-based Apple's new headquarters for 12,000 employees,[34] including many new employees, was planned with no additional housing. That might have been OK if the new headquarters was solely a consolidation of Apple's existing space. But it appears Apple will vacate little space and the new headquarters largely will be used to accommodate work force expansion. This was a missed opportunity for collaboration by Cupertino.

In many cities, developers of commercial projects pay commercial linkage fees. The idea is that cities will use these funds for new developments that would house about as many people as are employed in that commercial project. State law requires that cities complete a nexus

[34] "Here's how much every inch of Apple's new $5 billion campus cost to build" by Abagail Hess, CNBC, Oct. 9, 2017 - https://www.cnbc.com/2017/10/09/how-much-every-inch-of-apples-new-5-billion-campus-cost-to-build.html

study to determine the appropriate linkage fee.[35] Linkage fees justified by the nexus studies are often much higher than the fees adopted. The nexus study evaluates the number of employees generated by different types of development.

Appendix, Table A10 shows that Palo Alto, Santa Clara, Cupertino, Mountain View and Sunnyvale have commercial linkage fees for BMR housing. Palo Alto has the highest fee, at up to $35 per square foot. Santa Clara's top linkage fee increases to $20 per square foot after Jan. 18, 2019.[36]

Cities with larger jobs to employed resident ratios could form a RHNA sub-region to share their commercial linkage fee income with other cities that have more sites for BMR projects. This could have a bigger impact if the fees were shared with cities that can develop BMR housing near transit stations.

Table A10 shows that Campbell, Milpitas and Saratoga have completed nexus studies that provide fee recommendations, but none have enacted a commercial linkage fee. These cities could quickly benefit from these commercial linkage fees.

San Jose, with its low jobs to employed resident ratio, has encouraged commercial development. It has not completed a nexus study. But in view of the city's big BMR shortfall, the Grand Jury recommends San Jose complete a nexus study and enact a commercial linkage fee to create more funding for BMR housing.

Employer Contributions

The County and cities should consider enacting housing impact fees on employers. Officials interviewed by the Grand Jury have been receptive to the idea. Mountain View and Cupertino are to be commended for exploring the idea.[37]

Such a fee could be appropriate because employers have benefited from their activities in the County. They need housing and other local services for the jobs they create directly and indirectly. Experts say one high-tech job translates into four jobs in other sectors.[38] Housing challenges and congested roads can be improved by subsidizing denser housing near employment centers and transportation hubs.

---

[35] Mitigation Fee Act, Gov. Code section 66000 et seq.

[36] Santa Clara City Resolution 17-8482 – Establishing Affordable Housing Fees and Integrating the Fees into the Municipal Fee Schedule, Attachment A

[37] https://www.sfchronicle.com/business/article/Apple-could-get-hit-with-employer-tax-in-its-12927462.php

[38] http://www.bayareacouncil.org/community_engagement/new-study-for-every-new-high-tech-job-four-more-created/

Housing impact fees set too high could make the County less desirable for companies. Still, such a fee would be designed to help fix a region-wide problem shared by all the County's employers and make for a more vibrant region.

The County and cities should form a task force to establish the specifics of a BMR housing impact fee on employers. A measure recently approved by the Seattle City Council could provide a template. Referred to as the "Amazon Tax," because Amazon.com is the largest company headquartered in Seattle, the measure requires that businesses with annual revenue above $20 million pay $275 per full-time employee each year over the next five years. Seattle officials expect the tax will generate nearly $47 million and be used in part to build more than 590 BMR housing units.[39]

Many large employers in Santa Clara County have contributed to solutions to the housing crisis. Google is the major landowner in Mountain View's landmark North Bayshore Plan.[40] Facebook offers monetary incentives for employees who reside near work and has pledged $30 million for affordable housing. LinkedIn was an early, major investor[41] in the Housing Trust's TECH Fund, which aims to fund affordable housing. Cisco Systems has invested in the TECH Fund and in March pledged $50 million[42] for efforts to house the homeless in the County. Adobe Systems, Intel, HP and Applied Materials are among major donors to the Housing Trust.

The BMR housing crisis requires steady sources of funding, from all sectors. Given the history of innovative solutions and philanthropy by employers, we urge the County and cities to partner with the largest employers and groups such as the Silicon Valley Leadership Group to develop additional solutions for the BMR housing crisis.

[39] http://mynorthwest.com/925685/task-force-employee-hours-tax-seattle/

[40] https://www.mountainview.gov/depts/comdev/planning/activeprojects/northbayshore_.asp

[41] http://www.housingtrustsv.org/news/linkedin-commits-to-affordable-housing-in-mountain-view-w-10m-investment-in-tech-fund/

[42] https://newsroom.cisco.com/feature-content?articleId=1918354

Accessory Dwelling Units

ADUs are being encouraged by several cities as the most expedient option to satisfy their RHNA allocations. These also are referred to as "granny" or "NexGen" units. Appendix, Table A11 provides ADU regulation and production data.

For Monte Sereno, Saratoga, Los Gatos, Los Altos, Los Altos Hills and unincorporated County, ADUs are a major component of their BMR housing efforts. ADUs are attractive in these cities because they have mostly large-lot single-family residences.

