

# **Attachment M – PUBLIC COMMENT**



March 6, 2023

County of San Diego  
1600 Pacific Highway  
San Diego, CA 92101

**Re: Climate Action Campaign recommendations for the County Inclusionary Housing Ordinance**

Dear Long Range Planning Division of the County Planning & Development Services Department,

Climate Action Campaign (CAC) is a non-profit organization, based in San Diego and Orange County, with a simple mission: stop the climate crisis through effective and equitable policy action.

The climate and housing crises are inextricably linked. We simply cannot solve the climate crisis without simultaneously solving the housing crisis. Building dense, affordable infill housing near transit, jobs, and green open spaces is key to slashing GHG emissions from the transportation sector and improving the quality of life for those living in the unincorporated area.

Increasing rents and home prices continue to push low and middle income households farther from major urban centers. Inequitable, dangerous, unsustainable, and expensive sprawling areas cannot be the only places families can afford to live. Working class communities should not be forced to make long daily commutes from high fire areas. The County must prioritize the development of housing in VMT efficient areas as defined by the adopted Transportation Study Guide (TSG) and in alignment with the intent of SB 743.

The County's Regional Housing Needs Allocation (RHNA) for the 2021-2029 planning period is 6,700 new dwelling units. However, as of April 2022, the County has only permitted 1,425 and constructed 1,061 new dwelling units. More specifically, the County permitted 46 and constructed 14 extremely low and very low income units, permitted 318 and constructed 78 low income units, and permitted 398 and constructed 191 moderate income units, but permitted 663 and constructed 778 above moderate income units. These numbers clearly signify the need for more very low, low income, and moderate income dwelling units to be developed.

For these reasons, below are our recommendations for the County Inclusionary Housing Ordinance (IHO):

***Minimum Project Size For Ordinance Compliance:***

We recommend that the County apply the ordinance to Option 1:

- General Plan Compliant Project: Apply the ordinance to projects proposing 5 or more units.
- General Plan Amendment Project: Apply the ordinance to projects proposing 1 or more units.

***Set Aside Requirements:***

To ensure that the IHO is prioritizing the development of dwelling units for all-income categories, we recommend the following set aside requirements for General Plan (GP) Compliant Projects - For Sale, General Plan Compliant Projects - For Rent, and General Plan Amendment Projects:

- General Plan Compliant – Sale: 5% Low + 10% Moderate: 24 market-rate, 2 low-income, and 4 moderate-income units
- General Plan Compliant – Rent: 5% Very-Low + 5% Low + 10% Moderate: 22 market-rate, 2 very-low, 2 low-income, and 4 moderate-income units
- General Plan Amendment: 10% Very-Low + 5% Low + 5% Moderate: 22 market-rate, 4 very-low, 2 low-income, and 2 moderate-income units

***Alternative Compliance:***

County action that increases land value through upzoning, density bonuses, and plan updates should be recaptured and used for public benefits. In this instance, increases in land value caused by a GP Amendment should be recaptured through developing affordable housing.

Therefore, **we recommend that alternative compliances only apply to the GP Compliant projects. GP Amendment projects must be required to provide IHO requisite affordable housing units.**

We support the following alternative compliance options for GP Compliant projects:

- **In-Lieu Fees.** We recommend that the in-lieu fee be restricted to projects 10 units or smaller. The fee must also be equivalent to the true full cost of producing on-site affordable housing units to ensure that the fee can be used to produce additional affordable housing units.
- **Rehabilitation of units.** In order to solve the housing crisis, the County must preserve and produce affordable housing. The rehabilitation of units can be a great tool to increase the County's existing affordable housing stock by turning existing market rate housing into deed restricted affordable housing units. The affordability of rehabilitated units must be of equivalent value to the IHO set-aside requirement. We recommend that this alternative compliance be restricted to projects 10 units or smaller and only apply to existing units located in VMT efficient areas and/or in a High Resource Area, within transit priority areas (TPAs).
- **ADUs:** The development of ADUs can help produce affordable housing in single-family neighborhoods and High Resource Areas, which traditionally have not been accessible

to lower-income families. We recommend that ADUs only be allowed as an alternative compliance for projects 10 units or smaller. The ADUs must also be deed restricted for a minimum of 65 years at 50% area median income (AMI) or lower.

However, we are **opposed** to the offsite development and land dedication alternative compliance options. To create economically diverse, mix-income, and inclusive communities, dedicated affordable housing units must be in the same development as market-rate units. Providing an option for affordable housing development to be off site could result in the concentration of poverty. This does not comply with the County's obligation to affirmatively further fair housing, which requires jurisdictions to adopt policies that take meaningful actions to combat discrimination, overcome patterns of segregation, and foster inclusive communities free from barriers that restrict access to living in certain areas.

***Incentives:***

We support the following incentive options within the IHO:

- Option 1: Expedited review for projects that provide all units as affordable housing, at 80% AMI or lower, for lower-income households
- Option 2: Expedited review for projects that provide an additional 50% of required affordable housing at 80% AMI or lower.

We also recommend that the County include these incentive options for projects subject to the IHO:

- For projects in VMT efficient areas, within TPAs, no parking requirements should be mandated.
- Apart from public safety, there should be no maximum building structure height for projects in VMT efficient areas, within TPAs, regardless of existing zoning.

***Conclusion:***

Thank you for the opportunity to weigh in on the development of this critically important document. We urge the County to consider these recommendations and use the IHO as a strategy to help combat the climate and housing crises, mitigate the symptoms of racial and economic segregation, and provide more access to opportunities for all in the unincorporated area.

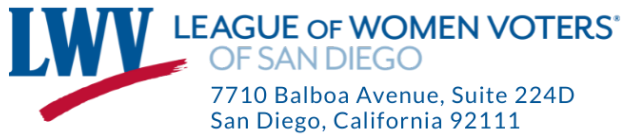
Sincerely,

*Madison Coleman*

Madison Coleman

Policy Advocate

Climate Action Campaign



March 2, 2023

Ms. Camila Easland  
Planning and Development Services  
County of San Diego  
5510 Overland Ave  
San Diego, CA 92123

[RE: PDS.LongRangePlanning@sdcounty.ca.gov](mailto:PDS.LongRangePlanning@sdcounty.ca.gov)

On behalf of the League of Women Voters of North County San Diego and the League of Women Voters of San Diego, we are writing to provide input on the County's Draft Inclusionary Housing Ordinance.

The League of Women Voters is a nonpartisan, grassroots organization dedicated to empowering voters and defending democracy through education and advocacy. Our Leagues jointly undertook a thorough study of housing issues and County housing policies, and in 2021 we adopted a [San Diego Regional Housing Action Policy](#). Goal 1 of that policy is to support action and policies to **create a sufficient affordable housing supply** and livable communities for all income levels, distributed throughout the region.

After study of the County's Inclusionary Housing Draft Ordinance, we offer this feedback:

**Table 1: Inclusionary Housing Ordinance**

- **Project size (Section 6341.b)**  
Require **all** residential units to be subject to the Inclusionary Ordinance or pay an in-lieu fee (affordable housing) fee.
  
- **Set-Aside Requirement (Section 6341.c)**  
General Plan Compliant – Rent: Range between 5% VL + 5% L + 10% M  
General Plan Compliant – Sale: Range between 5% L + 10% M  
General Plan Amendment – Require 20% affordable to 65% of AMI
  
- **Alternative Compliance (Section 6341.d)**  
Accept all methods listed, with additional comments:  
**In-Lieu Fee** – Fee should be sufficient to reflect the actual cost of producing on-site units. **ADU** – Assumes effective affordable restrictions and enforcement mechanisms are in place.

- **In-Lieu Fee Criteria (Section 6341.d)**

Should be restricted to projects smaller than 10 units.

- **Off-Site Development (Section 6341.d)**

Require that the project provide an additional **10%** lower-income housing (0-80% AMI) as a condition for developing off-site.

- **Location Criteria (Section 6341.d)**

No units should be built in very-high and high fire hazard zones.

Must be located within 5-mile distance of the development.

- **Incentives (Section 6341.e)**

Expedited review for a project that provides all units (100%) as affordable (up to 80% AMI) Expedited review for a project that provides 50% more affordable housing than required. Subsidize construction for additional affordable units than required in a project.

Thank you for considering our input on this critical issue. We believe creating a sufficient and affordable housing supply for all income levels can profoundly affect the public's well-being and the region's quality of life.

Respectfully submitted,



Rosette Garcia  
President, League of Women Voters of North County San Diego



Kim Knox  
President, League of Women Voters of San Diego

Tuesday, March 7, 2023

Ms. Camila Easland  
 Land Use / Environmental Planner, Long Range Planning  
 San Diego County Planning & Development Services  
 5510 Overland Ave., Suite 310, San Diego, CA, 92123  
 Via email: [Camila.Easland@sdcounty.ca.gov](mailto:Camila.Easland@sdcounty.ca.gov)

RE: Comments on the County of San Diego Draft Inclusionary Housing Ordinance

Dear Ms. Easland:

Thank you for the opportunity to review the County's Draft Inclusionary Housing Ordinance ("Draft Program"), including the Inclusionary Housing Study for the County of San Diego – Final Report ("Economic Analysis"), and the CEQA Addendum. I appreciate your team's dedication to developing the Options in the Draft Program, and hope these comments generate additional opportunities to collaborate on the most efficient and environmentally conscious ways of providing housing in San Diego County.

My views on affordable housing have been shaped by 16 years working in the development and real estate consulting industries, primarily processing entitlements. I'm a partner of Nolen Communities, an Encinitas based developer that has several projects, including Fox Point Farms. Fox Point Farms will provide 40, Very-Low income deed restricted units within a 250-unit "agrihood" community. The project exceeds the 10% low-income set-aside requirement in Encinitas in both number and qualifying income level.

The Economic Analysis correctly notes the housing crisis is due to a chronic undersupply of housing at all income levels.<sup>1</sup> This constrained supply has resulted in higher home values and rents, which have priced out too many families in San Diego County, and across California. The Economic Analysis is the underpinning to identifying a set-aside amount and alternative compliance options, including a potential in-lieu fee. Detailed comments on the Economic Analysis are provided in Attachment A and incorporated herein by reference. The critical findings and take-aways from the Economic Analysis are summarized below.

1. *The adoption of an Inclusionary Housing Ordinance will reduce residual land values – which is to say the value of land owned by County residents today – by as much as 30%.*

***“This approach meets the economic standard of feasibility by assuming landowners will absorb up to a 30 percent loss in value...” (AECOM, pg. 62)***

2. *An Inclusionary Ordinance clearly reduces the feasibility of housing developments because it provides that private development and property owners are directly subsidizing affordable housing, which may frustrate the County's ability to achieve its RHNA requirement(s).*

***“whether a project is feasible is essentially an evaluation of how to balance the extent to which landowners and developers will subsidize affordable housing development out of return and land value expectations.” (AECOM, pg. 62)***

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<sup>1</sup> AECOM, pg. 8 “[t]he lack of housing affordability mainly to housing production that has fallen behind population growth and regional housing production goals.”

3. *Implementation of even the maximum-available Density Bonus isn't enough to overcome the extra costs of the Inclusionary Housing requirements, rendering one of the best tools for providing housing, Density Bonus, ineffective.*

***"...in general...the available density bonuses provided by the State Density Bonus Law do not offer enough value to fully offset the revenues lost to affordable set asides." (AECOM, pg. 64)***

4. The Inclusionary Ordinance does not provide any new or enhanced incentives to improve project feasibility, rather, the County is currently preparing several efforts which could further frustrate housing affordability including development of a VMT Impact Fee, mandatory compliance with a CAP Checklist, the Sustainable Land Use Framework, Community Benefits Agreements, Land Value Recapture, and the Regional Decarbonization Framework. How will the County generate affordable housing without commensurate incentives to offset these new development costs?

The Goal for the Draft Program should enable the County to meet its RHNA obligation with actual deed-restricted units at each of the specified affordability levels, instead of taking credit for market-rate homes selling at RHNA densities. In fact, the Economic Analysis says that the program should support efforts to achieve the County's RHNA obligations.<sup>2</sup> However, the County is already ahead of schedule for providing Low, Moderate and Above-Moderate income housing according to the 2021 General Plan Annual Report. (See 2021 GPAR Table B, Regional Housing Needs Allocation Progress - Attachment B).

A secondary goal of the Draft Program should be that these units try to accomplish County priorities including being focused in Village areas, Infill Areas, and VMT efficient areas. This would achieve other county goals around sustainability, environmental justice and public safety. **The County should consider a comprehensive planning process that combines the Climate Action Plan (CAP), VMT Analysis, Inclusionary Ordinance, Sustainable Land Use Framework, Development Feasibility Analysis, Regional Decarbonization Framework, Community Benefits and Zoning Ordinance Update(s). Such an approach may provide programmatic coverage and a ministerial process for certain projects, which would make Inclusionary Housing more feasible.**

If the County intends to mandate the Draft Program without going through a comprehensive planning process, it is important to provide maximum flexibility, as expressed by the interviewees in Table 16, and phase in requirements as the Best Practices summary identifies. The County should also consider other programs that would more broadly support the production of housing across the housing ladder.

Lastly, comments on the Draft Addendum are provided as Attachment C and incorporated herein.

Thank you for the opportunity to comment on the Draft Program. I look forward to working with the County to best implement a comprehensive approach to increasing housing supply in San Diego County.

Respectfully Submitted,

  
Sean Kilkenny

<sup>2</sup> "The inclusionary housing program should be designed to address the RHNA allocations and create more dwelling units at lower levels of household income." (AECOM, page 40)

"Staff recommendations should lead to an ordinance that will help implement the County's Housing Element and comply with state law by increasing opportunity for the County to meet its share of ... RHNA" (AECOM, page 79)

## Attachment A - Comments on AECOM Economic Analysis

The following comments and observations are specific to the AECOM Economic Analysis. Preliminarily, it is understood that broad assumptions are required when trying to characterize the entire County into a handful of digestible scenarios. The reality of trying to make a project pencil is much more complex. Every project is unique, and seldom fits neatly into the generalized scenarios the Economic Analysis necessarily considered. It is because of the unique nature of each development proposal that maximum flexibility and a phasing-in of program requirements are critical. This approach is consistent with both General Best Practices (“Flexible Compliance Options” and “Phasing”, page 16) and responses from interviewees in the building industry (Section 6.2, pg. 42 et. seq.).

### Section 1.1 Overview

It is widely acknowledged that ***“[t]he lack of housing affordability is attributable mainly to housing production that has fallen behind population growth and regional housing production goals.” (AECOM, pg. 8)*** The issue is a supply-side issue – not enough homes are being built.

To address the supply side issue, the County should encourage housing production by providing streamlined or ministerial pathways to approval which shorten delivery times, reduce risk, and clarify both developer and community expectations.

Instead, the County is contemplating adding the following costs to new development, with no commensurate incentives or programs designed to encourage or facilitate housing production:

- Inclusionary Housing Fee – Costs up to or exceeding \$50,000/unit
- VMT Impact Fee – Costs are unknown, but could approach \$19,000/unit
- Climate Action Plan (CAP) Checklist requirements, including potential for Net Zero
- Community Benefit Agreements – Costs are unknown.
- Land Value Recapture – Costs are unknown.
- Sustainable Land Use Framework – Costs are unknown.
- Regional Decarbonization Framework – Costs are unknown.

It is noted here, and repeated throughout, that one of the most effective tools for generating housing, Density Bonus, is shown to not provide enough benefit to outweigh the costs of the Inclusionary Ordinance. The County must look at additional mechanisms to support the production of housing, including a ministerial review process, fee reductions, and specified exemptions as noted further below.

While the Fiscal Report provides two scenarios that it solely determined “provided the highest subsidy value” (page 9), this should not be the sole measuring stick for which set-aside option(s) to adopt. Because this is the introduction of a new Program, the County should consider starting with the lowest barrier to entry, and make adjustments based on performance/production of housing after annual reviews of progress towards achieving the County’s share of the Regional Housing Needs Allocation (RHNA).

