



TOWN OF FAIRFAX

STAFF REPORT

July 7, 2021

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager
Ben Berto, Planning Director

SUBJECT: Authorize Town Manager to file an appeal of the Regional Housing Needs Allocation numbers for Fairfax to the Association of Bay Area Governments.

RECOMMENDATION

Authorize Town Manager to file an appeal of the Regional Housing Needs Allocation numbers to the Association of Bay Area Governments.

DISCUSSION

The Regional Housing Need Allocation (RHNA) process is used to determine how many new homes, and the affordability of those homes, each local government must plan for in its Housing Element. The Housing Element is statutorily required to be updated every eight years and this planning period cycle requires that the Housing Element update for the 2023 to 2031 planning period be complete by January of 2023.

On May 20, 2021, the Association of Bay Area Governments (ABAG) Executive Board approved the final methodology and the draft RHNA required housing numbers for each jurisdiction. The next phase of the process allows for jurisdictions to appeal the number of residential units they have been allocated.

The town has been allocated 490 housing units in the draft Regional Housing Needs Allocation (RHNA).

The RHNA appeal procedures and process requires the preparation of an appeal based on evidentiary information that meets one of the following three statutory criteria for formulating and appeal including:

1. ABAG did not adequately consider the information submitted as part of the local jurisdiction survey.
2. ABAG did not determine the jurisdiction's allocation in accordance with its adopted methodology and in a manner that furthers, and does not undermine, the RHNA objectives identified in Government Code Section 65584(d).
3. A significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted as part of the local jurisdiction survey.

An appeal to ABAG is the Town's only option to seek a reduction in its housing allocation.

Based on a review of the above criteria, staff notes that an appeal that meets the eligibility requirements of state law may be possible citing the following:

1. The draft RHNA is inconsistent with strategies to limit risks to existing and future communities from exposure to natural hazards such as wildfires.
2. Information provided in the local jurisdictional survey regarding land use constraints or capacity (e.g., amount of area in high wildfire danger areas, jobs/housing balance, water) apparently was not considered in the methodology and the development of the RHNA numbers.

Staff worked closely with the Town's Housing Element firm, EMC, to prepare the attached appeal. Specifically, we focused on the data tools and source maps relied on by ABAG to prepare the RHNA numbers. The appeal is due July 9th to ABAG.

It should be noted that based on the experience of jurisdictions in Southern California where two of the 48 appeals filed with the Southern California Association of Governments were partially upheld, the likelihood of success is low. In addition, if an appeal is upheld, any reduction in the Fairfax RHNA numbers would be redistributed amongst the other Marin jurisdictions. Similarly, if the Fairfax appeal is denied, but another Marin jurisdiction's appeal is upheld, Fairfax would receive additional units.

FISCAL IMPACT

n/a

ATTACHMENT

Draft appeal letter to Association of Bay Area Governments with attached maps

Association of Bay Area Governments/Bay Area Metro

On behalf of the Town Council of Fairfax, I am registering an appeal of the 490 housing units assigned to Fairfax in the draft Regional Housing Needs Allocation (RHNA).

The Town of Fairfax appreciates and supports efforts to address State and regional housing needs, particularly those relating to the shortage of affordable housing in our region. Our Town has in fact exceeded the current (5th cycle) RHNA housing numbers by over 50%, including fulfilling more than double our low-income housing allocation. Fairfax has and will continue to provide housing, including for our most vulnerable populations and to affirmatively further fair housing opportunities.

As noted in the Town's previous (October 13, 2020) letter to ABAG Board President Jessie Areguin about the early preliminary RHNA housing numbers, the Town of Fairfax looks forward to creatively planning for a reasonable number of housing units that address the need for housing (particularly affordable) and is responsive to community concerns. However, the 6th cycle draft RHNA allocation exceeds what is reasonable and realistic. The Town will cite three criteria for appealing this allocation consistent with the criteria set forth in the 2023-2031 RHNA Cycle Appeals Procedures

As has been noted in prior discussions on housing in this area, communities such as Fairfax with high property values and stable populations for an extended period of time tend to have already achieved a 'natural' limit to growth. Furthermore, Fairfax's population is aging, which naturally would result in a lower population. Vacant parcels, where present, tend to have severe, inherent land use limitations on development such as steep, unstable slopes. Here in Fairfax, whether it is such slopes, endangered species, historic register listing, or a general lack of vacant land, the reality is readily developable land has already long been spoken for. The draft 6th cycle RHNA housing numbers and State regulations demand that Fairfax plan for as much housing in the next eight years as has occurred in the last half century. This is not reasonable or realistic.