These cities should require deed restrictions for ADUs, guaranteeing that these units remain within the BMR income categories. If such deed restrictions for ADUs cannot be required, the cities should provide incentives so owners are encouraged to voluntarily include long-term deed restrictions.

ADUs can fit the bill for families, so long as the cities allow ADUs to be a certain size, perhaps 1,200 square feet or more, to accommodate family households.

Residential Impact Fees and Parcel Taxes

Cities with limited commercial development or developable land lack ways to generate funding to meet BMR objectives. These cities have limited options to raise revenue in view of Proposition 13 and the elimination of redevelopment agencies. They also have small populations and small RHNA requirements.

An impact fee imposed on new residential development is one tool these cities could use. Such fees are already in place in Palo Alto, San Jose and Sunnyvale, as shown in Table A8. The fee is based on the connection between the development of market-rate housing and the need to expand the supply of BMR housing. Such fees are typically 10% of construction costs and are just one of many substantial fees developers have to pay.

BMR parcel taxes could be an answer but require voter approval. Fulfilling the jurisdiction's RHNA BMR allocation would be a proper purpose for a parcel tax.

What level of revenue could be achieved from a parcel tax? In Monte Sereno there are 1,222 assessor's parcels. A tax of $1,000 per parcel would generate more than $1.2 million a year. At an estimated price of $500,000[43] per BMR unit, that could produce two BMR units per year. The RHNA allocation to Monte Sereno for ELI, VLI and LI for the current cycle is 35 units.

The same formula for the 3,014 assessor's parcels in Los Altos Hills brings in $3 million per year, which could yield six BMR units. The Town's current RHNA allocation for ELI, VLI and

[43] The per unit cost of $500,000 is obtained using an average unit size of 1,000 sq ft, $300 per sq ft construction cost, a density of 20 units per acre, and land cost of $4 million per acre.

LI is 74.

VTA Serves as Model for Public Entities

The VTA recognizes the importance of developing its real estate assets and has created a Joint Development Program (JDP).[44] The VTA is creating high-density projects on its land adjacent to transit by partnering with developers.

The VTA transit-oriented developments (TODs) include BMR housing with the aim to improve VTA ridership. The VTA's development process includes inter-agency coordination and collaboration with developers, cities and other stakeholders.[45] The VTA development process can serve as a model for other public entities including the Santa Clara Valley Water District (SCVWD) and the County. Potential County sites include Civic Center, Fairgrounds and Burbank area.

The VTA says its JDP encourages higher-density development. [46] Local jurisdiction willingness to rezone transit-adjacent properties from commercial to residential or mixed use is a critical step for creating BMR housing. This is especially important in San Jose, where nine of 18 potential TOD sites presently have non-residential zoning.[47]

The VTA properties having potential for BMR units are listed in Appendix, Table A12. The Almaden and Cottle sites can provide more BMR units if San Jose would rezone these parcels for mixed-use including residential.

With the VTA model in mind, the County and SCVWD should identify parcels they own that are suitable for BMR.

---

[44] VTA Joint Development Program, http://vtaorgcontent.s3-us-west-1.amazonaws.com/Site_Content/VTA%20Joint%20Development%20Policy.pdf

[45] Ibid.

[46] Ibid.

[47] Grand Jury interview with VTA

FINDINGS AND RECOMMENDATIONS

Finding 1a

Lack of housing near employment centers worsens traffic congestion in the County and increases the urgency to add such housing. Cities to respond are Campbell, Cupertino, Gilroy, Los Altos, Los Gatos, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Finding 1b

Mass transit stations (Caltrain, VTA, BART) create opportunities for BMR units. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Finding 1c

Density bonus programs are not being used aggressively enough to produce the needed BMR units within one-half mile of transit hubs. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Recommendation 1a

To improve jobs-to-housing imbalances, the cities of Palo Alto, Santa Clara, Milpitas, Mountain View and Sunnyvale should identify, by June 30, 2019, parcels where housing densities will be increased. The identification should include when projects are expected to be permitted and the number of BMR units anticipated for each parcel.

Recommendation 1b

Cities should identify parcels within one-half mile of a transit hub that will help them meet their LI and moderate-income BMR objectives in the current RHNA cycle, by the end of 2019. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Recommendation 1c

Cities should revise their density bonus ordinances to provide bonuses for LI and moderate-income BMR units that exceed the minimum bonuses required by State law for parcels within one-half mile of a transit hub, by the end of 2020. Cities to respond are Campbell, Gilroy, Milpitas, Morgan Hill, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Finding 2a

Employers in the County have created a vibrant economy resulting in an inflated housing market displacing many residents. Agencies to respond are all 15 cities and the County.

Finding 2b

Contributions to BMR housing from employers in the County are not mandated nor evenly shared. Agencies to respond are all 15 cities and the County.

Recommendation 2a

The County should form a task force with the cities to establish housing impact fees for employers to subsidize BMR housing, by June 30, 2019. Agencies to respond are all 15 cities and the County.

Recommendation 2b

Every city in the County should enact housing impact fees for employers to create a fund that subsidizes BMR housing, by June 30, 2020. Agencies to respond are the County and all 15 cities.

Finding 3a

RHNA sub-regions formed by several San Francisco Bay Area counties enable their cities to develop promising means to meet their collective BMR requirements. Such sub-regions can serve as instructive examples for cities in the County. Agencies to respond are all 15 cities.