Regardless of which option(s) are selected, it is recommended the County phase in the program, consistent with best practices identified on page 22 (“Newer inclusionary housing programs including San Luis Obispo and the City of San Diego incrementally ***phase-in set-asides over five years***”).

**Section 1.4, Analytical Considerations**

Vehicle Miles Travelled (VMT). The Economic Analysis admits that the potential for a VMT Impact Fee to be adopted could “... impact the financial feasibility of an inclusionary housing program by adding additional costs to development or changing the expected value of land within and outside of these areas.” (AECOM pg. 10) This is a warning that any Inclusionary Housing requirement adopted without consideration for a VMT fee could result in development becoming further infeasible.

**Recommended Approach:** The County may consider postponing adopting an Inclusionary Housing requirement until the VMT Impact Program is completed, and the results are considered together. Otherwise, the cumulative effect of these projects could reasonably be expected to either stop new housing construction in the unincorporated area, or push development out of San Diego County.

**Question.** Has the County considered the price elasticity of housing vs. locational preference and the potential for the Inclusionary Housing Ordinance and VMT Impact Fee to price families or home builders out of San Diego and therefore increase VMT and associated GHG emissions for out-of-county commutes?

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\* It is noted that some stakeholders may argue a future VMT Impact Fee is not likely to apply to homes in VMT-efficient areas, Village or Village Infill areas, and since most growth should be directed into these areas, the impacts of both VMT and Inclusionary fees may be dampened. While this may be true, until the analyses are complete, it’s preliminary to draw this conclusion. Further, if the Climate Action Plan contemplated this scenario, including increased housing production in these VMT-efficient, Village and Village Infill areas, programmatic CEQA coverage could facilitate housing production in these areas.

Inflation. It is understood the Fiscal Report necessarily controlled for more recent inflationary periods which saw dramatic spikes in housing values and housing costs. The selected 2020-2021 time period was also unusual in that interest rates were at historic lows as shown in the graph below showing the Federal Funds Rate, which was at historic lowest rates from 2020-2021.



**Question.** How has this been accounted for considering that interest rates are likely to normalize closer to 4% - 5% - along its historic average, and not the manipulated low rates of the time period immediately following the start of the COVID-19 pandemic. How would these higher rates affect the Economic Analysis, if at all?

### Section 3.2.2 General Best Principals

Provide Incentives and Offsets. ***The current proposal does not offer any new or expanded incentives or offsets to housing projects.*** The County has already adopted Section 6350 of the Zoning Ordinance (see Attachment 1) which is the local implementation of State Density Bonus Law that provides for projects to seek incentives and waivers. The County is applauded for providing more incentives than required under State Density Bonus Law, but that benefit is already afforded under current County Zoning.

**Question:** How many Density Bonus Projects have been approved by, or are currently in process with, the County? How many affordable units have these projects included?

In addition, Board Policy A-68, Affordable Housing Expedited Review Process (see Attachment 2) is an existing Board Policy, renewed in December 2022. The purpose of Policy A-68 is ***“To secure significant reductions in the time required to exercise the regulatory function with regard to housing developments to be occupied by lower income persons.”*** The Policy of the Board is to ***“expedite the processing of permits and other clearances required by the County prior to construction or rehabilitation of a housing development to be occupied in whole or in part by lower income persons.”***

**Question:** How many Projects have used Board Policy A-68? How have those project’s schedules compared to standard County processing timeframes?

There is no additional benefit or offset proposed under the Draft Program, such as a ministerial review process. This is inconsistent with best practices to not offer some commensurate benefits when adopting an Inclusionary Housing Ordinance.

**Recommended Approach:** Providing for CEQA exemptions and/or ministerial processes for projects implementing on-site affordable housing would be a significant benefit and may encourage on-site affordable housing. The County should consider the Inclusionary Housing Ordinance with the VMT Impact Fee under the Climate Action Plan Smart Growth Alternative Supplement EIR. Such an analysis should also incorporate the Sustainable Land Use Framework, Development Feasibility Analysis, Community Benefits, and Regional Decarbonization Plan, and accommodate the complete RHNA obligation through deed-restricted affordable units. The results would provide for programmatic CEQA and Land Use and Zoning coverage to eliminate discretionary review(s) for projects which are consistent with the CAP, developed in VMT Efficient, Village or Village Infill areas, and provide affordable housing on-site. Such a program should reduce processing times and provide greater certainty in the development approval process.

### Section 3.2.4.6 Incentives and Offsets

As stated above, Density Bonus, relaxed development standards, and expedited processing are already allowed by the County; thus, these are not features or incentives of the Inclusionary Housing Ordinance. Please see above and refer to Attachments 1 and 2.

Fee Reductions. This would be an additional benefit that could be advanced under an Inclusionary Ordinance. Such fees that could be waived would be those collected by the County rather than separate districts. These fees would include the (pending) VMT fee, Park Land Dedication Ordinance (PLDO) fee, Drainage fee, and Fire fee (especially for projects that are not in Fire Hazard Severity Zones).

Alternatively, a program that would exempt qualifying projects that provide on-site affordable housing from conformance with the (pending) CAP Checklist would be an incentive to provide on-site affordable housing, and may create the opportunity to generate local offsets for project's which voluntarily elect to comply with the CAP Checklist even if providing on-site affordable housing.

**Recommended Approach:** The County should consider that projects which implement affordable housing on-site would be exempt from payment of the VMT Impact Fee, PLDO Fee, Drainage Fee, and Fire Fee and/or such projects would be exempt from implementing the CAP Checklist.

### Section 3.3.5 Alternative Compliance Options

Accessory Dwelling Units. The RHNA anticipates constructing 1,800 ADU's as part the County's share of the regional housing needs. As evidenced in Tables 9 and 10, ADU's have become a supported typology in the County, making up 25% of "Pipeline" units. ADU's are compatible with the largely single-family dominated County, and provide a "two-fer" because they both improve attainability (for the purchaser of the primary residence) and provide affordability (for the renter of the ADU). However, ***the Draft Program seeks to limit the number of ADUs for new project to a maximum of 5, or half of a project's inclusionary requirement (whichever is less)***. This is punitive of single-family development projects which make up the majority of the County's undeveloped lands.

**Recommended Approach:** The Ordinance should be revised to follow the example of the City of Carlsbad, at a minimum, if not provide greater flexibility to use ADUs.

### Section 3.3.7 Density Bonuses and the State Density Bonus Law

Any program should ensure that no additional discretionary processes are triggered if a project chooses to participate in the Density Bonus program. This would be consistent with the County's own Zoning Ordinance, Section 7410(c)3, which states "The granting of a Density Bonus/Affordable Housing Permit shall not be interpreted, in and of itself, to require a general plan amendment, coastal plan amendment, development permit, development permit, zoning amendment, or other discretionary approval."

#### Table 7: Inclusionary Programs for GPA Projects at Peer Jurisdictions.

It is noted that of the ten (10) jurisdictions reviewed, exactly half (5) of those have Affordable Set-Aside Requirements for GPA Projects that are different from those for GP-Compliant projects, and half (5) do not. Further, two of those jurisdictions which have a higher requirement are Voluntary programs, so ***only 3 of 8 Mandatory programs require a higher percentage of affordable set-aside***. Thus, the statement

that “it may be concluded that GPA projects at peer jurisdictions are expected to provide a higher inclusionary set-aside than GP-compliant projects” (AECOM pg. 28) is not supported by the evidence provided. That being said, GPA projects are likely more capable of supporting a larger share of set-aside, especially if that greater amount is underwritten into the initial project pro-forma, rather than being enforced mid-project development.

**Section 5.4.2, Residential Development Pipeline**

According to Table 10, there are zero (0) apartment units in the pipeline at the County.

**Question.** While outside the scope of the Inclusionary Ordinance, and when combined with the fact that only 4% of the units built in the last 12 years were apartments, how does the County expect to meet GHG-reduction goals and infill housing typologies when increasing development costs (through the Inclusionary Ordinance, VMT Impact Fee and other ongoing efforts) on a project typology that is not being constructed?

**Recommended Approach:** The CAP should include appropriate apartment densities and provide the programmatic coverage for higher-density projects, in combination with additional incentives noted above such as ministerial project processing, fee reductions, and certain exemptions, to increase the feasibility of apartments.

**Section 5.5 Affordable Housing Demand**

The Economic Analysis states “[t]he inclusionary housing program should be designed to address the RHNA allocations and create more dwelling units at lower levels of household income.” (AECOM pg. 40) However, according to the County’s 2021 General Plan Annual Report, and as summarized below, the County is at least on track, if not ahead, of meeting the RHNA obligations for Low-Income and Moderate Income units for the latest (6<sup>th</sup>) Cycle for the period from 2021 to 2029.

	Building Permits Issued		Total	RHNA	% Complete
	Year				
Income Level	2020	2021	To Date		
Very Low	12	46	58	1,834	3.2%
Low	27	318	345	992	34.8%
Moderate	169	398	567	1,165	48.7%
Above Moderate	193	663	856	2,709	31.6%

**Recommended Approach:** Because the County is on track to meet RHNA allocations for Low and Moderate income units, the Inclusionary Ordinance should focus on the feasible scenarios for providing Very-Low Income housing.

**Section 5.7 Summary and Conclusions**

It is noted that ADU’s represent one of the largest numbers of pending units in the County’s pipeline. This indicates a market acceptance of this typology. See previous comments recommending the Draft Program be revised to allow a greater percentage or number of a project’s Inclusionary requirement be eligible to be met with ADUs.

## 6.2 Interviews with Land Use Professionals

Table 16: Interviewees - Has the County followed up with individual respondents now that the Draft Program has been released to assess feedback, and get any updates on their more recent experiences with other jurisdictions or more recent market realities?

Table 17: Focus Groups – To achieve a consensus, all members of the three focus groups, as well as the general public, should be engaged together in a setting that provides for brainstorming, rather than in separate conversations. The summary of responses suggests there is overlap in desired outcomes, but agreement on the underlying mechanics is what will ultimately determine the success of the Program.

## Section 7.3 How Up-zoning Creates Value

Table 19, Illustration: Impact of GPA Up-zoning on Development Economics

- Does the return on cost factor in the length of time to secure a GPA, and the increased costs associated with processing such projects? The analysis states on the preceding page that “the entitlement process can take many years, during which time developers typically incur land costs, technical consultant fees, and overhead costs without compensation.” (AECOM, pg. 47) These projects can take over 10 years+ from start to finish.
- Where are impact fees captured in this example? If they are part of the Direct Costs, they are underestimated as fees alone can run into the \$40,000+ range. If part of the Indirect Costs, they are likewise underestimated.
- Preferred Yield/Return – the Economic Analysis elsewhere notes that yields are greater for GPA projects. Is this correctly reflected in the numbers in Table 19? It’s not entirely clear.

Further, there is intrinsic value in creating more housing for the sake of building housing that the Land Value Recapture model does not recognize. In the example, the benefit is the addition of 262 homes that otherwise would not be constructed, and 262 more families in San Diego being housed. At the same Inclusionary Requirement (assumed at 10% for comparison), the “Base Case” provides Zero units because it is infeasible to build (even before any Inclusionary Requirement) while the GPA Case provides 26 or 27 units of affordable housing – almost equal to the number of “base” units.

### Section 8.1.1 Residential Prototypes,

Table 21, For-Sale Residential Prototypes: GP-Compliant Projects

The prototype for homes in the SFD Small Lot 7.3 (sale) are nearly the same size as those in the SFD Large Lot 2.9 prototype (2,700SF vs. 2,800SF). It appears this is because the Zoning Ordinance requires 6,000SF lots in the RS zone. The implication is that a project cannot achieve its permitted General Plan density unless it processes additional discretionary permits (i.e., PUD, Rezone, etc.). This inconsistency is potentially illegal because the Zoning Ordinance precludes implementation of the General Plan. Thus, developers are paying for the 7.3 du/acre unit count (higher residual) but having to build more square footage to cover those costs of not getting the expected yield.

**Recommended Approach.** The County should *update the Zoning Ordinance to address inconsistencies between the General Plan and Zoning Ordinance*. Because this would not result in more units, it could be done with a simple clean up action (i.e., CEQA Exemption or Addendum) that would reduce minimum lot sizes in the RV 7.3 Land Use to something like 3,000SF.

### Section 8.1.2 GPA Land Development Prototype

The introductory paragraph suggests that GP-compliant projects can be modeled assuming the underlying land is essentially finished lots (“...GP-Compliant projects can be modeled assuming that the underlying land consists of improved lots or pads” AECOM pg. 53). This is an inaccurate assumption – the overwhelming majority of undeveloped land is not improved pads or lots. While GP-compliant projects might tend to be in areas that are more fully developed and therefore, likely to be connected to infrastructure, significant costs for site development, including clearing, grading, grubbing, and off-site improvements are still reasonably foreseeable. This is an over-simplification, and horizontal development costs must be factored into any Economic Analysis, even if at relatively nominal levels.

**Recommended Approach.** It is recommended that *the County update the Economic Analysis to account for more realistic site development and land development costs* to confirm the resulting values accurately capture actual development costs.

### Section 8.1.3 A Note on Inflation

(first bullet) The lag in supply is not tied to COVID-19. Housing and construction workers were largely deemed “essential” at the beginning of the pandemic and allowed to continue working. Rather, the “lag in supply” is a decades-long phenomenon that has resulted in the chronic undersupply of housing across San Diego, the state of California, and even nationally. This should be corrected or clarified.

### Section 8.1.4 Market Rate Assumptions

- Has the statistical significance of locationality been considered? Is the data representative of the entire County, or does the data skew towards portions (zip codes) of the County with higher or lower sales prices per SF compared to the County as a whole?
- What are the assumptions of GPA projects getting “a 5% premium over GP-compliant projects” (pg. 55) based on? Is this because GPA projects often offer greater amenities than GP-compliant projects because they tend to be larger and therefore include features like new public and private parks, schools, fire stations, etc.? Are these increased costs part of the “Land Value Recapture” equation? Does the 5% increase also consider the greater risks, additional entitlement costs, longer schedule, and other trade-offs that GPA projects encounter?

### Section 8.2.2 Standard of Feasibility

The Fiscal Report states (pg. 62) “...the fact [is] that *every set-aside scenario results in a lower estimated return than the Base Case*, as affordable set-aside units are income-restricted and generate less revenue than market-rate units. Therefore, a determination about *whether a project is feasible is essentially an evaluation of how to balance the extent to which landowners and developers will subsidize affordable housing development out of return and land value expectations.*”

It is worth simplifying this sentence – which distills the underlying balance required of an Inclusionary Ordinance – an Inclusionary Ordinance reduces project returns because it requires private landowners and developers to subsidize affordable housing.

The Fiscal Report acknowledges the **Density Bonus process adds time and uncertainty to projects**, [“the developer must go through an application process, which while ministerial has been *shown to add time and uncertainty to the entitlement process in many jurisdictions*,” (pg. 62)] and that Density Bonus does not actually increase project feasibility in areas “where consumers prefer lower-density housing or where higher-density housing requires a more expensive approach to construction.” (pg. 62) This, combined with the fact that Density Bonus was tested and determined not to outweigh the costs of implementing the Inclusionary Housing Ordinance suggests **that Density Bonus will not be a feasible tool in the near term for projects in the County.**

**Question** - Without Density Bonus, it will be difficult to achieve the County’s RHNA obligations for at least the Very Low-Income affordability level. What, if any, revisions or changes to the local Density Bonus ordinance or other incentives are the County considering to ensure compliance with RHNA, especially at the Very Low Income level? Should the County, as part of the current Zoning Ordinance Update, provide for additional Density Bonus incentives or additional benefits?

#### Residual Land Value.

The Economic Analysis is predicated on the assumption that landowners will accept a 30% reduction in their land value without a change in their willingness to sell, “This approach meets the economic standard of feasibility by **assuming landowners will absorb up to a 30 percent loss in value...**” (pg. 62). The Report states there is historical evidence to support that “transacted land value does eventually shift to accommodate the impact of inclusionary requirements”. Yet, the analysis notes the market adjustment “can be prolonged as land markets are typically ‘sticky’ and slow to reflect factor changes...” (pg. 62)

**Question** – How long does this adjustment take? If the downward pressure on residual values is over a number of years, the Inclusionary Housing requirements should also be phased in on a similar schedule so that the market is in equilibrium.