The Town of Fairfax is aware of the limited criteria on which appeals to the draft 6th cycle RHNA methodology can be based. We believe that there are three criteria for doing so that are consistent with the RHNA appeals procedures listed by ABAG, as follows:

- 1) The Housing Element Site Selection (HESS) tool used by BayArea Metro as part of the RHNA process to identify available, potential, and constrained sites in Fairfax contains erroneous data that, once corrected, reassigns all areas of the Town that the HESS tool currently identifies as 'potential' (for housing sites) to 'constrained'.

As can be seen from the three attached diagrams (Attachments A-C), the HESS diagram (Attachment A) currently identifies the majority of the Town's area as falling into the 'potential' category for housing. However, the underlying HESS tool criteria for determining whether sites

should be considered 'constrained' lists areas which fall into a high fire hazard severity zone should be considered 'constrained', and therefore not suitable for higher-density, multifamily development.

Attachment B is the State CalFire map which shows that virtually all of Fairfax is located in the high fire hazard severity zone classification. Attachment C combines the HESS map and the CalFire map to show that all of the which the HESS map mistakenly shows as "potential" housing sites are actually 'constrained.'

Furthermore, the Marin Wildfire Prevention Authority is currently conducting an evacuation study for every Marin jurisdiction and the results are expected to show that Fairfax is among the most adversely affected jurisdictions with respect to having many areas with only path of egress, a significant hazard in the event of a wildland fire.

The State of California has previously allowed extensive housing development in areas with high fire hazard and constrained evacuation, with the unfortunate but foreseeable loss by wildfire of hundreds of lives and thousands of homes. Last year alone, close to 5 million acres burned in this state, with accompanying devastating loss of lives, homes, and livelihoods.

The State appears to be trying to avoid repeating these tragic housing development mistakes. Requiring a Safety Element update to accompany the Housing Element update is an example of that. It therefore doesn't make sense for the State to mandate the planning and development of hundreds of new homes in Fairfax - an eight-fold increase over the current RHNA housing numbers - a high fire risk, constrained evacuation jurisdiction? The Town's hope is the numbers are at least partially based on erroneous HESS data. With the HESS correction the Town notes, the number of new homes mandated for Fairfax in the draft 6th cycle RHNA should be substantially reduced, preferably to the number of units which the Town in its commitment to housing is already achieving in the current RHNA cycle.

2) The Draft RHNA fails to adequately consider the Town's jobs-housing relationship. The jobs-housing relationship has been presented as a primary justification for requiring significantly more housing to resolve the jobs-housing imbalance, however, this rationale does not bear up to scrutiny.

The diagram below is taken from the Housing Needs Data Report for Fairfax prepared by ABAG/MTC, and illustrates Fairfax's unique circumstances with respect to jobs versus housing.

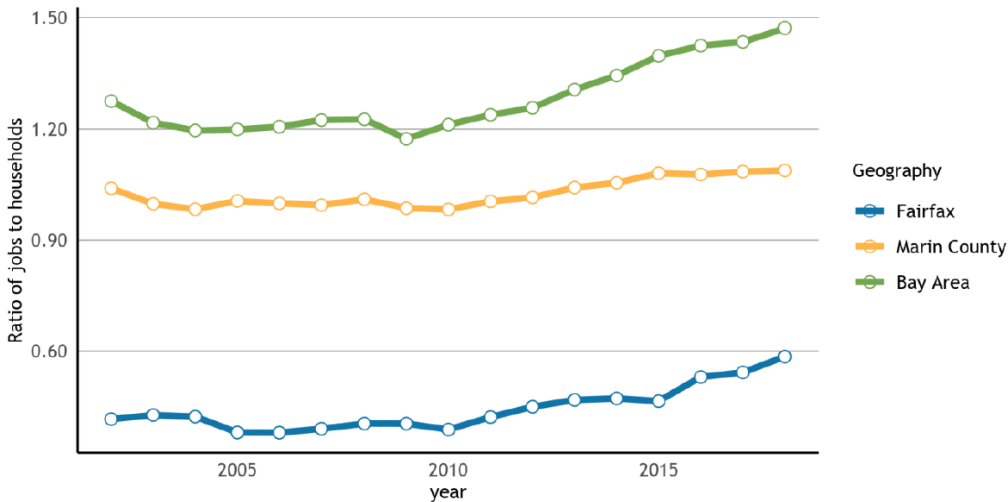


Figure 8: Jobs-Household Ratio

As can be seen from Figure 8, the Fairfax ratio of jobs to housing is far lower than either Marin County or the Bay Area overall. Fairfax’s latest local jobs versus household ratio is only approximately one-half that of Marin County overall, and one-third of the greater Bay Area. Fairfax continues to have far lower local jobs-housing ratio than either Marin or the Bay Area throughout the entire survey period. The latest statistics show Fairfax as having 0.6 jobs per housing unit. In contrast, Marin County has 1.15 jobs/housing per housing, and the overall Bay Area has 1.5 jobs per housing unit. The takeaway is while the Bay Area overall needs more housing to address its imbalance, Fairfax doesn’t need more housing, it needs more local jobs. While this ratio doesn’t address the shortage of affordable housing, it shows that, more housing in Fairfax is likely to exacerbate traffic rather than relieve it. Many of the people living in new Fairfax housing will be commuting to the surplus jobs relative to housing elsewhere in the region.