Finding 3b

Developers are less willing to consider BMR developments in cities with the County's highest real estate values because these developments cannot meet their target return on investment. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Palo Alto and Saratoga.

Finding 3c

More BMR units could be developed if cities with lower housing costs form RHNA sub-regions with adjacent cities with higher housing costs. Responding agencies are all 15 cities.

Finding 3d

High-cost/low-cost RHNA sub-regions would be attractive to low-cost cities if they are compensated by high-cost cities for improving streets, schools, safety, public transportation and other services. Cities to respond are Gilroy, Milpitas, Morgan Hill and San Jose.

Finding 3e

High-cost/low-cost RHNA sub-regions could be attractive to high-cost cities because they could meet their BMR requirements without providing units in their cities. Cities to respond are Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Santa Clara, Saratoga and Sunnyvale.

Recommendation 3a

Every city in the County should identify at least one potential RHNA sub-region they would be willing to help form and join, and report how the sub-region(s) will increase BMR housing, by the end of 2019. Agencies to respond are all 15 cities.

Recommendation 3b

A RHNA sub-region should be formed including one or more low-cost cities with one or more high-cost cities, by the end of 2021. Agencies to respond are all 15 cities.

Recommendation 3c

High-cost cities and the County should provide compensation to low-cost cities for increased public services required for taking on more BMR units in any high-rent/low-rent RHNA sub-region, by the end of 2021. Agencies to respond are Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Santa Clara, Saratoga, Sunnyvale and the County.

Finding 4a

Commercial linkage fees can be an important tool to generate critical revenues to support BMR housing. Cities to respond are Campbell, Milpitas, Los Gatos, Los Altos and San Jose.

Finding 4b

Use of commercial linkage fees is overdue and could be expected to substantially increase BMR units. Cities to respond are Campbell, Milpitas, Los Gatos, Los Altos and San Jose.

Recommendation 4

Campbell, Milpitas, Los Gatos, Los Altos and San Jose should enact commercial linkage fees to promote additional BMR housing, by June 2019.

Finding 5a

Uneven BMR achievements among cities is caused in part by varying inclusionary BMR unit percentage requirements. Agencies to respond are all 15 cities and the County.

Finding 5b

Inclusionary ordinances in cities having only a small number of potential multi-unit developments would generate too few BMR units to justify their passage. Cities to respond are Los Altos Hills, Monte Sereno and Saratoga.

Recommendation 5

Inclusionary BMR percentage requirements should be increased to at least 15% in Gilroy, Los Altos, Los Gatos, Milpitas, Morgan Hill, Palo Alto and Sunnyvale, by the end of 2019.

Finding 6

In-lieu fees, when offered as an option, are too low to produce the needed number of BMR units and delay their creation. Cities to respond are Campbell, Cupertino, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Recommendation 6

Cities with an in-lieu option should raise the fee to at least 30% higher than the inclusionary BMR equivalent where supported by fee studies, by the end of 2019. Cities to respond are Campbell, Cupertino, Milpitas, Mountain View, Palo Alto, San Jose, Santa Clara and Sunnyvale.

Finding 7
NIMBY (Not in My Backyard) opposition adversely affects the supply of BMR housing units. Agencies to respond are all 15 cities and the County.

Recommendation 7
A task force to communicate the value and importance of each city meeting its RHNA objectives for BMR housing should be created and funded by the County and all 15 cities, by June 30, 2019.

Finding 8
It is unnecessarily difficult to confirm how many BMR units are constructed in a particular year or RHNA cycle because cities and the County only report permitted units. Agencies to respond are all 15 cities and the County.

Recommendation 8
All 15 cities and the County should annually publish the number of constructed BMR units, starting in April 2019.

Finding 9
Accessory Dwelling Units (ADUs) offer a prime opportunity for cities with low housing density and limited developable land to produce more BMR units. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno and Saratoga.

Recommendation 9a
ADU creation should be encouraged by decreasing minimum lot size requirements and increasing the allowed unit maximum square footage to that prescribed by state law, by the end of 2019. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno and Saratoga.

Recommendation 9b
Increasing BMR unit creation by incentivizing long-term affordability through deed restrictions for ADUs should be adopted, by the end of 2019. Cities to respond are Los Altos, Los Altos Hills, Los Gatos, Monte Sereno and Saratoga.

Finding 10
Lack of funding mechanisms to create BMR housing has restricted BMR achievement by cities with limited commercial development or developable land. Cities to respond are Los Altos Hills, Monte Sereno and Saratoga.

Recommendation 10a
Residential development impact fees to fund BMR developments should be enacted by the cities of Los Altos Hills, Monte Sereno and Saratoga, by the end of 2019.

Recommendation 10b

Parcel taxes to fund BMR developments should be brought as a ballot measure to the voters of the cities of Los Altos Hills, Monte Sereno and Saratoga, by the 2020 elections.

Finding 11

The VTA is a valuable model for effectively generating BMR housing on publicly owned property. Agencies to respond are the County and the SCVWD.

Recommendation 11a

The County should identify or create an agency, modeled after the VTA's Joint Development Program, to coordinate partnerships between developers and both the SCVWD and the County, for the development of BMR housing, by June 30, 2019.

Recommendation 11b

Parcels suitable for BMR housing should be offered for development by the SCVWD and the County, by the end of 2019.