**Question** – What is the source of the historical evidence cited on page 62 to suggest that residual values eventually accommodate the impact of inclusionary requirements? Have the effects on land values in the City of San Diego since the City adopted its Inclusionary Requirement been analyzed as a local source for comparative purposes?

#### **8.3.1 Impact of Affordable Set-Aside on RLV for GP-Compliant Projects**

- Is the 10% return annualized, or gross? It’s important to understand that *even GP-compliant projects can take 3-5 years from the beginning of entitlements until units are built and sold*. The 10% threshold, if a gross return, ends up being 2%-3.5% annualized over that time period.

#### Table 34, GP-Compliant Project Base Case Residual Land Value by Residential Type.

- It is noted that the RLV/land SF for the 7.3 prototype is twice as high as for the 4.3 prototype (and almost 2.5 times higher than the 10.9 prototype). Is there an explanation for this? Could it be due to the larger unit sizes identified in Table 21? Does the County intend for these denser Village

Residential uses to generate such large units. See prior comments on this inconsistency between the General Plan and Zoning Ordinance.

The Fiscal Report states that “***the set-aside scenarios for GP-Compliant prototypes reduce residual land value significantly.***” (Page 63) Does the County believe that the general public understands the value of their property, by and large, could be significantly (up to 30%) reduced due to this Program? Is the County prepared to direct the assessor to re-assess land values to benefit residents on property taxes?

The Fiscal Report states that “for unincorporated area projects, **the available density bonuses provided by the State Density Bonus Law do not offer enough value to fully offset the revenues lost to affordable set-asides.**” The County is admitting that the Inclusionary Housing Ordinance would be more punitive than what Density Bonus would otherwise “make up”, rendering one of the most effective tools for providing housing ineffective.

**Repeated Question:** Without Density Bonus, it will be difficult to achieve the County’s RHNA obligations. What, if any, revisions or changes to the local Density Bonus Ordinance or other incentives is the County considering to comply with RHNA, especially at the Very Low Income level? Should the County, as part of the current Zoning Ordinance Update, provide for additional Density Bonus incentives or additional benefits?

Table 37 Future Development Prototype Mix, GP-Compliant Projects

- If there are no Podium-style projects anticipated, should this typology be considered? If it is removed from the analysis, how do the results change the For-Rent analyses?

The Economic Analysis concludes that “***pursuit of a density bonus adds entitlement risk and may not be marketable if results in a residential product for which there is little actual market demand***” (pg. 65) This statement is one reason why programmatic CEQA coverage, and a ministerial approval process, would be a potential benefit and incentivize on-site affordable housing. There is too much risk for the demand/upside of pursuing Density Bonus currently, and it’s only going to get more difficult with the increased costs of the Inclusionary Housing Ordinance (and eventual VMT Impact Fee) because those costs are more than the benefit of Density Bonus.

**Section 8.3.2 Impact of Affordable Set-Aside of GP-compliant Project Return on Cost**

The Economic Analysis states that “... [Return on Costs] declines significantly from the Base Case in each scenario. Furthermore, of the 58 tests shown, more than half (31) show a negative return on cost, which indicates that total scenario costs are higher than total scenario revenues.” (pg. 66) The Economic Analysis supports the position that the Inclusionary Ordinance has a negative impact on projects, which reduces the feasibility of a project and may preclude construction entirely.

**Repeated Question:** If the County’s analysis documents that implementation of the Inclusionary Ordinance is likely to reduce development potential, does this risk the County’s ability to comply with its RHNA obligation, at least for Very-Low Income levels?

The Economic Analysis concludes that “**compliance with a mandatory inclusionary housing requirement, even after applying the density bonus, will reduce project return.** This could have a negative impact on development in the short term if landowners or developers are unwilling to accept the reduction in value that a mandatory inclusionary housing requirement will entail.” (pg. 67)

**Repeat Question.** How does this comport with the County’s argument that the Inclusionary Housing Ordinance should help the County achieve it’s RHNA obligation?

**Recommended Approach:** The County should prioritize completion of the Climate Action Plan, including Land Use Element amendments (i.e., General Plan Update), to provide appropriate apartment densities which would afford programmatic coverage for higher-density projects to meet RHNA obligations. This Update should be done in combination with the VMT Mitigation Program and also include Regional Decarbonization, the Sustainable Land Use Framework, Development Feasibility Analysis, and an Update to the Zoning Ordinance to implement policies of the Housing Element. Finally, the Inclusionary Ordinance should be updated with additional incentives such as those noted above like ministerial project processing, fee reductions, and certain exemptions.

### 8.3.3 Impact of Affordable Set-Asides on GPA Project Feasibility

The Fiscal Report documents a finish lot value of \$110,000 (pg. 69) and determines the feasibility of complying with a set-aside for GPA-projects based on whether they would result in lot values that were greater than this total after application of the Inclusionary Ordinance. The lot value is based on the analysis in Table 82. The following comments are offered on the inputs to Table 82:

- Land – There are two notable questions with the land value in this analysis, which is assumed at \$40,000/acre.
  - If the assumption is that such a low value (\$40,000/acre) is because this is for green-field/open space land, then the land development costs are likely under-estimated. There are probably greater direct costs, including off-site direct costs, to be included. Under this scenario, there would also have to be much greater preferred yield due to the risks of such a project being approved, and the length of time processing such a project would take (estimated conservatively at 5-7 years). The Economic Analysis previously identified a 22% increase for GPA-projects (See Table 19) - this should be the value assumed herein for internal consistency.
    - Doing so increases costs by approximately \$5,65800, or about **\$6,415 per lot**.
  - This low value conflicts with the values of GPA projects for 7.3 and 10.9 typologies in Tables 76 and 77. Tables 76 and 77 suggest a land value of \$27 to \$29/SF, which is an average of \$28. The 9.7 du/ac in the example falls in between the 7.3 and 10.9 du/ac, which Tables 76 and 77 consider. Should the model be adjusted to approximately \$28/SF to be consistent with the analysis in Tables 76 and 77?
    - Doing so would increase the Purchase Price to \$183m ( $\$28/\text{SF} * 43,560\text{SF}/\text{ac} * 150 \text{ ac}$ ). This is unrealistic, but is consistent with the other analysis for projects at this density. How are these squared?
- Permits and Fees – The average in Tables 76 and 77 was \$46,200 (\$44,000 and \$48,400). This would increase the total cost by \$37,485,000.
  - Doing so would be an increase of **\$42,500 per lot** (from \$3,7500 to \$46,200).
- Rec Center – This total is significantly under-bid. It would likely be at least \$3 million dollars once the FFE are considered and enhanced design and architecture are accounted for.

- When adding these totals together, the increase of just these line items is \$43,143,000.00, which would increase the Developer Fee as well. However, even without factoring in higher Developer Fees, the Finished Lot Value would increase almost \$49,000 to approximately **\$158,885.00**.
  - This would make all but the following not supported in Table 45:
    - 5% EL, 5% VL, 10% M, 15% M, and maybe 10% and 5%L + 10%M

**Recommended Approach:** Table 82 should be revised to more accurately reflect the costs associated with GPA projects, including either the residual land value or direct lot costs, permits and fees, and rec center costs, and the feasibility of GPA-projects in Table 45 should be re-evaluated.

**General Comment**

While it is understood that the Economic Analysis must control for specific variables, the assumption that land values will be accepted by existing property owners is too simplistic of a perspective for such a complex and significant portion of any project's costs.

**Conclusion**

Once the above considerations are accounted for, additional comments on the final in-lieu fee and Summary of Findings will be provided. As the analysis currently rests, the most realistic options appear to be the 5% VL and 10%M options for "For Sale" as well as the 5%L + 10%M for "For Rent" projects.

Table B - Regional Housing Needs Allocation progress

<b>Jurisdiction</b>	San Diego County - Unincorporated	
<b>Reporting Year</b>	2021	(Jan. 1 - Dec. 31)
<b>Planning Period</b>	6th Cycle	04/15/2021 - 04/15/2029

**ANNUAL ELEMENT PROGRESS REPORT**  
**Housing Element Implementation**  
 (CCR Title 25 §6202)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs. Please contact HCD if your data is different than the material supplied here

Table B														
Regional Housing Needs Allocation Progress														
Permitted Units Issued by Affordability														
		1	2										3	4
Income Level		RHNA Allocation by Income Level	Units Permitted in the Projection Period (6/30/20 - 12/31/20)	2021	2022	2023	2024	2025	2026	2027	2028	2029	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	1,834		-	-	-	-	-	-	-	-	-	58	1,776
	Non-Deed Restricted		12	46	-	-	-	-	-	-	-			
Low	Deed Restricted	992		-	-	-	-	-	-	-	-	-	345	647
	Non-Deed Restricted		27	318	-	-	-	-	-	-	-			
Moderate	Deed Restricted	1,165		-	-	-	-	-	-	-	-	-	567	598
	Non-Deed Restricted		169	398	-	-	-	-	-	-	-			
Above Moderate		2,709	193	663	-	-	-	-	-	-	-	-	856	1,853
<b>Total RHNA</b>		<b>6,700</b>												
<b>Total Units</b>			<b>401</b>	<b>1,425</b>	-	-	-	-	-	-	-	-	<b>1,826</b>	<b>4,874</b>

Note: units serving extremely low-income households are included in the very low-income permitted units totals and must be reported as very low-income units.  
 Please note: For the last year of the 5th cycle, Table B will only include units that were permitted during the portion of the year that was in the 5th cycle. For the first year of the 6th cycle, Table B will include units that were permitted since the start of the planning period.  
 Please note: The APR form can only display data for one planning period. To view progress for a different planning period, you may login to HCD's online APR system, or contact HCD staff at [apr@hcd.ca.gov](mailto:apr@hcd.ca.gov).

## Attachment C: Comments on the CEQA Addendum

The following comments are provided on the “CEQA Guidelines Section 15164 Addendum to the Previously Adopted Program Environmental Impact Report for the County of San Diego General Plan Update (Environmental Review Number 02-ZA-001; Sch. 2002111067) for Purposes of Consideration of the Inclusionary Housing Ordinance, PDS 2020-POD-007”, prepared by the County of San Diego and dated February 9, 2023 (“Draft Addendum”).

The following comments are provided to request clarification with respect to the following topics:

1. Project Description
2. Conflicts with Adopted Land Use Plans, Policies and Regulations
3. Reduction in Property Taxes and the Provision of Public Services
4. Cumulative Impacts

The following comments request the County revise the Addendum analysis, as appropriate. It is not intended to suggest that the preparation of an Addendum is insufficient for analyzing the Project’s impacts under CEQA. However, the information and clarifications requested below are important public disclosures to ensure meaningful review and understanding of the County’s proposed actions.

**A. The lack of a stable Project Description renders the CEQA analysis uncertain.**

The proposed project is the adoption of an Affordable Inclusionary Housing Program (Draft Program). The Draft Program is presented in Table 1: Inclusionary Housing Ordinance Sections with Programmatic Options. From a CEQA perspective, it is concerning that any Project includes multiple “Options”. Table 1 provides for a “Range” of set-aside totals and affordable levels, as recreated below.

<b>SET-ASIDE REQUIREMENT (Section 6341.c of the Draft Ordinance) The Board may select one of the feasible scenarios from the Economic Analysis</b>	
General Plan Compliant Project – Rent	Range between 20% M and 5% VL+ 5% L +10% M
General Plan Compliant Project – Sale	Range between 5% VL and 5% L +10% M
General Plan Amendment	Range between 10% M and 5% VL+ 15% L

Initially, it is unclear if Table 1 offers only two “Options” for each of the three scenarios (Rent, Sale, and GPA). While the header includes a reference to “the feasible scenarios from the Economic Analysis”, it only presents two choices. For the general public, it may cause confusion as to what is actually being evaluated. As presented in Table 1 of the Addendum, it appears the choices are:

- For-Rent Project – Either 20% Moderate Income or 5% Very Low + 5% Low + 10% Moderate
- For-Sale Projects – Either 5% Very Low or 5% Low and 10% Moderate
- General Plan Amendment Projects – Either 10% Moderate or 5% Very Low and 15% Low

The Economic Analysis determined that a wide variety of Options were available for each scenario. Specifically, as shown in Table 46, these options include six “feasible” GP-Compliant (Sale) scenarios, 12 “feasible” GP-Compliant (Rent) scenarios, and 26 “feasible” GPA (Sale and Rent) scenarios, with affordability levels ranging from 5% Extremely Low to 12% Extremely Low, 5% Very Low to 15% Very Low, 10% Low to 20% Low, 10% Moderate to 20% Moderate, and various combinations thereof.

Mathematically, the variety of options available for the Board of Supervisors to choose is expressed as 6 choose 12 choose 26. **This results in a total of 1,872 different combinations of “Projects”.**

This variability, both in the number of potential “projects” and the potential impacts on development potential (as calculated by the potential In-Lieu fee amount in Table 47) leads to an unstable Project Description. As described in *Washoe Meadows Community v. Department of Parks & Recreation* (2017) 17 Cal.App.5th 277 (“*Washoe Meadows*”) the “description of a broad range of possible projects, rather than a preferred or actual project, presents the public with a moving target...”

The test under *Washoe Meadows* is whether “the presentation of a small number of closely related alternatives would not present an undue burden on members of the public wishing to participate in the CEQA process,” or whether the difference in the alternatives is considered “vast”.

Table 46. Feasibility Summary

Scenario	Meets Residual Land Value Standard <sup>1</sup>		Meets Return on Cost Standard <sup>2</sup>		Meets Supportable Lot Standard <sup>3</sup>	Summary		
	GP-Compliant (Sale)	GP-Compliant (Rent)	GP-Compliant (Sale)	GP-Compliant (Rent)		GP-Compliant (Sale)	GP-Compliant (Rent)	GPA (Sale and Rent)
1a 5% EL	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2a 10% EL	No	No	No	No	Yes	No	No	Yes
3a 5% VL	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4a 10% VL	No	No	No	Yes	Yes	No	No	Yes
5a 15% VL	No	No	No	No	Yes	No	No	Yes
6a 10% L	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
7a 15% L	No	Yes	No	Yes	Yes	No	Yes	Yes
8a 20% L	No	No	No	Yes	Yes	No	No	Yes
9a 5% VL, 5% L	No	Yes	Yes	Yes	Yes	No	Yes	Yes
10a 10% VL, 5% L	No	No	No	No	Yes	No	No	Yes
11a 10% VL, 10% L	No	No	No	No	No	No	No	No
12a 5% VL, 10%L	No	No	No	Yes	Yes	No	No	Yes
13a 5% VL, 15%L	No	No	No	No	Yes	No	No	Yes
14a 10% M	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
15a 15% M	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
16a 20% M	No	Yes	No	Yes	Yes	No	Yes	Yes
17a 5% VL, 5% L, 5% M	No	Yes	No	Yes	Yes	No	Yes	Yes
18a 5%L, 10%M	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
19a 10%L, 10% M	No	Yes	No	Yes	Yes	No	Yes	Yes
20a 10% L, 5% VL	No	No	No	Yes	Yes	No	No	Yes
21a 5% VL, 5% L, 10%M	No	Yes	No	Yes	Yes	No	Yes	Yes
22a 5% VL, 10% L, 5%M	No	No	No	Yes	Yes	No	No	Yes
23a 10% VL, 5% L, 5%M	No	No	No	No	Yes	No	No	Yes
24a 7% VL, 7% L, 6%M	No	No	No	Yes	Yes	No	No	Yes
25a 8% VL, 6% L, 6%M	No	No	No	Yes	Yes	No	No	Yes
26a 9% VL, 6% L, 5%M	No	No	No	Yes	No	No	No	No
27a 11% EL	No	No	No	No	Yes	No	No	Yes
28a 12% EL	No	No	No	No	Yes	No	No	Yes
29a 13% EL	No	No	No	No	No	No	No	No

(1) Scenarios that return a residual land value with a decline greater than -30% compared to the Base Case  
 (2) Scenarios that return a greater than 0% Return on Costs  
 (3) Scenarios where Supportable Lot Value is higher than or equal to Finished Lot Cost  
 Source: AECOM

As shown in Table 47 of the Economic Analysis, the “costs” of these can range from \$10.74 to \$22.08 per square foot for GP-Compliant (Sale) projects, \$0.00 to \$24.44 per square foot for GP-Compliant (Rent) projects and \$8.58 to \$43.13 per square foot for GPA projects. These differences may be considered “vast” to developers and builders when making a decision of whether to pursue a project.