As noted previously, Fairfax has and will continue to plan for and provide affordable housing as a priority. However, the large number of housing units assigned to Fairfax in the proposed draft 6th cycle RHNA will exacerbate, not improve, the jobs-housing imbalance.

3) Lack of water supply is a major emerging issue. Marin Water, the utility district that provides all of Fairfax’s water, is considering a moratorium on new water service connections, and is mandating water rationing. Marin obtains almost all of its water from its local watershed reservoirs, and the extreme 2-year drought the County (along with most of the State) is experiencing has severely constrained water supplies to serve local users. While future events cannot be forecasted, given the current severe shortfall situation it is not prudent to mandate as much growth in housing numbers as the Town has had in the last half century.

The Town of Fairfax recognizes the challenges faced in developing appropriate allocation numbers. However, we continue to believe the proposed 6th cycle RHNA housing numbers far

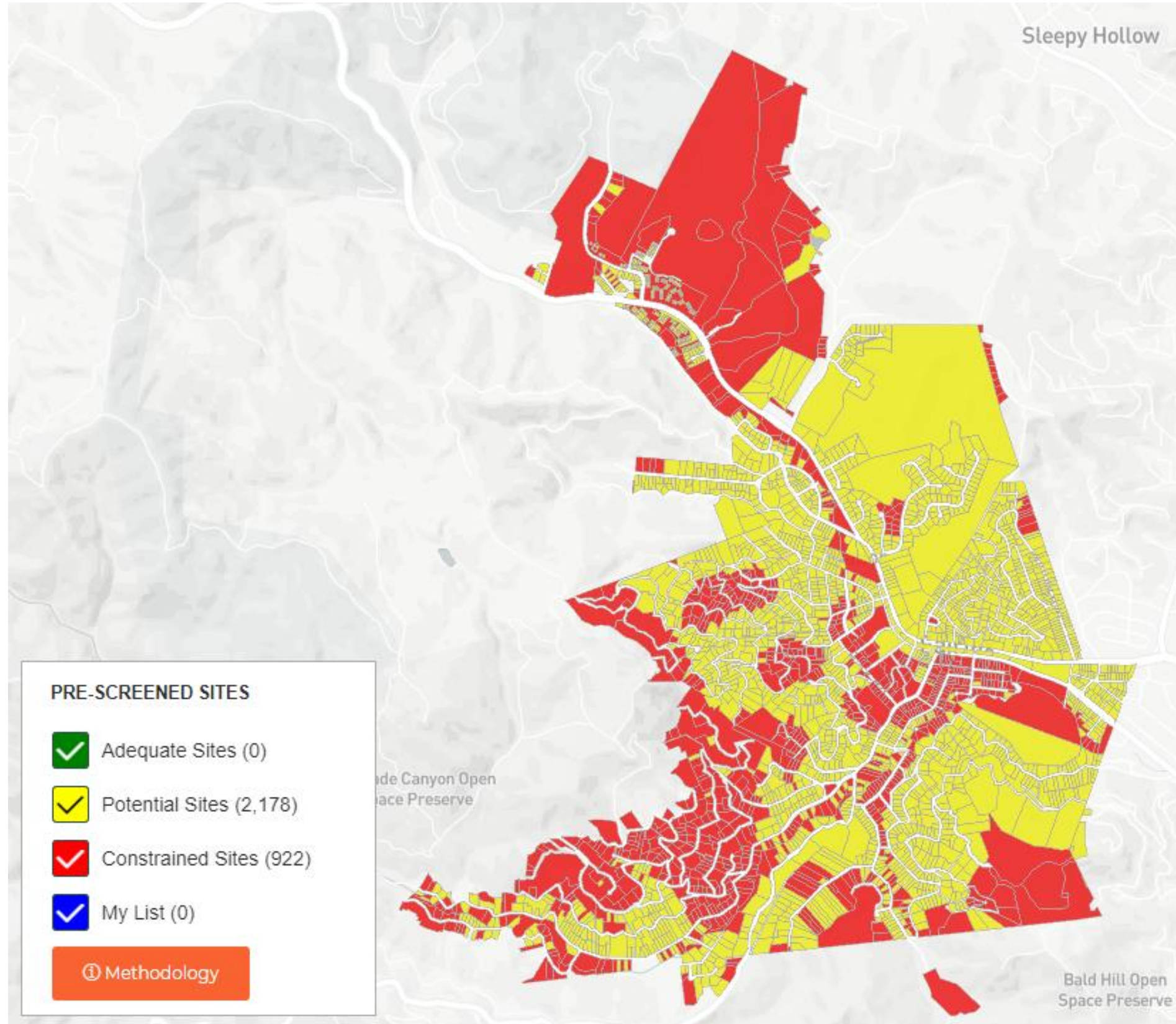
exceed what is realistic and reasonable to impose. We look forward to constructively planning for future housing in Fairfax, and thank you for your time and consideration.