REQUIRED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the Grand Gury requests responses as follows:

From the following governing bodies:

Responding Agency	Findings	Recommendations
Campbell	1a, 1b, 1c, 2a, 2b, 3a, 3c, 3e, 4a, 4b, 5a, 6, 7, 8	1b, 1c, 2a, 2b, 3a, 3b, 3c, 4, 6, 7, 8
Cupertino	1a, 2a, 2b, 3a, 3c, 3e, 5a, 6, 7, 8	1a, 2a, 2b, 3a, 3b, 3c, 6, 7, 8
Gilroy	1a, 1b, 1c, 2a, 2b, 3a, 3c, 3d, 5a, 6, 7, 8	1b, 1c, 2a, 2b, 3a, 3b, 5, 7, 8
Los Altos	1a, 2a, 2b, 3a, 3b, 3c, 3e, 4a, 4b, 5a, 6, 7, 8, 9	2a, 2b, 3a, 3b, 3c, 4, 5, 7, 8, 9a, 9b
Los Altos Hills	2a, 2b, 3a, 3b, 3c, 3e, 5a, 5b, 6, 7, 8, 9, 10	2a, 2b, 3a, 3b, 3c, 7, 8, 9a, 9b, 10a, 10b
Los Gatos	1a, 2a, 2b, 3a, 3b, 3c, 3e, 4a, 4b, 5a, 6, 7, 8, 9	2a, 2b, 3a, 3b, 3c, 4, 5, 7, 8, 9a, 9b
Milpitas	1a, 1b, 1c, 2a, 2b, 3a, 3c, 3d, 4a, 4b, 5a, 6, 7, 8	1a, 1b, 1c, 2a, 2b, 3a, 3b, 4, 6, 7, 8
Monte Sereno	2a, 2b, 3a, 3b, 3c, 3e, 5a, 5b, 6, 7, 8, 9, 10	2a, 2b, 3a, 3b, 3c, 7, 8, 9a, 9b, 10a, 10b
Morgan Hill	1b, 1c, 2a, 2b, 3a, 3c, 3d, 5a, 6, 7, 8	1b, 1c, 2a, 2b, 3a, 3b, 5, 7, 8
Mountain View	1a, 1b, 1c, 2a, 2b, 3a, 3c, 3e, 5a, 6, 7, 8	1a, 1b, 1c, 2a, 2b, 3a, 3b, 3c, 6, 7, 8
Palo Alto	1a, 1b, 1c, 2a, 2b, 3a, 3b, 3c, 3e, 5a, 6, 7, 8	1a, 1b, 1c, 2a, 2b, 3a, 3b, 3c, 5, 6, 7, 8
San Jose	1a, 1b, 1c, 2a, 2b, 3a, 3c, 3d, 4a, 4b, 5a, 6, 7, 8	1b, 1c, 2a, 2b, 3a, 3b, 4, 6, 7, 8
Santa Clara	1a, 1b, 1c, 2a, 2b, 3a, 3c, 3e, 5a, 6, 7, 8	1a, 1b, 1c, 2a, 2b, 3a, 3b, 3c, 6, 7, 8
Santa Clara County Board of Supervisors	2a, 2b, 3a, 3b, 3c, 3d, 3e, 7, 11	2a, 2b, 3c, 7
Santa Clara Valley Transportation Authority	11	11a, 11b
Santa Clara Valley Water District	11	11a, 11b
Saratoga	2a, 2b, 3a, 3b, 3c, 3e, 5a, 5b, 6, 7, 8, 9, 10	2a, 2b, 3a, 3b, 3c, 7, 8, 9a, 9b, 10a, 10b
Sunnyvale	1a, 1b, 1c, 2a, 2b, 3a, 3c, 3e, 5a, 6, 7, 8	1a, 1b, 1c, 2a, 2b, 3a, 3b, 3c, 5, 6, 7, 8
Unincorporated County	11	8, 11a, 11b

APPENDIX

Table A1: Income limits for housing assistance eligibility in the County (as of 4/1/2018)[48]

Housing Assistance Income Eligibility Limits for Santa Clara County			
Number of Persons in Household	Income Limit Category (based on AMI)		
	Extremely Low (30%)	Very Low (50%)	Low (80%)
1	$27,950	$46,550	$66,150
2	$31,950	$53,200	$75,600
3	$35,950	$59,850	$85,050
4	$39,950	$66,500	$94,450
5	$43,100	$71,850	$102,050
6	$46,300	$77,150	$109,600
7	$49,500	$82,500	$117,150
8	$52,700	$87,800	$124,700

BMR is separated into three income categories: Very Low Income (VLI), Low Income (LI) and moderate-income categories. The County's income limits for these categories are provided in Appendix Table A1. Very Low Income (VLI) is housing for households making up to 50% of area median income (AMI), Low Income (LI, 50%-80% of AMI); moderate income (80-120%) and above moderate (more than 120%). Extremely Low Income (ELI) is a sub-category within VLI and is for households making 0-30% of AMI. Note that the values in Table A1 are for 30% (ELI), 50% (VLI) and 70% (LI).