Without a specific recommendation, a stable “Project”, the potentially “vast” differences in these totals preclude the public from meaningful input. The Addendum should be revised to provide for a specific recommendation for affordability levels and set-aside amounts.

Further, the actual costs may also be admittedly much larger. The Economic Analysis is predicated on the assumption that residual land values will fall by 30% without changing a seller’s willingness to sell [“...assuming landowners will absorb up to a 30 percent loss in value without a change in their willingness to sell.” (Pg. 62)]. While the Economic Analysis states that there is historical evidence to support the eventual reduction in land value, no such evidence is provided. Rather, the Economic Analysis admits that “this transition can be prolonged as land markets are typically ‘sticky’ and slow to reflect factor changes.”

If sellers are unwilling to accept reductions of up to 30%, the residual costs of land would increase, which would increase the costs presented in Table 47 and may result in changes to which Options are considered “feasible” or the costs of these Options.

To avoid this reasonably foreseeable outcome, the Addendum should be revised to include a Project Design Feature that the Draft Program be phased-in, which would both be consistent with Best Practices, and would ensure the costs anticipated by the Economic Analysis account for “sticky” residual land values.

Table 47. Calculated In-Lieu Fees by Feasible Set-Aside Scenario

Scenario	Estimated in-lieu fee (per market-rate unit sq.ft.)			
	GP-Compliant (Sale)	GP-Compliant (Rent)	GPA (Sale and Rent)	
1a	5% EL	\$12.67	\$18.69	\$14.08
2a	10% EL			\$31.32
3a	5% VL	\$10.74	\$14.16	\$11.63
4a	10% VL			\$25.95
5a	15% VL			\$40.35
6a	10% L	\$21.37	\$15.17	\$17.90
7a	15% L		\$24.32	\$27.76
8a	20% L			\$41.82
9a	5% VL, 5% L			\$20.64
10a	10% VL, 5% L			\$36.27
12a	5% VL, 10%L			\$31.84
13a	5% VL, 15%L			\$43.13
14a	10% M	\$12.75	\$0.00	\$8.58
15a	15% M	\$18.34	\$0.00	\$13.21
16a	20% M		\$6.87	\$31.59
17a	5% VL, 5% L, 5% M		\$23.50	\$25.96
18a	5%L, 10%M	\$22.08	\$7.16	\$17.93
19a	10%L, 10% M		\$15.94	\$29.75
20a	10% L, 5% VL			\$31.84
21a	5% VL, 5% L, 10%M		\$24.44	\$32.71
22a	5% VL, 10% L, 5%M			\$38.13
23a	10% VL, 5% L, 5%M			\$42.81
24a	7% VL, 7% L, 6%M			\$41.41
25a	8% VL, 6% L, 6%M			\$42.15
27a	11% EL			\$34.97
28a	12% EL			\$37.79

Darker shading reflects higher fee value  
Source: AECOM

**B. The lack of analysis of reasonably foreseeable potential impacts from implementation of the Project should be corrected based on substantial evidence.**

The Addendum states “Implementation of potential actions would require further review and analysis...” and that “[a]nalysis of potential impacts of potential actions associated with the implementation of the Affordable Inclusionary Housing Program are outside of the scope of the Program and thus, are not required for purposes of this addendum.” (pg. 3 of 33) While adopting the Draft Program itself would not have a direct physical effect on the environment, the implications of the Program are reasonably foreseeable based on the evidence included in the Economic Analysis. As detailed herein, implementation of the Draft Program is likely to have the following potential effects which could be reasonably foreseen to result in physical changes to the environment or other impacts under CEQA.

**1. Conflicts with Adopted Land Use Plans, Policies and Regulations**

The Economic Analysis concludes that the Draft Program would render implementation of the State Density Bonus Law, as adopted by the County in Zoning Ordinance Section 6350 et. seq. ineffective because “...in general...*the available density bonuses provided by the State Density Bonus Law do not offer enough value to fully offset the revenues lost to affordable set asides.*” (pg. 64)

Frustrating the effectiveness of Density Bonus is not a physical impact to the environment. However, if the Draft Program, as presented and analyzed in the Economic Analysis, would preclude the use of Density Bonus because “compliance with a mandatory inclusionary housing requirement, even after applying the density bonus, will reduce project return” then the Project’s consistency with the adopted General Plan Housing Element must be further evaluated.

Specifically, Housing Element Policy 3.3, which states:

**H-3.3 Density Bonus as a Tool to Develop Affordable Housing.** Provide a local density bonus program to encourage the development of housing affordable to lower-income households and special needs households.

The County should analyze how the Draft Program complies with this Policy when the Economic Analysis concludes that the Draft Program will frustrate the effectiveness of the Density Bonus Program. The Housing Element, as part of the General Plan, does help avoid or mitigate potential environmental effects by providing the mechanisms to ensure housing at various affordability levels, thereby attempting to ensure sufficient housing supply in San Diego County which ensures communities are not divided, growth is appropriately planned for, and out-of-County commute trips and associated VMT, AQ, GHG, Energy and Noise impacts are minimized.

Similarly, the Economic Analysis determined that, under the Draft Program “every set-aside scenario results in a lower estimated return than the Base Case” because “set-aside units are income-restricted and generate less revenue than market-rate units.” By reducing project returns, the Draft Program reduces the feasibility of providing housing, including housing to Environmental Justice communities. Similar to the Housing Element, the Environmental Justice Element of the General Plan has been adopted to avoid and mitigate potential environmental effects, including air quality and health risks impacts. Therefore, the Addendum should be revised to evaluate the Program’s consistency with the Environmental Justice Element.

Specifically, the Environmental Justice Element Goal EJ-7 and Policy EJ-7.1:

**GOAL EJ-7**

**Affordability Measures.** Ensure all residents have access to affordable housing options to reduce the prevalence of cost-burdened households, particularly for owners and renters in EJ Communities.

**Policies**

**EJ-7.1 Prioritize Affordable Development.** Support and prioritize the development of affordable housing in and around EJ Communities for different income levels and located in proximity to community amenities. Consider the development of nontraditional housing types.

Finally, the Addendum states that the changes proposed by the Draft Program are intended “to ensure affordable housing units are developed in proportion with the overall increase in new housing units to meet the California Department of Housing and Community Developments RHNA requirements for unincorporated areas of San Diego County” (pg. 2) and “to meet the California Department of Housing and Community Developments (HCD) regional housing needs allocation (RHNA) for unincorporated areas of San Diego County.” (pg. 10)

In combination with the above statements from the Economic Analysis, the Addendum should consider the Project’s compliance with the RHNA and how the County will achieve its allocation of the RHNA if Density Bonus may not be effective following implementation of the Draft Program, and if the program costs reduce the feasibility of development if sellers are unwilling to accept reduced land values.

The intent of these suggested analyses would be to confirm the findings presented in the Addendum.

**2. Reduction in Property Taxes and the Provision of Public Services**

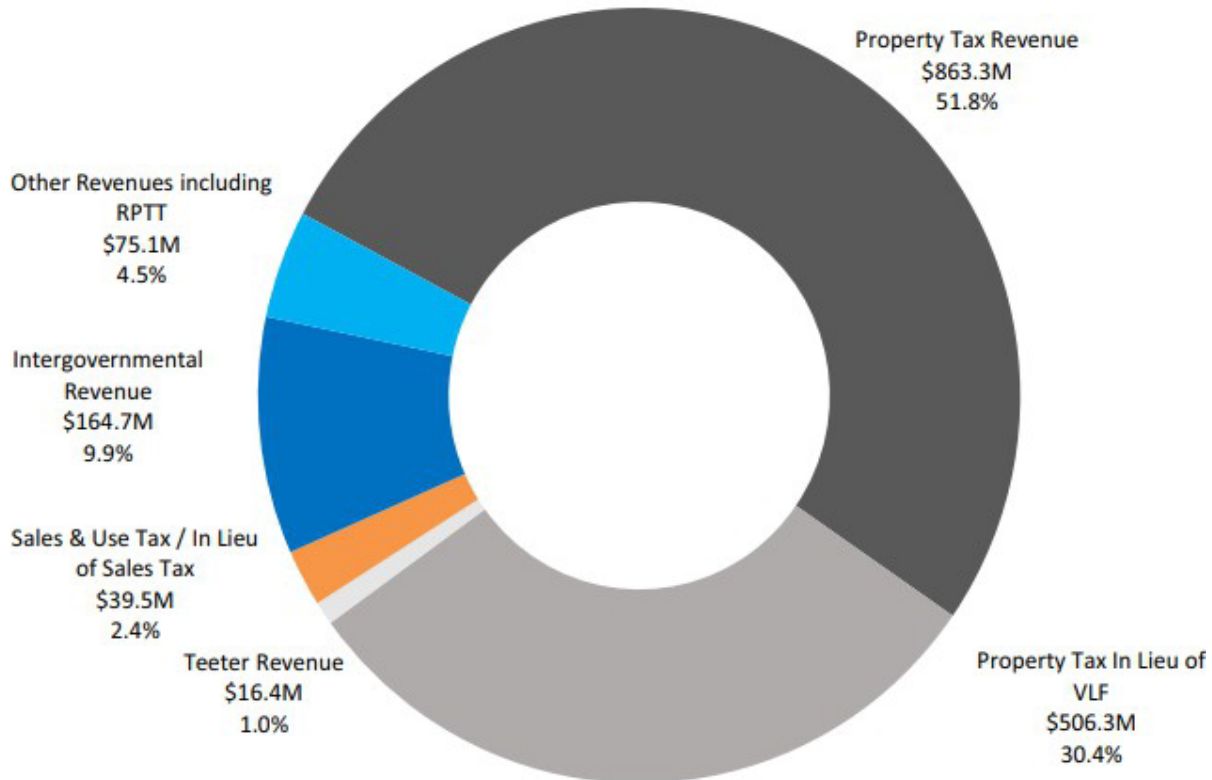
As previously noted, the Inclusionary Ordinance is predicated on the assumption that underlying property owners are willing to accept up to a 30% reduction in land value. The Economic Analysis states there is historical evidence to support this decline in property values when an Inclusionary Ordinance is adopted.

Reductions in property taxes are not an impact under CEQA. However, property taxes account for over 50% of the County’s General Purposes Revenues, as shown by the figure below, extracted from page 129 of the Adopted Operational Plan Fiscal Years 2022-23 and 2023-24. While the County collects property taxes County-wide, and the Inclusionary Ordinance would only apply to properties in the unincorporated County, it is unclear the extent to which a 30% reduction in property taxes from unincorporated parcels would affect the County’s operational budget.

Where this has the potential to result in impacts under CEQA is when considering the potential for the County to adequately protect residents from wildland fires. The Safety Element of the General Plan states that “Funding Fire Services: Existing funding for fire services is limited and variable. Full-time funding for fire services is crucial for assuring long-term commitment of adequate coverage.” If funding fire protection is largely from the General Revenues, does the potential for a 30% reduction in property taxes from unincorporated parcels pose significant risk of loss, injury or death involving wildland fires?

The Addendum should be updated to confirm the County can maintain adequate services if property tax revenues from unincorporated parcels are reduced by 30%, or confirm that funding for fire protection is not directly tied to property taxes.

**General Purpose Revenue by Source**  
**Fiscal Year 2022–23: \$1,665.2 million**



### 3. Cumulative Impacts

The Economic Analysis determined that development at each of the various scenarios are considered feasible; however, these costs do not consider the cumulative effects of known, pending projects and programs currently under development by the County.

Notably, the Vehicle Miles Traveled (VMT) Fee is a known, pending project. The Economic Analysis admits “VMT measures could impact the financial feasibility of an inclusionary housing program by adding additional costs to development or changing the expected value of land within and outside of these areas.” (pg. 10) Thus, the costs and feasibility of the Draft Program are already in question, which undermines the stability of the Project Description.

The Addendum should be revised to consider the potential for cumulative impacts of adopting both the Inclusionary Housing and VMT fees. While the final VMT fee is not currently known, the County recently provided an update which suggested that the fee amount could be between \$10,000 and \$19,000 per vehicle-mile traveled. Therefore, an average of \$14,500 would be the best available information.

Again, the intent would be to confirm the analysis in the Addendum is adequate.

**Attachment 1: County Zoning Ordinance Section 6350**

6350

**DENSITY BONUS PROGRAM**

6350 TITLE AND PURPOSE.

The provisions of Sections 6350 through 6399, inclusive, shall be known as the Density Bonus Program/Affordable Housing Program. The purpose of these provisions is to implement the state requirements at Government Code Section 65915 et seq. and the policies and programs in the Housing Element of the San Diego County General Plan. As required by Government Code Section 65915 et seq., these provisions offer density bonuses and incentives or concessions for the development of housing that qualifies under Section 6355. The Density Bonus/Affordable Housing Permit Procedures, commencing at Zoning Ordinance Section 7400, shall apply to all density bonus/affordable housing projects except for housing under the County Affordable Senior Housing Program, which shall comply with the procedures found at Zoning Ordinance Section 6360 a.2.

In order to be eligible for a density bonus and other incentives or concessions, a proposed project shall comply with the following provisions of the Density Bonus/Affordable Housing Program and all other applicable local, state, and federal requirements.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)  
 (Amended by Ord. No. 10592 (N.S.) adopted 2-27-19)

6355 ELIGIBILITY FOR AFFORDABLE HOUSING/DENSITY BONUS PROGRAM AND PERMIT.

- a. Income and Age Requirements. A housing development proposed to qualify for shall be designed and constructed so that it includes at least one of the following:
  - c
    - 1. At least five percent of the total number of base units are reserved as affordable for very low income households.
    - 2. At least ten percent of the total number of base units are reserved as affordable for lower income households.
    - 3. The project is a senior citizen housing development or is a mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Civil Code Sections 798.76 or 799.5. No affordable units are required to receive a density bonus. Market rate age restricted units are not eligible for an incentive, waiver, or concession.
    - 4. Ten percent of the total dwelling units in a common interest development, as defined in Civil Code Section 1351, for persons and families in a moderate income household provided that all units in the development are offered to the public for purchase.
    - 5. At least ten percent of the total dwelling units in the development are reserved as affordable at a very low income level to transitional foster youth as defined in Section 66025 of the California Education Code, disabled veterans as defined in Section 18541 of the California Government Code, or homeless persons as described in the California McKinley Vento Homeless Assistance Act.