Sincerely,

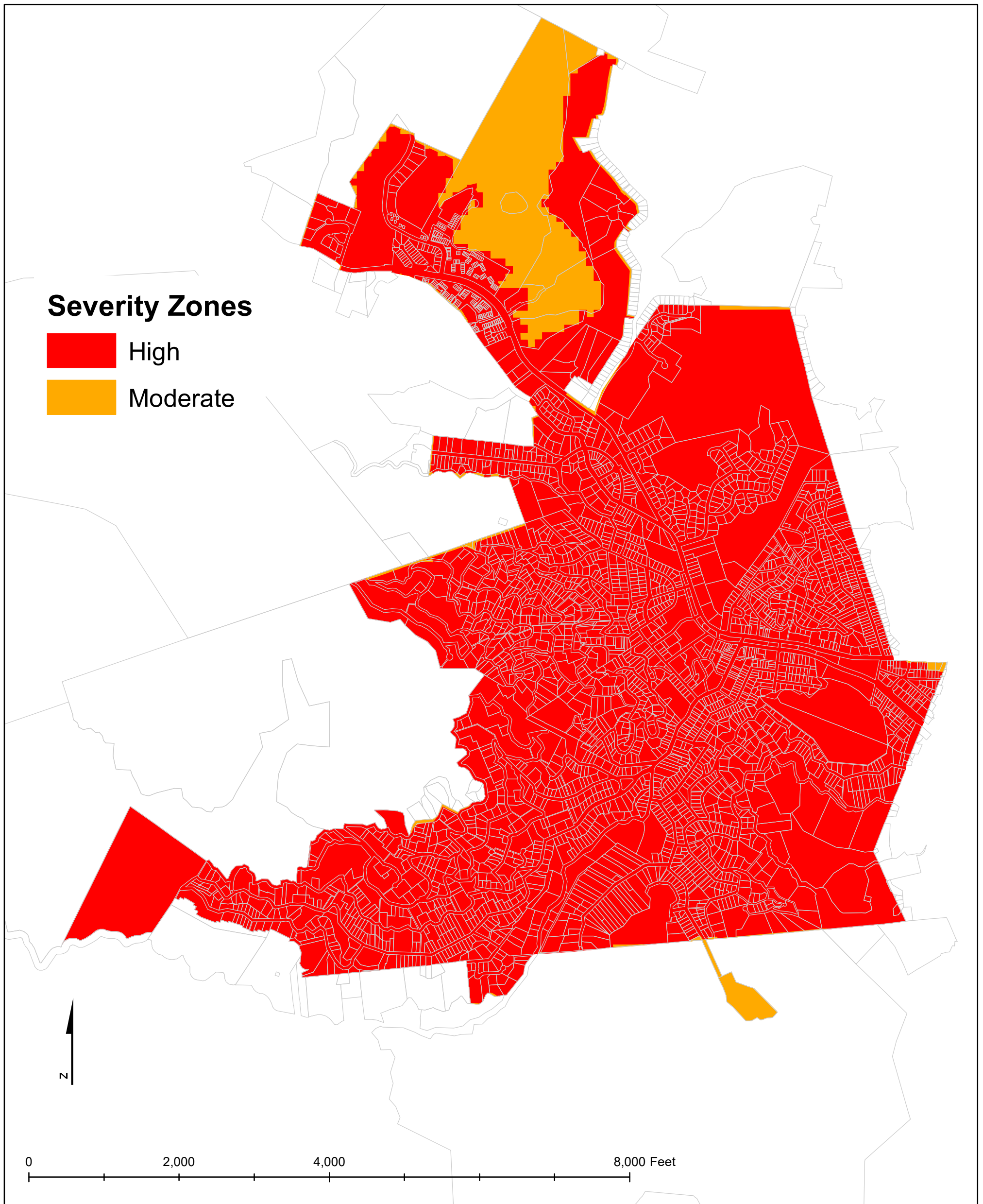
BRUCE ACKERMAN

Mayor of Fairfax

4/28/2021



2. CalFire Fire Hazard Severity Zones



3. (HESS) Constrained Sites Per CalFire High Fire Hazard Severity Zone