[48] Santa Clara Housing Authority, Section 8 Housing Programs, Income Limits
https://www.scchousingauthority.org/section-8-housing-programs/waiting-lists-applicants/income-limits/

Table A2: RHNA results for the 2007-2014 cycle

City/Entity	BMR Subtotal			Above Moderate (>120%))			Total		
	RHNA	Permits Issued	% of RHNA Met	RHNA	Permits Issued	% of RHNA Met	RHNA	Permits Issued	% of RHNA Met
Saratoga	235	18	8%	57	20	35%	292	38	13%
Los Gatos	376	48	13%	186	180	97%	562	228	41%
San Jose	19,271	2,956	15%	15,450	13,073	**85%**	34,721	16,029	46%
Cupertino	813	127	16%	357	657	184%	1,170	784	67%
Palo Alto	1,874	293	16%	986	787	80%	2,860	1,080	38%
Mountain View	1,447	269	19%	1,152	2,387	207%	2,599	2,656	102%
Gilroy	807	164	20%	808	1,262	156%	1,615	1,426	88%
Santa Clara	3,209	721	22%	2,664	5,952	223%	5,873	6,673	114%
Los Altos	243	57	23%	74	784	1059%	317	841	**265%**
Morgan Hill	812	241	30%	500	1,286	257%	1,312	1,527	116%
Milpitas	1,551	709	46%	936	6,442	688%	2,487	7,151	**288%**
Los Altos Hills	68	40	59%	13	76	585%	81	116	**143%**
Monte Sereno	33	21	64%	8	14	175%	41	35	85%
Campbell	479	399	**83%**	413	217	53%	892	616	69%
Sunnyvale	2,557	2,178	**85%**	1,869	2,403	129%	4,426	4,581	104%
Unincorporated	677	620	**92%**	413	422	102%	1,090	1,042	96%
County Total	34,452	8,861	26%	25,886	35,962	139%	60,338	44,823	74%

Pink cells and larger font entries in Tables A2, A3, A4, A5 and A6 represent lower BMR achievement, and green cells and bold font represent higher BMR achievement.

Table A3: RHNA results for 2015-2023 cycle, through 2017[49]

City/Entity	Total BMR Data			Above Moderate (>120%)			Total		
	RHNA	Permits Issued	% of RHNA Met	RHNA	Permits Issued	% of RHNA Met	RHNA	Permits Issued	% of RHNA Met
Milpitas	2,139	0	0%	1,151	1,193	104%	3,290	1,193	36%
Los Gatos	445	7	2%	174	60	34%	619	67	11%
Santa Clara	1,745	37	2%	755	611	81%	2,500	648	26%
Campbell	542	12	2%	391	211	54%	933	223	24%
Cupertino	794	27	3%	270	172	64%	1,064	199	19%
Sunnyvale	3,478	87	3%	1,974	1,017	52%	5,452	1,104	20%
San Jose	20,849	890	4%	14,231	7,671	54%	35,080	8,561	24%
Los Altos	380	21	6%	97	319	329%	477	340	71%
Saratoga	346	20	6%	93	12	13%	439	32	7%
Palo Alto	1,401	115	8%	587	189	32%	1,988	304	15%
Morgan Hill	612	75	12%	316	534	169%	928	609	**66%**
Unincorporated	249	29	12%	28	229	818%	277	258	**93%**
Mountain View	1,833	231	13%	1,093	1,205	110%	2,926	1,436	49%
Monte Sereno	48	11	**23%**	8	14	175%	56	25	45%
Los Altos Hills	106	32	**30%**	15	29	193%	121	61	50%
Gilroy	495	287	**58%**	475	727	153%	970	1,014	**105%**
County Total	35,462	1,881	5%	21,658	14,193	66%	57,120	16,074	28%

[49] https://abag.ca.gov/planning/housingneeds/

Table A4: RHNA results for 2007-2017, compared to objectives through Oct 31, 2022

City/ Entity	Total BMR Data			Above Moderate (>120%)			Total		
	RHNA	Permits Issued	% of RHNA Met	RHNA	Permits Issued	% of RHNA Met	RHNA	Permits Issued	% of RHNA Met
Saratoga	581	38	7%	150	32	21%	731	70	10%
Los Gatos	821	55	7%	360	240	67%	1,181	295	25%
Cupertino	1,607	154	10%	627	829	132%	2,234	983	44%
San Jose	40,120	3,846	10%	29,681	20,744	70%	69,801	24,590	35%
Los Altos	623	78	13%	171	1,103	645%	794	1,181	**149%**
Palo Alto	3,275	408	12%	1,573	976	62%	4,848	1,384	29%
Santa Clara	4,954	758	15%	3,419	6,563	192%	8,373	7,321	87%
Mountain View	3,280	500	15%	2,245	3,592	160%	5,525	4,092	74%
Milpitas	3,690	709	19%	2,087	7,635	366%	5,777	8,344	**144%**
Gilroy	1,302	451	**35%**	1,283	1,989	155%	2,585	2,440	94%
Morgan Hill	1,424	316	**22%**	816	1,820	223%	2,240	2,136	**95%**
Sunnyvale	6,035	2,265	**38%**	3,843	3,420	89%	9,878	5,685	58%
Monte Sereno	81	32	**40%**	16	28	175%	97	60	62%
Los Altos Hills	174	72	**41%**	28	105	375%	202	177	88%
Campbell	1,021	411	**40%**	804	428	53%	1,825	839	46%
Unincorporated	926	649	**70%**	441	651	148%	1,367	1,300	95%
County Total	69,914	10,742	15%	47,544	50,155	105%	117,458	60,897	52%