6. Under the County Affordable Senior Housing Program, one hundred percent of the units are reserved at an affordable rent, as defined in Health and Safety Code Section 50053, to very low, low, or moderate income senior citizens.
- b. Land Donation. An applicant for a tentative subdivision map, parcel map, or other residential development, who donates at least one acre of land to the County for very low income housing and has the appropriate General Plan designation, zoning, permits and approvals, and access to public facilities, shall be eligible for a density bonus.
- c. Condominium Conversion Projects. An applicant who proposes to convert apartments to a condominium project, provides at least 33 percent of the total base units for moderate income households or at least 15 percent for lower income households, and meets the requirements of Government Code Section 65915.5 shall be eligible for a density bonus.
- d. Child Care Facilities. A housing development that meets one of the eligibility requirements of subsections a.1. through a.4. and includes a child care facility located on the site of, as part of, or adjacent to, the development shall be eligible for a density bonus as defined in Government Code Section 65915(h).
- e. Senior Citizen Housing. To meet the eligibility requirements of subsection a.3., a Senior Citizen Housing Development must have at least 35 dwelling units, exclusive of the bonus units.
- f. Ineligible Projects -- Required Replacement of Affordable Units.
  1. An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if: a) the development is proposed on any property that includes any existing affordable rental dwelling units occupied by lower or very low income households; b) if such affordable dwelling units have been vacated or demolished in the five-year period preceding the application; and c) such affordable dwelling units have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income. However, an applicant may establish eligibility if the proposed housing development replaces those units, and either of the following applies:
    - i. The proposed housing development, inclusive of the units replaced pursuant to this subsection (f)(2), contains affordable units at the percentages set forth in subsection a.
    - ii. Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.
  2. The number and type of required replacement units shall be determined as follows:

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- i. For a development containing any occupied dwelling units, the development must contain at least the same number of replacement dwelling units, of equivalent size and bedrooms, and must be made affordable to and occupied by persons and families in the same or a lower income category as the occupied dwelling units. For unoccupied dwelling units in the development, the replacement dwelling units shall be made affordable to and occupied by persons and families in the same or lower income category as the last household in occupancy. If the income category of the last household is unknown, it is presumed, unless proven otherwise, that the dwelling units were occupied by lower income renter households in the same proportion of lower income renter households to all renter households within the County of San Diego, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement dwelling units shall be provided in that same percentage.
- ii. If all of the dwelling units are vacant or have been demolished within the five years preceding the application, the development must contain at least the same number of replacement dwelling units, of equivalent size and bedrooms, as existed at the highpoint of those units in the five year period preceding the application, and must be made affordable to and occupied by persons and families in the same or a lower income category as those in occupancy at that same time. If the income categories are unknown for the highpoint, it is presumed, unless proven otherwise, that the dwelling units were occupied by very low income and low income renter households in the same proportion of very low income and low income renter households to all renter households within the County of San Diego, as determined by the most recently available data from the United States Department of Housing and Urban Development's Comprehensive Housing Affordability Strategy database, and replacement dwelling units shall be provided in that same percentage.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)  
 (Amended by Ord. No. 10592 (N.S.) adopted 2-27-19)

#### 6360 DENSITY BONUS.

- a. Density Bonus Allowance. A development that complies with the eligibility requirements of Section 6355 shall be entitled to a density bonus as follows:
  1. Density Bonus Table. The total number of base units, exclusive of the additional bonus units, shall be the basis for determining the percentage of affordable units. The total number of base units shall be calculated in accordance with Section 6360 b and be consistent with the maximum allowable residential density under the Zoning Ordinance and the Land Use Element of the General Plan. The density bonus shall be calculated based on the Density Bonus Table.

## DENSITY BONUS TABLE

Income Category	Reserved Units	Bonus		
		Minimum Bonus (% of Base Units)	Additional bonus for each 1% increase in reserved units	Maximum Bonus (% of Base Units)
Household Income Category of Affordable Units	Minimum % of Base Units that must be Reserved to qualify for Bonus	Bonus Allowed		
Very Low Income	5%	20%	2.5%	35%
Low Income	10%	20%	1.5%	35%
Moderate Income (Ownership Units Only)	10%	5%	1%	35%
Age Restricted Senior Citizen Housing Development	100%	20%	--	20%
Transitional Foster Youth, Disabled Veterans, Homeless	10%	20%	--	20%
Land Donation for Very Low Income Housing	10% of Market-Rate Units	15%	1%	35%
Common Interest Development	10%	5%	1%	35%
Condominium Conversion				
Lower Income	15%	25%	--	25%
Moderate Income	33%	25%	--	25%
Child Care Facility	Must qualify under Section 6355 a.1. – a.4.	Additional residential space equal to or greater than the square footage of the child care facility or one additional incentive		
County Affordable Senior Housing Program (Rental Units Only)				
Very Low Income	100%	50% to a maximum of 45 units/acre*		
Low Income	100%	45% to a maximum of 45 units/acre*		
Moderate Income	100%	40% to a maximum of 45 units/acre*		
Commercial Development with Affordable Housing	Pursuant to Government Code 65915.7	Pursuant to Section 6365		

\* The density cap of 45 units per acre is calculated based on the net lot area.

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2. County Affordable Senior Housing Program.
  - i. An Administrative Permit authorizing a density bonus for an affordable rental senior housing project may be approved in accordance with the Administrative Permit Procedure commencing at Section 7050 if the project meets the requirements of Section 6355 a.5. and this section and if it is found that the location, size, and design of the proposed use will not adversely affect or be materially detrimental to the San Diego County General Plan, adjacent uses, residents, buildings, structures, or natural resources, with consideration given to:
    - a) The type and density of the housing development would not have a harmful adverse effect on surrounding neighborhood character.
    - b) The site is physically suitable for the density of development proposed.
    - c) There is demonstrated capacity and service of sewer, water, schools (as may be required), fire, police protection and utilities available to the housing development.
    - d) The housing development and surrounding areas have adequate access to accommodate the generation of traffic.
    - e) The site has reasonable proximity and access to special support services (e.g., retail and convenience uses, public transit, emergency medical facilities, etc.) as may be required by the type and density of development proposed.
  - ii. The County Affordable Senior Housing Program shall be available only to a housing development of five or more dwelling units, exclusive of the bonus units. The residents shall be persons 62 years of age or older or 55 years of age or older in a senior citizen housing development consisting of at least 35 dwelling units, exclusive of the bonus units.
  - iii. The housing development must be located in an area with a General Plan density of at least 10.9 units per acre.
  - iv. Density bonus calculations shall be made as specified in Section 6360 b.
  - v. Bonus units must be reserved and rented to senior citizens at the same level of affordability as the proposed development.
  - vi. The maximum density, including the bonus units, cannot exceed 45 units per acre based on the net lot area.
  - vii. The applicant will be required to enter into a density bonus housing agreement with the County's Department of Housing and Community Development. The agreement shall be subject to and comply with the density bonus housing agreement provisions set forth in Section 7430.

- viii. A housing development located in a specific plan area shall not be allowed a density bonus which causes the overall maximum density of the specific plan to be exceeded.
  - ix. Parking requirements shall be met as specified in Section 6370.
  - x. Requested incentives are subject to the provisions of Zoning Ordinance Section 6365, except that the applicant shall not be required to submit a financial documents under Section 7410 b.2. An applicant for a project under the County Affordable Senior Housing Program shall receive up to four incentives, unless disapproved with written findings in accordance with Section 7420 a.
3. Land Donation For Very Low Income Units. When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to the County for very low income housing and meets the requirements of Government Code Section 65915(g), the applicant shall be entitled to a 15 percent minimum increase above the otherwise maximum allowable residential density.
- i. The donated land must have all permits and approvals necessary for the development of very low income housing units equal to at least 10 percent of the market rate units within the proposed development.
  - ii. If the proposed development also includes units reserved for affordable housing, the density bonus from the donated land shall be in addition to the density bonus permitted for the provision of housing reserved for very low, low, moderate, or senior households up to a maximum combined density increase of 35 percent.
4. Condominium Conversion Projects. A condominium conversion project which meets the requirements of Government Code Section 65915.5 shall receive either a density bonus of 25 percent or incentives of equivalent financial value unless the development previously received density bonus or other incentives, in which case it is ineligible for the Density Bonus Program/Affordable Housing Program.
5. Child Care Facilities. A housing development with a child care facility that meets the eligibility requirements of Section 6355 d. shall be entitled to one of the following subject to the requirements of Government Code Section 65915(h):
- iii. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility. Any additional amount of residential space that exceeds the amount of square feet in the child care facility must be approved by the approving authority. The additional square feet of residential space may be used for additional residential units that must meet the average square footage size of the other residential units in the development.

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- iv. An additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

b. Density Bonus Calculations.

1. Base Units. The number of base units shall not exceed the maximum allowable residential density as permitted by the County's Zoning Ordinance and General Plan.
  - i. The net lot area of the project site shall be the basis on which the number of base units is determined.
  - ii. The density bonus percentage shall be calculated using the total number of base housing units and shall not include the density bonus units.
  - iii. When calculating the maximum number of base dwelling units permitted on a project site any fraction of a base dwelling unit shall be rounded up to the nearest whole number of dwelling units.
  - iv. The maximum number of dwelling units permitted within the exterior boundary lines of any subdivision or a single lot, shall be reduced to an achievable number of dwelling units when such reduction is needed to comply with all applicable land use requirements. The resulting density shall be the Maximum Allowable Residential Density.
2. Density Bonus Units. When calculating the number of density bonus units to be granted to an applicant under Government Code section 65915, a fraction of a density bonus unit shall be rounded up to the nearest whole number.
3. Split Zones. If the housing development site is located in two or more zones, the number of dwelling units permitted in the development is the sum of the dwelling units permitted in each of the zones. Within the development, the permitted number of dwelling units may be distributed without regard to the zone boundaries.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

(Amended by Ord. No. 10592 (N.S.) adopted 2-27-19)

6365 INCENTIVES.

- a. Types of Incentives. An applicant eligible for an Affordable Housing Permit pursuant to Section 6355 may qualify for one or more of the following incentives whether or not a density bonus is requested:

1. A reduction or deviation in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code. These may include, but not are not limited to, a reduction in setback and square footage requirements, increased building heights, or a reduction in the ratio of vehicular parking spaces that would otherwise be required. These reductions or deviations shall result in identifiable and actual cost reductions, to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).
  2. Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.
  3. Other regulatory incentives proposed by the applicant or the County that will result in identifiable, actual cost reductions to provide for affordable housing costs as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).
- b. Proof of Cost Reduction. Proof of identifiable, actual cost reduction associated to reduce the cost of the housing development to provide for affordable housing costs may be required of the applicant pursuant to Section 7410.
- c. Permitted Number. The applicant shall receive the following number of incentives, unless disapproved in accordance with written findings as described in Section 7420 a:

**INCENTIVES SUMMARY**

Income Category of Reserved Units	% of Reserved Units		
	5%	10%	15%
Very Low Income	5%	10%	15%
Low Income	10%	20%	30%
Moderate Income (Ownership Units Only)	10%	20%	30%
County Affordable Senior Housing Program (Rental Units Only)	--	--	100%
<b>Maximum Number of Incentives</b>	2	3	4

d Incentives for Commercial Development. Pursuant to Government Code Section 65915.7, an applicant for a commercial development that has entered into an agreement with an applicant for a residential development that provides at least 15 percent of the dwelling units as affordable to very low income households or at least 30 percent of the dwelling units as affordable to low income households shall be entitled to an incentive in accordance with Government Code Section 65915.7(b) provided that the agreement is approved by the Planning & Development Services Director and the commercial development will contribute to affordable housing in one of the following ways:

1. Directly constructing the affordable dwelling units on the commercial site or a site that is within the jurisdiction of the County, in close proximity to public amenities including schools and employment centers, and located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.
2. Donating a portion of the commercial site or another site that meets the criteria in Section 6365 c.1. for development of the affordable dwelling units; or
3. Financially contributing to the development of the affordable dwelling units.

e. Nothing in this section requires the County to provide direct financial incentives for the housing development, including but not limited to, the provision of publicly owned land or the waiver of fees or dedication requirements.

This section does not supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)  
 (Amended by Ord. No. 10592 (N.S.) adopted 2-27-19)

**6367 WAIVER OF DEVELOPMENT STANDARDS**

- a. An applicant may submit a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a housing development at the densities or with the incentives permitted by the Density Bonus Program/Affordable Housing Program.
- b. Development standards that may be waived or reduced under this section include site or construction conditions that apply to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation, including, but not limited to the following:
  - i. A height limitation.
  - ii. A setback requirement.
  - iii. A floor area ratio.

- iv. An onsite open-space requirement.
  - v. A parking ratio that applies to a residential development.
- c. A proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development at the densities or with the incentives permitted by the Density Bonus/Affordable Housing Regulations shall be approved unless the approval authority makes a written finding to deny the proposal, based upon substantial evidence, as specified in Section 7420 b.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)  
 (Amended by Ord. No.10592 (N.S.) adopted 2-27-19)

6370 PARKING REQUIREMENTS.

- a. Applicability. The following parking requirements apply to eligible developments in accordance with Section 6355. Affordable housing projects that also meet the requirements of Government Code 65913.4 and are processed through ministerial review consistent with Section 7400 are subject to the parking requirements of Government Code 65913.4(d) rather than those in this section. Any additional parking modifications will be considered an incentive pursuant to Section 6365.
- b. Number Of Parking Spaces Required.

The following maximum vehicular parking ratios apply for a project that meets the eligibility requirements of Section 6355, inclusive of parking for the disabled and guest parking.

**PARKING REQUIREMENTS**

Number of Bedrooms	Number of on-site parking spaces needed
0 – 1	1
2 – 3	2
4+	2.5

- c. Lower parking ratios also apply to the following projects:
  - 1. 0.5 space per bedroom for rental or for sale projects with at least 11% very low income or 20% lower income units, and within one-half mile of unobstructed access to a major transit stop as defined in subdivision (b) of Section 21155 of the Public Resources Code. Unobstructed access means if a resident is able to access the major transit stop without encountering natural or constructed impediments.
  - 2. 0.5 space per unit for rental projects that are 100% affordable to lower income households (exclusive of a manager’s unit), and within one-half mile of unobstructed access to a major transit stop as defined in subdivision (b) of Section 21155 of the Public Resources Code.

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3. 0.5 space per unit for age-restricted rental senior projects that are 100% affordable to lower income households, and have paratransit service or are within one-half mile of accessible fixed bus route service operating at least eight times per day.
  4. 0.3 space per unit for special needs housing development as defined in Section 51312 of the Health and Safety Code, and have paratransit service or are within one-half mile of accessible fixed bus route service operating at least eight times per day.
- d. If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number.
  - e. This Density Bonus Program/Affordable Housing Program does not preclude the County from reducing or eliminating a parking requirement for development projects of any type in any location.
  - f. Location of Parking. For purposes of this density bonus program, a development may provide on-site parking through tandem parking or uncovered parking, but not through on-street parking.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)  
 (Amended by Ord. No.10592 (N.S.) adopted 2-27-19)

6375 AFFORDABLE UNITS AND REPLACEMENT UNITS.

- a. Duration of Affordability.
  1. An applicant for new affordable housing shall agree to, and the County shall ensure, the continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus or incentives or other concessions for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.
  2. Replacement units shall be subject to a recorded affordability restriction for 55 years or longer.
- b. Unit Affordability Requirements.
  1. Rental Units. Rents for the lower income and moderate income reserved units shall be set at an affordable rent as defined in Health and Safety Code Section 50053.
  2. Owner-occupied Units. Owner-occupied affordable units and replacement units shall be available at an affordable housing cost as defined in Health and Safety Code Section 50052.5.

- c. Occupancy and Resale of Moderate Income Common Interest Development Units.
1. An applicant shall agree to, and the County shall ensure, that the initial occupant of moderate income units that are directly related to the receipt of the density bonus in a common interest development, as defined in Civil Code Section 1351, are persons and families of moderate income, as defined in Health and Safety Code Section 50093, and that the units are offered at an affordable housing cost, as defined in Health and Safety Code Section 50052.5.
  2. The County shall enforce an equity sharing agreement as specified in California Government Code Section 65915(c)(2)
- d. Location and Type of Reserved Units.
1. Location/Dispersal of Units. Affordable units shall be reasonably dispersed throughout the development where feasible and shall contain on average the same number of bedrooms as the market rate units.
  2. Phasing. If a project is to be phased, the reserved units shall be phased in the same proportion as the market rate units or phased in another sequence acceptable to the County. The affordable units shall be constructed concurrently with or prior to construction of the market rate units.
  3. Exterior Appearance. The exterior appearance and quality of the reserved units shall generally be similar to the market rate units, with exterior materials and improvements similar to and architecturally compatible with the market rate units in the development.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)  
(Amended by Ord. No. 10592 (N.S.) adopted 2-27-19)

**Attachment 2: Board Policy A-68**

**COUNTY OF SAN DIEGO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

<b>Subject</b>	<b>Policy Number</b>	<b>Page</b>
Affordable Housing Expedited Review Process	A-68	1 of 3

**Purpose**

To secure significant reductions in the time required to exercise the regulatory function with regard to housing developments to be occupied by lower income persons.