Table A5: RHNA results for 2007-2017, compared with time-proportionate objectives (75.5% for San Jose and Los Gatos, 72% for other cities)

City/ Entity	Total BMR Data			Above Moderate (>120%)			Total		
	RHNA 2017	Permits Issued	% of RHNA Met	RHNA 2017	Permits Issued	% of RHNA Met	RHNA 2017	Permits Issued	% of RHNA Met
Saratoga	418	38	9%	108	32	30%	526	70	13%
Los Gatos	620	55	9%	272	240	88%	892	295	33%
Cupertino	1,157	154	13%	451	829	184%	1,608	983	61%
San Jose	30,291	3,846	13%	22,409	20,744	93%	52,700	24,590	47%
Los Altos	449	78	17%	123	1,103	896%	572	1,181	**207%**
Palo Alto	2,358	408	17%	1,133	976	86%	3,491	1,384	40%
Santa Clara	3,567	758	21%	2,462	6,563	267%	6,029	7,321	121%
Mountain View	2,362	500	21%	1,616	3,592	222%	3,978	4,092	103%
Milpitas	2,657	709	27%	1,503	7,635	508%	4,159	8,344	**201%**
Morgan Hill	1,025	316	31%	588	1,820	310%	1,613	2,136	**132%**
Gilroy	937	451	**48%**	924	1,989	215%	1,861	2,440	**131%**
Sunnyvale	4,345	2,265	**52%**	2,767	3,420	124%	7,112	5,685	80%
Monte Sereno	58	32	**55%**	12	28	243%	70	60	86%
Los Altos Hills	125	72	**57%**	20	105	521%	145	177	122%
Campbell	735	411	**56%**	579	428	74%	1,314	839	64%
Unincorporated	667	649	**97%**	318	651	205%	984	1,300	**132%**
County Total	51,771	10,742	21%	35,283	50,155	142%	87,054	60,897	70%

Table A6: Lower-Cost/Higher-Cost City Combination Sub-region Benefit Analysis - Current RHNA Cycle: 2015-2023

City	Median Sale Price ($ million)	RHNA BMR Units Objective	Present RHNA BMR Units Deficit	No Sub-region ($ million)	Lowest Cost Sub-region ($ million)
Gilroy	$0.609	613	326	$198.53	$198.53
Morgan Hill	$0.701	612	537	$376.44	$327.03
San Jose	$0.773	20,849	19,959	$15,428.31	$12,155.03
Milpitas	$0.821	2,139	2,139	$1,756.12	$1,302.65
Campbell	$0.940	542	530	$498.20	$322.77
Santa Clara	$0.944	1,745	1,708	$1,612.35	$1,040.17
Sunnyvale	$1.200	3,478	3,391	$4,069.20	$2,065.12
Mountain View	$1.310	1,833	1,602	$2,098.62	$975.62
Cupertino	$1.340	794	767	$1,027.78	$467.10
Los Gatos	$1.430	445	438	$626.34	$266.74
Saratoga	$1.610	346	326	$524.86	$198.53
Palo Alto	$2.250	1,401	1,286	$2,893.50	$783.17
Los Altos	$2.580	380	359	$926.22	$231.42
Monte Sereno	$3.000	48	37	$111.00	$22.53
Los Altos Hills	$4.090	106	74	$302.66	$45.07
15 City Total	n/a	35,331	33,479	**$32,450.13**	**$20,401.50**
15 City Median	$1.192	n/a	n/a	n/a	n/a

The median sale price values in Table A6 are for two-bedroom units in all cities other than Monte Sereno. The value for Monte Sereno is for three-bedroom units, because there was no data available for two-bedroom units. The Sub-region totals (No and Lowest Cost) are computed using the Present RHNA BMR Units Deficit.

Table A7: Allocated BMR Permit Share and Permitted Unit Deficit

2007-2017 BMR Allocation to Permitted Unit Deficit Gap Analysis	Allocated Share (%)	Permitted Unit Deficit
San Jose	**57.4%**	**36,274**
Santa Clara	7.1%	4,196
Sunnyvale	8.6%	3,770
Milpitas	5.3%	2,981
Palo Alto	4.7%	2,867
Mountain View	4.7%	2,780
Cupertino	2.3%	1,453
Morgan Hill	2.0%	1,108
Gilroy	1.9%	851
Los Gatos	1.2%	766
Campbell	1.5%	610
Saratoga	0.8%	543
Los Altos	0.9%	545
Unincorporated	1.3%	277
Los Altos Hills	0.2%	102
Monte Sereno	0.1%	49
County Totals		59,172

Table A8 – Inclusionary Ordinances and Residential Impact Fees[50]

City	Ordinance in Place (Y/N)	Minimum Number of Units	Rental Property BMR Requirement (% of units)	BMR Requirement for Resident Owned Units (% of units)	In Lieu Fees (% of sales price or $ per sq ft)	Residential Impact Fee
Campbell	Y	10	15%	15%	no requests yet	N
Cupertino	Y	7	15%	15%	$15.48-25.80	N
Gilroy	N - Neighborhood District Policy		15%	15%	N	N
Los Altos	Y	5, 10	15%	10%	N	N
Los Altos Hills	**N**					N
Los Gatos	Y	5, 100	10-20%	10-20%	limited option	N
Milpitas	Y	**5**	N/A	5%	5%	N
Monte Sereno	**N**					N
Morgan Hill	N - RCDS	**5**	8%	8%	$12.92	N
Mountain View	Y	**5**	15%	10%	3%	N
Palo Alto	Y	**3**	N/A	**15-25%**	**$50-75**	**$20-35/sq ft**
San Jose	Y	**20**	15%	15%	$125K per BMR unit required	$17.41/sq ft
Santa Clara	Y	10	15%	15%	$6.67-20	N
Saratoga	**N**					N
Sunnyvale	Y	4, 8 (full)	N/A	12.5%	7%	$9-18/sq ft

Red cells in Table A8 indicate that a city is not taking full advantage of a key means to generate BMR units, while a green cell indicates that a city has stepped up and is using a key means to a greater advantage than other cities in the County. An empty cell indicates that that no entry is needed for that cell.

[50] Sunnyvale had a Rental Property BMR Requirement of 15% through 2012, when it was replaced with a Rental Impact Fee to comply with Palmer. Sunnyvale is working on a new BMR Rental Requirement consistent with AB 1505 for City Council consideration in 2018.

Table A9 – Jobs per Employed Resident Ratios[51]

City	Jobs per Employed Resident Ratio
Palo Alto	3.02
Santa Clara	2.08
Los Gatos	1.82
Milpitas	1.50
Campbell	1.35
Los Altos	1.28
Mountain View	1.23
Cupertino	1.08
Sunnyvale	1.07
Morgan Hill	1.02
San Jose	0.89
Saratoga	0.85
Gilroy	0.84
Los Alto Hills	0.72
Monte Sereno	0.33

Table A10: Commercial Linkage Fees

City/Entity	Nexus Study Completed	Ordinance in Place	Linkage Fee ($/sq ft)
Campbell	Y	N	N/A
Cupertino	Y	Y	$21.35
Gilroy	N	N	N/A
Los Altos	Y	N	N/A
Los Alto Hills	N	N	N/A
Los Gatos	N	N	N/A
Milpitas	Y	N	N/A
Monte Sereno	N	N	N/A
Morgan Hill	N	N	N/A
Mountain View	Y	Y	$2.68 to $25.58
Palo Alto	Y	Y	$20.37 to $35
San Jose	N	N	N/A
Santa Clara	Y	Y	up to $20*
Saratoga	Y	N	
Sunnyvale	Y	Y	$8 to $16
Unincorporated	N	N	N/A

* Starting Jan. 18, 2019.

Cities with a mustard cell have not completed nexus studies, and those with green have completed nexus studies.

[51] LAFCO of Santa Clara County, Cities Service Review, Section 22, "Sprawl Prevention/Infill Development, pages 314-315, http://santaclaralafco.org/file/ServiceReviews/CitiesSR2015/23CSRR_FA_Sprawl.pdf

Table A11: ADU regulations and production

City	Minimum Lot Area (sq ft)	2007-2014 Permits	2015-2017 Permits	Potential Units for 2018-2023
Campbell	10,000	15	13	25
Cupertino	10,000 detached	7.2 per yr	3	32
Gilroy	6,000	20	12	15
Los Altos	No limit	11	15	35
Los Altos Hills	N/A	40	28	N/A
Los Gatos	No limit	14	4	55
Milpitas	2500-10,000	6	N/A	N/A
Monte Sereno	8,000	15	21	9
Morgan Hill	3,500	31	41	58
Mountain View	No limit	7	11	45
Palo Alto	5,000	35	23	N/A
San Jose	6,000-8,000	N/A	N/A	N/A
Santa Clara	6,000	29	20	30
Saratoga	90% of district minimum	39	38	50
Sunnyvale	5,000-8,000	20	23	N/A
Unincorporated	No limit	N/A	96	N/A