**Background**

Lower income housing, as identified in the County's Housing Element of the General Plan and as defined by the State Department of Housing and Community Development, includes three income groups based on the County Area Median Income (AMI): extremely low-income (up to 30 percent AMI), very low-income (31 to 50 percent AMI) and low-income (51 to 80 percent AMI). In order to produce such housing in the shortest possible time and to reduce development costs to the greatest extent, it is desirable to expedite permit processing.

The California Housing Finance Agency (CalHFA) encourages procedures which will expedite the processing of zoning changes, use permits, building permits, environmental clearance, and any other type of permit, approval or clearance required by the County prior to construction or rehabilitation of a housing development financed by CalHFA.

The following policy and procedure are adopted to meet these objectives.

**Policy**

It is the policy of the Board of Supervisors that: The County shall expedite the processing of permits and other clearances required by the County prior to construction or rehabilitation of a housing development to be occupied in whole or in part by lower income persons.

**Procedure**

1. An applicant seeking an expedited permit process for construction or rehabilitation of an affordable housing development or a housing development financed by CalHFA shall submit a written request to the Department of Housing and Community Development (HCD). The request shall include all of the following:
  - a. Documentation that some or all of the units will be rented or sold to lower income persons. This may be a contract with HCD or another affordable housing financing agency such as the California Tax Credit Allocation Committee (CTCAC), a commitment form provided by HCD and signed by the applicant, or some other legally enforceable instrument;
  - b. A summary of funding requirements associated with the timing of the permit process (if any); and,
  - c. A proposed timeline and summary of all critical dates associated with project approval and funding (if applicable).

**COUNTY OF SAN DIEGO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

<b>Subject</b>	<b>Policy Number</b>	<b>Page</b>
Affordable Housing Expedited Review Process	A-68	2 of 3

2. HCD shall review requests to determine if a proposed development will provide housing for lower income persons as defined above. HCD will convey its determination to the applicant and the Department of Planning & Development Services (PDS).
3. After receiving a determination from HCD that a proposed development will provide housing for lower income persons, a PDS project manager shall be assigned to the project.
4. The PDS project manager shall evaluate the requested expedited permit process timeline and determine if the request is achievable. The PDS project manager shall prepare and authorize a project review schedule that incorporates reasonable expedited permit processing requests. The approved project review schedule shall identify the obligations of the applicant and the PDS staff assigned to the project. The approved project review schedule shall reference applicable federal, state, and local requirements associated with permit process.
5. The PDS project manager will distribute an expedited project review schedule to the applicant.
6. Whenever the review time indicated in the expedited project review schedule is exceeded, the PDS project manager will contact the appropriate party. Subsequently, within the means and within the reasonable use of discretion by PDS, the PDS project manager will:
  - a. Facilitate feasible corrective measures; and,
  - b. If necessary, authorize a revised expedited project review schedule.

**Sunset Date**

This policy will be reviewed for continuance by December 3, 2029.

**Previous Board Action**

5-17-77 (52)  
 6-12-79 (17)  
 10-30-84 (90)  
 10-18-88 (48)  
 12-8-98 (53)  
 3-12-2002 (10)  
 04-07-09 (7)  
 09-25-12 (11)

**COUNTY OF SAN DIEGO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

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12-15-15 (21)  
12-13-22 (30)

**CAO Reference**

1. Housing and Community Development
2. Planning & Development Services



# SIERRA CLUB

## SAN DIEGO CHAPTER

8304 Clairemont Mesa Blvd., Ste 101 • San Diego, CA. 92111

TEL: 858-569-6005 • FAX: 858-569-0968

<http://sandiego.sierraclub.org>

March 7, 2023

Dear Ms Easland:

Subject: Sierra Club San Diego Comments on Dra County Inclusionary Housing Ordinance

Sierra Club San Diego commends the County for addressing the difficult and important issue of inclusionary housing. It is our belief that your plan is on the right track and we offer the following comments to amplify and modify your plan, not to critique it or replace it.

Before addressing the specific points in a potential inclusionary housing ordinance Sierra Club San Diego would like to state several principles about housing in general that should impact any potential inclusionary housing plan.

**Sierra Club San Diego opposes any large development (i.e. more than 5 units) in the high and very high fire hazard severity zones, or outside of the infill areas adopted by the county.**

**Sierra Club San Diego generally opposes General Plan Amendments that would add housing in new areas.** The appropriate way to make such changes would be through a new General Plan process that would solicit feedback from all stakeholders not to make ad hoc changes to the general plan. Such amendments undermine the integrity of the general plan and the general plan process.

**Sierra Club strongly believes all new housing, particularly inclusionary housing, should be located near public transportation, shopping infrastructure, and employment hubs.**

The following are our positions on the programmatic options for the County's Draft Inclusionary Housing Ordinance.

### **Inclusionary Housing Ordinance Sections with Programmatic Options**

- **Minimum Project Size for Ordinance Applicability (Project Size)**

Require all residential units to be subject to the Inclusionary Ordinance, which includes option to pay an in-lieu fee for smaller projects that don't result in requirement for a full unit.

This is a modification to Ordinance 1, which for General Plan (GP) Compliant Projects proposes applying the ordinance to projects proposing 5 or more units, and for GP Amendment Projects proposes applying the ordinance to projects proposing 1 or more units.

- **Set-Aside Requirement (minimum number of affordable housing units required and affordability level of those units)**

General Plan Compliant – Rent: 5% VL + 5% L + 10% M (5% L should be affordable to households making 65% AMI and 10% M should be affordable to households making 100% AMI)

General Plan Compliant – Sale: 5% L + 10% M (5% L should be affordable to households making 80% AMI and 10% M should be affordable to households making 110% AMI)

General Plan Amendment – Require 20% affordable units at 65% of AMI. (This is the requirement that has been in place in the North City (Future Urbanizing Area) of the City of San Diego for 20+ years. No in lieu fee option should be allowed; the units should be included in the project. If alternative compliance is required, propose language included in the City of San Diego Municipal Code allowing “A dedication of developable land of equivalent value. See page 18 of Chapter 14: General Regulations of the Municipal Code for details of this Inclusionary Housing requirement: <https://docs.sandiego.gov/municode/MuniCodeChapter14/Ch14Art03Division04.pdf> §143.0450 Supplemental Planned Development Permit

Regulations for Residential Rural Cluster Development with Increased Density (d) (1) - (4).

- **Alternative Compliance**

Only two alternative compliance options should be included in the Inclusionary Housing Ordinance:

- In-Lieu Fee – Such a fee should be sufficient to reflect the true cost of producing on-site units and should be restricted to projects smaller than 10 units.
- Land Dedication - Dedicated land should be of equivalent value to the set-aside requirement.

The ordinance **should not include** the following alternative compliance options: Off-site Development, Accessory Dwelling Units, or Rehabilitation of Units.

- **Location Criteria (for land donations)**

- Must be outside high and very high fire hazard severity zones.
- Must be located within a 1-mile distance of the proposed project/amendment.

- **IncenXves**
  - Expedited review for project that provides all units (100%) as affordable (up to 80% AMI)
  - Expedited review for project that provides 50% more affordable housing than required.

Thank you for your consideration of these important items.

Sincerely,

Susan Baldwin, AICP  
Sierra Club San Diego Executive Committee

Dr. Peter Andersen, Vice-Chairperson  
Sierra Club San Diego Conservation Committee



cc: Nora Vargas, Chair, District 1, [District1community@sdcounty.ca.gov](mailto:District1community@sdcounty.ca.gov)  
Terra Lawson-Remer, Vice-Chair, District 3, [terra.lawsonremer@sdcounty.ca.gov](mailto:terra.lawsonremer@sdcounty.ca.gov)  
Joel Anderson, District 2, [joel.anderson@sdcounty.ca.gov](mailto:joel.anderson@sdcounty.ca.gov)  
Nathan Fletcher, District 4, [Nathan.fletcher@sdcounty.ca.gov](mailto:Nathan.fletcher@sdcounty.ca.gov)  
Jim Desmond, District 5, [jim.desmond@sdcounty.ca.gov](mailto:jim.desmond@sdcounty.ca.gov)



402 West Broadway, Suite 1000  
San Diego, CA 92101-3585  
p: 619.544.1300

[www.sdchamber.org](http://www.sdchamber.org)

March 7, 2023

Camila Easland  
Land Use / Environmental Planner, Long Range Planning  
Planning & Development Services  
5510 Overland Ave., Suite 310  
San Diego, CA, 92123  
[PDS.LongRangePlanning@sdcounty.ca.gov](mailto:PDS.LongRangePlanning@sdcounty.ca.gov)

Subject: Comment Letter on Inclusionary Housing Draft Ordinance Development

Dear Camila Easland,

On behalf of the San Diego Regional Chamber of Commerce (Chamber), please accept this comment letter concerning the development of the County's draft inclusionary housing ordinance. From market rate and affordable builders, healthcare systems, to nonprofit organizations, we represent many industries who are committed to being part of the solution to address our region's housing crisis.

With over 2,500 member businesses representing approximately 300,000 jobs, we appreciate the opportunity to participate in County discussions focused on building the housing necessary for our local workforce and their families. Thank you for your continued focus on housing affordability and for your commitment to identifying the challenges to creating more homes.

There are several reasons as to why our region is in a housing crisis, with the lack of supply compared to demand as the top issue. According to the County's [2021 General Plan Annual Progress Report](#), 1,425 dwelling units were permitted and 1,061 of those constructed, compared to 380 constructed in [2020](#) and 399 constructed in [2019](#). While these numbers fare better than previous years, we have still not kept up with demand nor the County's Regional Housing Needs Assessment (RHNA) goals.

Over the past few years, there have been several County policies that have impacted development and the feasibility and financial impacts are still yet to be assessed. Because we are in a housing crisis, we believe the County should conduct an economic evaluation of said policies to determine if they are increasing the cost to build housing before advancing an inclusionary housing ordinance, which may have unintended consequences. Included in these policies are the evaluation and implementation of the County's Climate Action Plan, and the need for the County to focus on reviewing how the impacts of vehicle miles travelled (VMT) and their

progress in developing a VMT mitigation program would affect a builder's ability to create more homes in the unincorporated region.

While we are mindful of the Board's direction to move forward, we ask that you consider the following comments regarding the draft ordinance:

**Project Applicability:** We appreciate the County for including exempt project language in the text of the ordinance that refers to what is defined as a "deemed complete" application.


**Set-Aside Requirements:** We ask the County to consider set-aside requirements that do not exceed 10 to 15 percent. A total requirement of more than 10 to 15 percent would deem many project types infeasible.

**Alternative Compliance, Incentives, Off-site Development:** We appreciate County staff for taking into consideration the potential alternative compliance, incentives, and off-site development options listed in the draft ordinance so far. A robust list of options would allow for an inclusionary housing ordinance to be effective in the unincorporated County. We are also encouraged to hear of staff's recommendation that a blending of off-site development, in-lieu fee, or alternative compliance is an option. Further, an inclusionary housing ordinance should align with streamlining the regulatory process and reducing the cost of building a home in the County. Lastly, we emphasize staff's recommendation of projects subject to the ordinance also be eligible to receive incentives through the County's Density Bonus Program, as well as also being counted toward satisfying the inclusionary housing requirements of this ordinance.

**Program Implementation:** We ask the County to consider a reasonable implementation timeline of an inclusionary housing ordinance and refer to the City of San Diego's five-year phase-in of their program. Incrementally implementing such a program helps the land development environment adjust to these changes.

There is no larger threat to our talent attraction, retention, and our local economy, than today's housing crisis. As mentioned in previous policy discussions, the Chamber believes that housing policy that results in more deed-restricted and market rate homes in a cost-effective manner should be the County's priority. We appreciate the opportunity to comment and look forward to participating in future discussions. Should you have any questions, please do not hesitate to contact Angeli Hoyos, Public Affairs Manager, at [ahoyos@sdchamber.org](mailto:ahoyos@sdchamber.org).

Sincerely,



Jerry Sanders  
President & CEO  
San Diego Regional Chamber of Commerce

Sheppard, Mullin, Richter & Hampton LLP  
501 West Broadway, 19<sup>th</sup> Floor  
San Diego, California 92101-3598  
619.338.6500 main  
619.234.3815 fax  
www.sheppardmullin.com

Jeffrey Forrest  
6193386502 direct  
jforrest@sheppardmullin.com

March 7, 2023

File Number: 88SM-370451

**VIA EMAIL ONLY**

Camila Easland  
County of San Diego  
Planning and Development Services  
Long Range Planning  
Email: PDS.LongRangePlanning@sdcounty.ca.gov

Re: **Comments to County of San Diego Inclusionary Housing Draft Ordinance**

Dear Ms. Easland,

Thank you for the opportunity to comment on the County of San Diego’s proposed Inclusionary Housing Draft Ordinance. Our comments are submitted based both on our homebuilding clients’ experience in incorporating inclusionary housing units in their market rate development projects and our experience working with other jurisdictions to craft balanced inclusionary ordinances that boost both market rate and affordable housing supplies. Most recently, we worked with the City of San Diego on its highly successful Inclusionary Affordable Housing Regulations.

We appreciate County staff’s efforts to fully investigate potential program options and evaluate the various options for meeting its goal of producing sufficient affordable units to meet the County’s RHNA allocations. Keeping this goal in mind, our comments focus on the practical application of inclusionary regulations, highlighting some specific areas where the proposal may have the unintended consequence of reducing housing production, rather than achieving the County’s housing goals.

Foremost among these are the need for flexibility in how projects contribute to meeting the County’s inclusionary goals, and certainty in the requirements that apply to housing development in the County. As highlighted in a recent UC Berkeley Turner Center for Housing Innovation study on the costs of affordable housing production<sup>1</sup>, “California will not solve its housing crisis unless policymakers develop a robust pro-housing policy agenda, one that includes streamlining development permits and reforming zoning so that all cities are building their fair share of both affordable and market-rate housing.” Moreover, with an estimated cost of providing one subsidized affordable exceeding \$700,000 (in 2020 dollars) according to the study, *there is a specific need to reduce the costs and complexity of building affordable units.*

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<sup>1</sup> [https://turnercenter.berkeley.edu/wp-content/uploads/2020/08/LIHTC\\_Construction\\_Costs\\_2020.pdf](https://turnercenter.berkeley.edu/wp-content/uploads/2020/08/LIHTC_Construction_Costs_2020.pdf)

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Our specific comments, roughly following the County's "Guide for Public Feedback" are as follows:

**1. PRELIMINARY COMMENT: PURPOSE OF INCLUSIONARY HOUSING ORDINANCE (Section 6341.a TITLE AND PURPOSE)**

Please delete "affordable and inclusionary." In light of the housing policy goals expressed by the State and County, this program should be "interpreted and implemented in a manner to afford the fullest possible weight to the interest of and the approval and provision of *total* housing." This is consistent with the State Density Bonus Law, Government Code section 65915, which states "(r) This chapter shall be interpreted liberally in favor of producing the maximum number of *total housing* units." (Emphasis added.)

**2. MINIMUM PROJECT SIZE FOR ORDINANCE APPLICABILITY (Section 6341.b APPLICABILITY)**

(1)(i) Application of an on-site inclusionary requirement to projects consisting of less than 10 units (as proposed for General Plan Amendment projects) is either mechanically impossible under the proposed program or functionally requires projects below a given size to include a much greater proportion of affordable units as compared to larger projects, because the inclusionary requirements round up from 0.5 to the next whole unit. For example, a 2-unit project subject to a 10% inclusionary requirement could not be required to include any units because 10% is less than 0.5 units. On the other hand, using a 10% inclusionary requirement as applied to a 5 unit project would require it to functionally exceed the 10% inclusionary requirement (10% of 5 is 0.5, or 1 unit; 1 unit is 20% of 5 units but only 10% of 10 units.) Thus a smaller project would be proportionately overburdened as compared to larger projects.

Accordingly, any on-site requirement should apply only to projects above the unit count that would proportionately bear the same percentage of affordable units as larger projects and should not apply to projects under that threshold. To apply a 10% on-site inclusionary requirement, for example, inclusionary requirements should apply to projects proposing at least 10 units, **Option 3**. However, as noted by industry interviewees as cited in the Inclusionary Housing Economic Study, this minimum size would make development very challenging to finance, as even a 50-unit threshold could barely absorb the loss from including on-site affordable units.