Table A12: VTA sites with potential for BMR unit construction

Description/ Address	Optimistic Construction Completion Date	Total Acres	Develop-able Acres	City	Present Status in Development Process	Estimated Number of BMR Units
Tamien - 1197 Lick Ave	6/1/21	6.9	6.9	San Jose	Current negotiations with developer. Application for revised entitlements June 2018.	**135**
Mountain View - Evelyn	6/1/21	2	2	Mtn. View	Pending negotiations with City of Mtn. View	**200**
Milpitas BART Station	6/1/22	1.7	1.7	Milpitas	Developer RFP June 2018	35+
Santa Clara Caltrain	6/1/22	0.3	0.3	Santa Clara	Current negotiations with developer.	TBD
Berryessa BART Station - southeast corner	6/1/23	3.3	3.3	San Jose	Awaiting preparation of Urban Village Plan by CSJ	**70+**
Blossom Hill - Blossom Hill Rd at Canoas Creek	6/1/23	6.8	4+ (a)	San Jose	Developer RFP June 2018	**80+**
Curtner - Highway 87 at Curtner	6/1/23	5.9	3.5+ (a)	San Jose	Developer RFP June 2018	**70+**
Ohlone - Chynoweth Ave at Pearl Avenue	6/1/23	8.3	TBD (a)	San Jose	Parking study and policy pending, needed to identify developable parcel	TBD
Capitol Station - Southeast Capitol Expressway @ Narvaeaz	6/1/25	13.3	10+ (a)	San Jose	Inactive - City requirement for commercial renders project infeasible	
Morgan Hill - 17300 Depot Street	6/1/25	6.5	TBD	Morgan Hill	Inactive - awaiting resolution of ownership	TBD
Cerone - 3990 Zanker Rd	6/1/28	54.13	40	San Jose	VTA predevelopment	0
River Oaks - 3331 N. First St.	6/1/28	17.5	17.5	San Jose	Application to City for housing allotment	**280+**
Gilroy - Monterey Highway at 7th St	6/1/29	6.1	6.1	Gilroy	Inactive - awaiting High Speed Rail Plans	TBD
VTA (Mitchell) Block	2027 - 2032	3.3	3.3	San Jose	Preliminary studies	**150+**
Santa Teresa - Santa Teresa Blvd at Miyuki Dr	TBD	35.8	35.8	San Jose	Inactive	0
Snell - Snell Ave at Highway 85	TBD	6.5	TBD (a)	San Jose	Preliminary study done. Lower priority than other sites.	TBD
Winchester - Winchester Blvd at Budd Avenue	TBD	1.6	1.6	Campbell	Inactive - landbanking for future development	TBD
Almaden	TBD	4.8	3+ (a)	San Jose	Preliminary studies	60+
Cottle	TBD	4.7	3+ (a)	San Jose	Ongoing discussion	TBD

The optimistic construction dates are highlighted in the table to focus attention on the potential near term BMR unit potential for the sites described in this table.

GLOSSARY

Area Median Income – A value determined on an annual basis by the U.S. Department of Housing and Urban Development that represents the household income for the median household in a specified region.

Current RHNA Cycle – ABAG defines this as two distinct periods. The "planning period" spans the due date for one housing element and the due date for the next housing element. For the current cycle, this is Jan 31, 2015, through Jan. 31, 2023. More important for this report, the "projection period" is the span for which the RHNA need is calculated. It is Jan 1, 2014, through Oct 31, 2022. That is 94 months for cities that include 2014 data in their annual housing element progress updates during the current cycle, and 82 months for the other cities. Cities that include 2014 data in the current cycle (Los Gatos and San Jose) completed 51% of the current cycle by the end of 2017, and 75.5% of both the prior and current cycle. The other 13 cities and County completed 44% of the current cycle as of the end of 2017, and 72% of both cycles.

In-Lieu Fees – Funds collected from developers that enable developers to forego BMR inclusionary unit requirements within a project. In-lieu fees are discussed in greater detail in view of the data presented in Table 2. There are two basic types of in-lieu fees, one determined as a percentage of the cost of the development and the other as a cost per square foot of the development.

Jobs per Employed Resident Ratio[52] – Employed residents are calculated by subtracting the unemployed residents from the labor force. Unemployed residents are calculated by multiplying the labor force by the unemployment rate. This ratio is influenced by levels of in-commuting and out-commuting as well as the number of employed residents holding multiple jobs. ABAG assumes that this ratio holds at the 2010 level, implying the rates of net-incommuting and multiple job-holding remain constant. ABAG's strategy is based on the halting of the trend of increasing rates of incommuting into the region seen in recent decades, due to road capacity constraints and additional housing production supports within the region. This also keeps the incommute well below 2000 levels.

Urban Village[53] – An urban village is a walkable, bicycle-friendly, transit-oriented, mixed use setting that provides both housing and jobs. The urban village strategy fosters:

- Engagement of village area residents in the urban village planning process
- Mixed residential and employment activities that are attractive to an innovative work force

[52] Plan Bay Area Jobs Housing Connection Strategy, Appendix B : Housing and Employment Methodology, page 114, May 15, 2012
https://www.planbayarea.org/sites/default/files/pdf/JHCS/May_2012_Jobs_Housing_Connection_Strategy_Appendices_Low_Res.pdf

[53] http://sanjoseca.gov/planning/urbanvillages

- Revitalization of underutilized properties that have access to existing infrastructure
- Densities that support transit use, bicycling, and walking
- High-quality urban design

ACRONYMS

ABAG: **A**ssociation of **B**ay **A**rea **G**overnments

AMI: **A**rea **M**edian **I**ncome

BMR: **B**elow **M**arket **R**ate

CTOD: **C**enter for **T**ransit-**O**riented **D**evelopment

ELI: **E**xtremely **L**ow **I**ncome

HCD: California Department of **H**ousing and **C**ommunity **D**evelopment

IHO: **I**nclusionary **H**ousing **O**rdinance

JDP: **J**oint **D**evelopment **P**rogram

NIMBY: **N**ot **i**n **M**y **B**ack **Y**ard

LI: **L**ow **I**ncome

RHNA: **R**egional **H**ousing **N**eeds **A**llocation

SCVWD: **S**anta **C**lara **V**alley **W**ater **D**istrict

VLI: **V**ery **L**ow **I**ncome

TOD: **T**ransit-**O**riented **D**evelopment

VTA: Santa Clara **V**alley **T**ransportation **A**uthority

YIMBY: **Y**es **i**n **M**y **B**ack **Y**ard

This report was **ADOPTED** by the 2017-2018 Santa Clara County Civil Grand Jury on this 18 day of June, 2018.

Peter L. Hertan
Foreperson