(1)(i) Please clarify the intent that the requirement would be applicable to mixed-use development projects *that include a minimum residential component* and GPA projects that seek to increase the maximum *residential* density. As drafted the current language is unclear.

(1)(ii) Exempt Projects:

(a) Please incorporate (such as by a map incorporated into the proposed Ordinance) the definition of "Sub-Area 5". Although we understand the definition refers to the Subareas identified in the Inclusionary Housing Economic Study, the concern is that, once codified, this will be difficult to locate.

(b) Please add an exemption for age-restricted senior housing, or alternatively, provide that age-restricted senior housing units qualify as inclusionary units. This is consistent with the

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State Density Bonus Law, which provides density bonuses, incentives and waivers for projects that include senior housing units.

(c) Please clarify that this exemption for projects-in-process applies to a project that has a complete application for a discretionary permit, *regardless of whether the project requires additional or subsequent discretionary approvals* (for example, (a) grading permits are considered discretionary under the County Code and (b) large specific plan projects often obtain subdivision maps for their later phases separately from their initial specific plan/DA/MUP entitlement phase.) Additionally, please clarify that a “housing development project” that has submitted a “Preliminary Application” pursuant to Government Code section 65941.1 prior to the effective date of the program is exempt, in accordance with State law, Government Code section 65589.5.

### **3. SET-ASIDE REQUIREMENT (Section 6341.c AFFORDABLE HOUSING UNIT COMPLIANCE REQUIREMENTS)**

Please consider providing a phase-in period during which projects preparing for submission of applications can appropriately accommodate the added cost of providing inclusionary units. A 5-year phase-period is currently in process within the City of San Diego. More information can be found here [IAH-2020-Procedures-Manual.pdf \(sdhc.org\)](https://www.sdhc.org/IAH-2020-Procedures-Manual.pdf).

A phase-in allows for a reasonable transition for property owners and investors that have made investments in the County under prior rules, to ensure that the County’s program will be successful in producing housing to include affordable units. In fact, this is one of the “General Best Practices” recommended in the Inclusionary Housing Economic Study, at Section 3.2.2, which reports that “A phasing-in of program parameters and/or minimum thresholds may help ensure a smooth transition for transactions and projects currently under development or in process.”

This phase-in is particularly important to avoid the further decrease in housing production that the Inclusionary Housing Economic Study warns about on page 62, which states, “An affordable set-aside requirement that is considered economically infeasible by the development and landowner communities *will likely result in a decrease in housing production for two reasons: investors may look elsewhere for opportunities that offer higher return potential and less risk, and landowners may be unwilling to accept a lowered land value resulting from the inclusionary requirements and choose to hold rather than sell land.*” (Emphasis added.)

(1)(a)-(c). Minimum Set-Aside. In addition to the comments above regarding the relationship of the minimum project size to the minimum set-aside, which should take into consideration the relative burden on a project to its overall size and not unduly discourage smaller projects, the affordability levels should take into account the County Board of Supervisors’ stated goals to facilitate production of moderate income and “work force” housing, in addition to its adopted RHNA goals. The required affordability level should provide flexibility to projects based on the product type (single- vs. multi-family), and whether units are for-sale or for-rent, as feasibility cannot be determined for all projects based on generalizations used in the Inclusionary Housing Economic Study.

(1)(i) Rounding Rules. As noted above, setting rounding up from 0.5 units means an on-site requirement would be functionally inapplicable to some small projects where the applicable

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inclusionary requirement is below 0.5 units, but overburden other small projects where the applicable requirement rounds up from 0.5 units. If this rule remains in place, the County's on-site requirements must be based on an appropriate minimum project size that allows a project to bear its proportionate share, rather than overburdening smaller projects.

(1)(ii)(d) Comparability. A requirement to disperse units throughout a building or site should be limited to multifamily projects only. While single-family residential developments can accommodate inclusionary units, it is very difficult to evenly disperse affordable single-family lots throughout the entire development due to differences in lot size, layout and other factors unique to single-family developments. The County's program should account for a variety in product types, not only rental and for-sale but also single-family and multifamily, as there is a need for all housing types in the County.

(1)(iii) Note that, pursuant to the State Density Bonus Law, inclusionary units provided pursuant to the proposed program are also counted towards units qualifying a project for bonus density, incentives and waivers under Government Code section 65915.

(2)(i) Please add language to clarify that after expiration of 55 years, units may be sold or rented at market rate. As noted above, there is a need for certainty in investments by housing developers, as uncertainty increases costs and reduces the investment that can be made in development housing in the County.

(3)(i) Timing for Construction of Inclusionary Housing Units. This section needs to be revised to accommodate projects that include phasing. As written, it would be impossible to provide inclusionary housing units in a phased project because all affordable units would be required to be built in the first phase.

Phasing is often used for financing, with proceeds from a first phase used to finance the next phase, etc. Financing all required affordable units regardless of phase would not be feasible in this model. Instead, each phase should be required only to provide the applicable percentage of inclusionary units based on the number of units in the phase.

Additionally, the 55 year restriction should run from occupancy of units in each phase, not the project overall.

#### **4. ALTERNATIVE COMPLIANCE (Section 6341.d)**

(1) As noted above, any compliance option including in lieu fees should be phased in over a minimum of 5 years, to ensure that the County's program will be successful in producing housing to include affordable units.

(2)(d) Off-site construction options: Please provide a map of eligible areas within High or Highest resource areas and VMT efficient or Infill Areas in order to illustrate actual capacity for off-site construction. With the current housing crisis, there should be no extra hurdles to constructing affordable units off-site. Off-site construction should be encouraged, not penalized with distance limits or higher set-asides because off-site already leads to more total units. For example, if a 100 unit project has a 10% set-aside, then only 100 units are constructed (90 market

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rate and 10 affordable). However, if off-site is permitted/encouraged, then a 100 unit project with a 10% set-aside yields 110 total units (100 market rate on site and 10 affordable units off-site).

In discussions with the San Diego Housing Commission, they are confused why policy makers make off-site development harder because when you have a housing crisis, the focus should be on maximizing affordable and market rate housing. Because you get more units with off-site construction, the County should revolutionize the thinking on off-site development. The County should consider further incentivizing it by offering extra incentives and extra density bonuses for applicants who propose off-site affordable development. Additionally, as noted in the Inclusionary Housing Economic Study, the County should allow for for-rent affordable units to satisfy the requirement for for-sale market rate development, as the most cost-effective method of providing affordable housing.

While far too conservative and contrary to the system described above, if the concern is exporting affordable requirements to one part of the County, then at a minimum, expand the proposed 1 mile restriction to anywhere in the Board district. In truth, this should not be a concern, especially as affordable housing projects are considered to be screened out from VMT analysis. To reverse the demographic trend of residents and businesses leaving California for states with lower costs of living for families and employees, and often higher GHG and VMT impacts, we need market rate *and* affordable housing - and lots of it - so this is no time to create artificial, political, geographic limitations on where affordable housing can be developed.

Finally, this section should expressly allow for flexibility in the timing of providing off-site affordable units. Coordinating timing of providing market rate development and off-site affordable can be very difficult, especially where an affordable housing developer is employed to develop the off-site units. It can take years for an affordable housing developer to obtain the financing from competitive grant and tax credit programs. If market rate development and occupancy is tied to the affordable development, then the market rate projects cannot get financed until the affordable developer gets financed. This leads to years of unnecessary delay in constructing the housing. Consider allowing an option for the market rate developer to post a bond for the off-site construction (similar to way bonds are posted for off-site infrastructure improvements in a Subdivision Improvement Agreement) when a project seeks to obtain a final map.

(3) Accessory Dwelling Units:

(iii) Please remove the cap on the number of ADUs that may be provided to meet the inclusionary requirements. As the State has recognized, allowing ADUs in zones that allow single-family and multifamily uses provides additional rental housing and is an essential component in addressing California's housing needs. (Gov. Code section 65852.150.) A 5-ADU limit is arbitrary and does not account for either the size of the overall project or the value of ADUs in meeting affordable housing goals.

Additionally, please address how ADUs are considered for purposes of calculating a project's overall VMT, if ADUs are required to meet inclusionary requirements. A lack of clarity in this important metric creates uncertainty in a project's ability to meet the County's regulations, which again reduces the likelihood of investments in housing projects in the County.

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(i) and (iv) Please remove the requirement that ADUs provided to meet inclusionary requirements must be comparable in terms of unit size, which conflicts with the requirements of Section 6156.x(5) and (6), which limit the total floor area to 50% of the floor area or 1200 square feet. We do not believe the intent of the IHO is to limit all market rate housing to 1200 square feet.

(4)(ii)-(iii) Land Donation. Similar to the comment above, please provide maps indicating the available suitable locations of donated land, including the location of High or Highest resource areas and VMT-efficient or Infill Areas, and zoned for residential use.

(4)(ii)(7) Please revise “*and Zoning designations*” to “*or Zoning designations*” consistent with State law, Government Code sections 65915 and 65589.

(5) Rehabilitation. Given the limitations on location and availability of units for rehabilitation, consider loosening the comparability requirements applicable to rehabilitated units. Additionally, consider adding the option to rehabilitate units in a greater geographic area, not only in High or Highest resource areas and VMT-efficient or Infill Areas. The need for rehabilitation of housing in the County extends far beyond these limited geographic areas.

## **5. INCENTIVES (Section 6341.e)**

Given the current constraints on discretionary approval of housing projects, it is unlikely expedited processing will significantly increase development of housing in the County. The greatest incentive that motivates developers to offer affordable housing (by far) is the opportunity to process its project via a ministerial approval process. Again, this is reflected in the “General Best Practices” outlined in the Inclusionary Housing Economic Study, at Section 3.2.2, which acknowledges that “evidence exists that programs lacking incentives may suppress overall production. These can include reduced or waived permitting fees, expedited or *ministerial* entitlement and approvals, and density bonuses.” (Emphasis added.)

The City of San Diego’s Complete Communities model<sup>2</sup> is being used extensively to provide affordable housing because it is ministerial. The program helped the City of San Diego to be recognized by the State Department of Housing and Community Development (HDC) as one of only seven “pro-housing” communities in the State. Due to the fact that the County’s greatest need in meeting its RHNA allocation is in the very low income category, consider offering ministerial processing to projects that provide 5% of their pre-density units (or similar attainable set-aside) as very low income affordable (on-site or off-site).

Streamlining housing projects that include affordable units by providing ministerial processing is precisely the kind of policy solution recommended by Statewide experts to help solve California’s housing crisis and ensure the County is building its share of housing, both affordable and market-rate. We urge the County to seriously consider ministerial processing for projects that include affordable units.

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<sup>2</sup> See [https://www.sandiego.gov/sites/default/files/ib-411\\_complete\\_communities\\_housing\\_solutions.pdf](https://www.sandiego.gov/sites/default/files/ib-411_complete_communities_housing_solutions.pdf) for information about the City’s program.

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### **Comments to the Inclusionary Housing Economic Study**

As noted above, we appreciate the County's effort to seriously consider the impacts of the proposed inclusionary program on development of housing in the County, analyzed in detail in the Inclusionary Housing Economic Study prepared by AECOM. Many of the "General Best Practices" identified in the Inclusionary Housing Economic Study support our comments above, and we urge the County to take these into consideration and build upon the experience of the many jurisdictions analyzed by the County's expert.

As an overarching comment, however, it should be recognized that the report relies on assumptions and generalizations that do not necessarily accommodate the practical realities of any particular project in any particular location, or in the unincorporated County as such. As the Turner Center report referenced above discusses, among the barriers to achieving affordable housing goals throughout the State is the uncertainty and delay relating to discretionary permitting. In the County, as the Inclusionary Housing Economic Study recognizes, investment in housing projects is reduced due to long and uncertain discretionary entitlement processes, which includes the analysis of a project's VMT (Vehicle Miles Travelled), and lack of options for feasible mitigation. The County should consider a streamlined ministerial process that helps provide added certainty to housing projects providing a minimum amount of affordable units, similar to the City of San Diego's Complete Communities Housing Solutions, but tailored to the County's lower density housing market and zoning.

Moreover, the inclusionary housing program must consider the *cumulative costs* of mitigating for VMT and other impacts in considering the feasibility of housing projects that include affordable units. Where a project can barely offset the cost of providing affordable units, the added cost of VMT and other mitigation on the margin will likely render the project infeasible. As the Inclusionary Housing Economic Study recognizes, "A de-facto moratorium or mitigation fee on development in high VMT areas could impact the decisions of developers and landowners and alter the number, residential type, and location of future housing unit growth in the County." Even if subsidies are available for affordable units, the expertise, time and cost to obtain subsidies to offset these costs may, as recognized in the Turner Center study, ultimately increase the cost of the affordable units even as compared to the market rate units. In order for the County to meet its housing goals, these cumulative costs must be considered in determining the Inclusionary Housing program's feasibility.

One of the issues we are deeply concerned about is that the Inclusionary Housing Economic Study evaluates feasibility based on 30 percent reduction in land values.<sup>3</sup> Even assuming this is

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<sup>3</sup> AECOM Inclusionary Housing Study at page 62 states, "...established approach to determining economic feasibility, which has been employed in other inclusionary housing studies, is to set a feasibility threshold of 30 percent reduction in land value: if a scenario lowers residual land value by less than 30 percent compared to the Base Case (where the base case achieves a typical market return), then it is considered feasible. This approach meets the economic standard of feasibility by assuming landowners will absorb up to a 30 percent loss in value without a change in their willingness to sell. It should be noted that in jurisdictions with inclusionary programs there is historical evidence that transacted land value does eventually shift to accommodate the impact of inclusionary requirements, *but this transition can be prolonged as land markets are typically "sticky" and slow to reflect factor changes. This tendency can be exacerbated where there is long-term land ownership and owners are accustomed to waiting out market fluctuations.* The 30 percent reduction in land value approach is used to evaluate GP-Compliant projects."

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an accurate assumption, it does not account of all the other costs and regulatory changes that are currently reducing land values in the County, such as cost of compliance with pending GHG regulations, VMT mitigation and Community Benefit Agreements, among others. If the affordable housing set-aside and AMI levels are set not to exceed this threshold, but do not account for other pending County regulatory impacts on land values, then the set-aside percentage proposed is too high. That is why programs like the City of San Diego only have a 10 percent set-aside and are phased in over time to ensure they do not inadvertently tip the scales to infeasibility based on a landowner's initial investment, which may not have considered any of these recent changes in costs. The City of San Diego understood that inclusionary housing regulations are not being proposed in a vacuum but as part of the overall fabric of regulations in the jurisdiction. Accordingly, the County should consider postponing adoption of the Inclusionary Housing Ordinance until VMT mitigation, GHG regulations and other efforts that may increase the costs of providing housing are adopted and can be evaluated as part of a project's overall feasibility.

The Inclusionary Housing Economic Study assumes the 30 percent reduction in land value is feasible "where the base case achieves a typical market return." The housing market in San Diego County cannot achieve a typical market return due to the VMT regulations and GHG regulations, which is why the County has stopped receiving development applications for any significant number of housing units. Given all the uncertainty in development costs in the County, landowners and developers are on the sidelines in the County and focusing their development efforts elsewhere in the state or nation. The County cannot achieve its housing goals, affordable or market rate, without investment by owners and developers.

### **Comments to the Proposed Addendum Prepared pursuant to CEQA**

Finally, we note that the proposed Addendum prepared pursuant to CEQA Guidelines section 15164 is based on the assumptions in the Inclusionary Housing Economic Study regarding feasibility of the proposed options to be presented for the Board's consideration. However, as noted above, feasibility as evaluated in the Inclusionary Housing Economic Study does not take into account the cumulative impacts of discretionary entitlements, including delay and mitigation for impacts under CEQA, including but not limited to VMT and GHG, or other regulations. Nor does the proposed Addendum consider the Board's potential adoption of program options that are not considered to be feasible.

As the Inclusionary Housing Economic Study recognizes, "An affordable set-aside requirement that is considered economically infeasible by the development and landowner communities will likely result in a decrease in housing production for two reasons: investors may look elsewhere for opportunities that offer higher return potential and less risk, and landowners may be unwilling to accept a lowered land value resulting from the inclusionary requirements and choose to hold rather than sell land." Thus, the Inclusionary Housing program, depending on the selected options, could result in significant impacts not analyzed in the Addendum, for example, impacts to public services due to loss of property tax revenues as a result of lowered land value, or impacts relating to increased commute times due to displacement of future housing development.

Accordingly, the County should revise and reconsider the Addendum once further direction is provided as to the selected program options in order to adequately investigate and analyze

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whether the proposed Inclusionary Housing program may have significant impacts not adequately discussed in the 2011 General Plan Update EIR.

Finally, to the extent the ultimately selected program, which may or may not include options that are not considered feasible (including in consideration of other requirements such as VMT mitigation), reduces or effects a de facto moratorium on housing development, it could violate prohibitions under State law, SB 330, relating to downzoning and moratoria on residential and mixed-use projects in “affected” areas of the County. The County should evaluate this potential legal limit before adopting and implementing its inclusionary program.

We appreciate this opportunity to submit comments and your consideration of the above in the development of the Inclusionary Housing Ordinance. We understand the critical need for affordable housing in the unincorporated County and share the County’s goals in facilitating housing development to accommodate all County residents. We are available to discuss our comments with you at your convenience and look forward to working with you to develop the best program for the County and its residents.

Sincerely,



Jeffrey Forrest  
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:4858-9171-1573.3



Monday, March 6th, 2023

Planning & Development Services Department  
County of San Diego  
5510 Overland Ave,  
San Diego, CA 92123

Greetings,

The Pacific Southwest Association of REALTORS® (PSAR), one of San Diego County's largest real estate trade associations with more than 4,000 members, supports the removal of proposed deed restrictions from the draft Inclusionary Housing Ordinance that would require affordable for-sale units to remain affordable for 55 years.

As discussed during a recent workshop hosted by County Staff, while the original underlying intent of that deed restriction is commendable, this requirement would mean that any families who purchase the affordable for-sale units will be restricted on the equity they can build from the unit that they purchase, since they would not be able to sell their unit at market rate for 55 years. Homeownership has been a key onramp to the middle class for many generations of American families, since it has allowed them to build equity. An unintended consequence of this deed restricted affordability for 55 years is that the families who we are trying to help will be prevented from building equity through their purchase. If the County could consider allowing the affordable units to rise to market rate after they are purchased by removing that deed restriction, it would uplift the families who purchase the units. The equity that they would build would create economic ripple effects. It would provide those families with the same opportunities that other families have to use the equity from their home to invest in themselves and their children's educations, therefore, it would provide both financial equity and socioeconomic equity.

At the recent workshop, County Staff was attentive and understanding of this concern, so we commend County Staff for engaging with the community to avoid unintended consequences for families and support the removal of this deed restriction. Please feel free to reach out if any questions come up regarding this topic.

Sincerely,  
Jason Lopez  
2023 PSAR President



March 23, 2023

Dear County of San Diego Planning Commission,

Thank you for allowing the public the opportunity to comment on the proposed Inclusionary Housing Ordinance. On behalf of the Building Industry of San Diego County, we are providing additional comments on this proposed Ordinance and requesting the following: 1) The County adhere to the Statute of the California Environmental Quality Act (CEQA) and complete a full Environmental Impact Report for this project; and 2) The economic analysis be revised to include relevant and valid data that does not skew the results of the study to the political preference of decisionmakers. Specifically, our questions and requests are detailed below:

**1. Question: Where is the substantial evidence to support the determination that this project is applicable to CEQA Guidelines Section 15164?**

**Request:** Provide the public and decisionmakers with an Environmental Impact Report for this Ordinance, per the requirements of Section 15162. This is required so that the full direct, indirect and cumulative impacts of this Ordinance can be fully analyzed and disclosed to the public and decision makers. There have been substantial changes in the circumstances under which the project will be undertaken that require major revisions to the previous EIR due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects.

**Rational for Request:** CEQA Guidelines Section 15164 state an addendum is only allowable if none of the conditions identified in Section 15162 have occurred. Per Section 15162(3), a subsequent EIR is required if “new information of substantial importance”, which was not known and could not have been known at the time of the previous EIR shows new significant effects or more severe environmental effects. Since certification of the Program Environmental Impact Report for the County of San Diego General Plan Update (GPU EIR; Environmental Review Number 02-ZA-001; Sch. 2002111067), the following new information of substantial importance has presented itself and the County must conduct a proper environmental review of this project:

- A. Addendum Section XI. Land Use and Planning: The GPU EIR provides an analysis related to conflicts with land use plans, policies and regulations from a baseline established in 2008. Since this time, a significant number of the land use plans included in the GPU EIR analysis have been updated, including providing new information of substantial importance related to evaluating the environmental impacts of this project. Specifically:
- a. SANDAG’s Regional Comprehensive Plan and Regional Transportation Plan: The growth projections identified on page 2.9-30 and Table 2.9-2 of the GPU EIR are outdated and no longer valid. SANDAG has made new data publicly available, which is of substantial

importance to the analysis of direct, indirect and cumulative impacts from the proposed Inclusionary Housing Ordinance.

- B. Addendum Section XIV. Population and Housing: The GPU EIR provides an analysis related to population growth and displacement of populations from a baseline established in 2008. Since this time, a substantial amount of new data has been released by SANDAG, providing new information of substantial importance related to evaluating the environmental impacts of this project, and making this section of the EIR no longer valid in relation to the Inclusionary Housing Ordinance. Specifically:
- a. GPU EIR Section 2.12.3.1 states the project is consistent with forecasted growth for the unincorporated County. This analysis is no longer valid, as SANDAG has published new growth forecasts. A full analysis of how the revised Ordinance will not directly, indirectly or cumulatively conflict with forecasted growth in the unincorporated County should be provided.
  - b. GPU Section 2.12.3.2 states that a significant impact would occur if replacement housing would be required elsewhere outside of the unincorporated County. The proposed Inclusionary Housing Ordinance, coupled with the County's additional land use planning efforts (Climate Action Plan, Decarbonization Plan, VMT and Sustainable Land Use Framework) is creating a trend where replacement housing for unincorporated residents is being provided outside of the unincorporated County. Additionally, the population models, available vacant land analysis and Building Permit Trends Analysis in this section of the GPU EIR are no longer valid, with new and relevant data being released by each of these data sources that is of substantial importance to this project. Implementing an Ordinance that promotes specific development within certain areas of the County while discouraging other types of housing in other regions of the County, has the potential to result in the displacement of housing.
  - c. GPU EIR Section 2.12.3.3, Displacement of People, states that "increases in residential density in other areas of the unincorporated County would sufficiently offset displaced housing and people so that replacement housing elsewhere would not be necessary". As stated in the Economic Analysis, the "unincorporated San Diego County is in a housing crisis". The existing housing crisis did not exist during the 2008 GPU EIR baseline and this crisis is "new information of substantial importance" that was not known and could not have been known at the time of the previous EIR and shows new significant effects or more severe environmental effects. A new analysis of this CEQA issue should be provided.
- C. Cumulative Impacts: New information of substantial importance exists that must be analyzed in this environmental document for this project. Specifically, a cumulative analysis of the County's proposed land use planning efforts must be provided to ensure that this Ordinance, in combination with the other proposed Ordinances, is not resulting in a significant cumulative impact related to land use and population and housing. Recently issued CEQA caselaw requires the County consider the cumulative impacts of their multiple land use planning efforts currently underway that are related to the positions of residential housing.

**2. Question: Why is the County funding economic studies that exclude the realities of the current market?**

**Request:** Update the entire economic analysis report to address the data gaps identified in Section 1.4, Analytical Considerations. County decisionmakers must be provided with a relevant economic analysis of impacts related to implementing the Inclusionary Housing Ordinance.

**Rational for Request:** Section 1.4, Analytical Considerations, of the Inclusionary Housing Study for the County of San Diego, states the report is based on data that is not applicable to today's baseline market conditions. Specifically, the study excludes an analysis of 1) VMT and 2) Inflation. The report clearly states that including this analysis would have a "meaningful impact" on the results of the study.

The County must revise this report to address VMT and inflation. SB 743 took action in 2020, and this economic report (dated 2023) must include an analysis evaluating the impact of this law. Although the County's specific VMT Ordinance is still being processed, the State law is valid, and the County CEQA document is out for public review. Failing to analyze this VMT regulation makes the conclusions in this report false. Similarly, the report uses cost assumptions from the 2020-2021 period and ignores the realities of the current market related to inflation. Data from the 2020-2021 period captures the heart of the COVID-19 pandemic and is skewed from the realities of today's market conditions. **The economic analysis also states that implementing the Inclusionary Housing Ordinance would result in a 30 percent reduction in land value in the unincorporated County**, without affecting the landowner's interest to sell. This statement does not reflect the current market conditions due to inflation and the housing crisis and should be supported by local data that reflect current San Diego conditions. The County of San Diego should not utilize an economic analysis that does not reflect the current market value and is instead tied to a period of time that is widely considered as an anomaly to society as a whole. The report must be updated to provide an economic analysis that considered current and relevant.

**As currently proposed, the Inclusionary Ordinance will decrease the production of all housing in the unincorporated County of San Diego, including affordable, middle-income, workforce and attainable housing.** The Ordinance does not offer any incentives or benefits to encourage projects to produce affordable housing. We appreciate the opportunity to comment on this County proposal and we look forward to the public being provided with sufficient information to adequately determine if this project should move forward.

Best,

Hannah Gbeh

Vice President of Government Affairs, Building Industry Association of San Diego

9201 Spectrum Center Blvd. #110, San Diego, CA 92123

858-514-7008 / hannah@biasandiego.org

www.biasandiego.org

# LATE CORRESPONDENCE

## MARCH 23, 2023

March 7, 2023

Camila Eastland  
Land Use/Environmental Planner  
San Diego County Planning & Development Services  
5510 Overland Avenue, Suite 310  
San Diego, CA 92123



RE: Draft County Inclusionary Housing Ordinance

Dear Camila,

The Building Industry Association of San Diego County is comprised of 650 member companies representing a workforce of more than 30,000 individuals throughout San Diego. We have reviewed the draft Inclusionary Housing Ordinance and the AECOM Economic Analysis and offer the following comments and recommendations.

Despite state and local efforts, the housing shortage continues to stymie the region. Final production numbers show that 500 fewer units were created in 2022 than in 2021. San Diego, Chula Vista and the unincorporated area account for 73% of county-wide housing production. Housing does not meet demand and construction costs continue to escalate thanks to higher interest rates and added regulations.

The BIA remains concerned that the cumulative effect of multiple County initiatives will result in less housing being produced in the unincorporated area. With a myriad of intangibles and absent their cost implications on new development, it is nearly impossible to determine the economic viability of an inclusionary program and its impact on land values.

As it pertains to an inclusionary program, the economic analysis failed to include the impact of the County's Vehicle Miles Traveled program so the overall impact remains unknown. The BIA maintains that the County adopted requirements pose such a significant hardship that areas outside of VMT efficient/infill designations will be rendered economically infeasible for any meaningful development. County staff acknowledged as much during the March 1, 2023 VMT update to the Board of Supervisors.

The latest data from the Construction Industry Research Board that tracks permit activity in jurisdictions throughout California found that in the first nine months of 2022, the unincorporated area was averaging 60 multifamily unit permits per month. However, following the passage of the Transportation Study Guide that implemented VMT in September, only 8 multi-family permits were issued over the remaining four months of 2022. Clearly VMT is having an impact.

The analysis assumes that landowners will "*absorb up to a 30% loss in value*" (page 62, section 1.) that would accompany an inclusionary requirement. The BIA finds this to be an unrealistic expectation as property owners are under no obligation to sell to home providers. An analysis of land transactions in the City of San Diego during their inclusionary update found that just 18% of land transactions went to home providers. The more regulatory impediments placed on the residential market, the less attractive housing becomes to land sellers. They are likely to delay selling until the price meets their expectations further constraining home building opportunities.

The analysis also fails to acknowledge land value impacts necessary to comply with the Climate Action Plan, Decarbonization Framework, Smart Growth Alternatives and proposed Community Benefit Agreements. The County has also failed to amend zoning to conform with the General Plan, adopted in 2011. The absence of such information creates significant uncertainty and is a major disincentive for investment in the unincorporated area.

As representatives of the regulated community, we strongly recommend that the County refrain from any inclusionary implementation until the cost implications of the aforementioned issues are clearly analyzed.

Land use is not a one-size-fits-all exercise due to a host of variables. In-Lieu fees are an essential option and should not be limited to project size. The range referenced in the economic analysis is excessive given the economic realities of the unincorporated area in terms of land values and housing costs. A \$25 per square foot In-Lieu fee equates to a \$62,500 tax on a typical 2,500 square foot home which adds \$395 per month to a mortgage payment at 6% interest.

Any inclusionary program must also provide an off-site option. The off-site option allows affordable housing developers to use their expertise to increase economies of scale that attracts additional state and federal revenues and provide in house services for residents that is lacking in the unincorporated area. As such, home providers should not be penalized with an additional percentage requirement for off-site units. With limited areas due to VMT, locations should be expanded to outside VMT efficient areas considering affordable projects are exempt from VMT mandates.

The economic analysis concludes that the absence of incentives "*may suppress overall production*"; (page 16, section 3.3.2). However, the draft ordinance lacks specificity on developer incentives and what is mentioned is limited to specific production and affordability levels. Expedited project review is subjective and open ended. Deadline specific processing would be better suited with projects deemed approved if the County fails to make the deadline. Approval times of 30, 60, or 90 days would be an attractive incentive. Additional density bonuses, self-certification and by-right processing are areas that can significantly improve development times if implemented properly.

The need for expedited processing was acknowledged during the VMT discussions. How does the County plan to differentiate processing incentives between inclusionary projects and projects within VMT/Infill Efficient areas? Staff has already begun to explore expedite programs for VMT/Infill areas. The BIA is prepared to work with the County to determine appropriate incentives. It is critical that incentives and offsets be implemented concurrently with any inclusionary program.

Lastly, any inclusionary program must include a phase in period as referenced in the economic analysis. *"A phasing-in of program parameters and/or minimum thresholds may help ensure a smooth transition for transactions and projects currently under development or in process."*(page 16, section 6.2.1.3). The City of San Diego's most recent Inclusionary update was implemented over a 5-year period to help mitigate the negative impacts of the program. The BIA supports a similar 5-year phase in of affordability levels and fees.

The County must also protect the economic viability of projects already in the pipeline. Those with a development application or ministerial application deemed complete must be exempt from the new requirement as they would have been submitted prior to the implementation of a costly inclusionary program.

The BIA understands the County's desire to address the housing crisis, but the cumulative economic impact of pending regulations needs to be vetted to assess their overall impact on housing costs and production. The BIA remains committed to working with the County to ensure such endeavors do not adversely affect housing availability.

Sincerely,



Matthew J. Adams  
Vice President

# LATE CORRESPONDENCE

## MARCH 23, 2023

ATTACHMENT M

london moeder  
advisors

March 10, 2023

County of San Diego  
c/o Camila Easland  
Planning & Development Services  
5510 Overland Ave., Suite 310  
San Diego, CA, 92123

Via email: [camila.eas/and@sdcounty.ca.gov](mailto:camila.eas/and@sdcounty.ca.gov)

### Letter to **Planning** Commission & Board of Supervisors

On behalf of my clients, in 2018 I stood at the dais at the County Board of Supervisors meeting and encouraged the Board to approve three projects totaling approximately 10,000 housing units. They did so.

None have been built.

Yet, five years later the San Diego region remains severely underserved in achieving housing counts sufficient to erase a deficit that SANDAG estimates to be over 170,000 units. Year after year we do not produce sufficient new housing counts. The gap between supply and demand ever widens and accentuates a perpetual housing shortage.

Everyone is trying, particularly your staff\_ The current three proposals, CAP, VMT and IHP, each of which I have reviewed and participated in offering my perspective, are thorough and well-intentioned efforts to achieving housing in a way which attempts to balance the competing, and often conflicting needs, of climate action and environmental sensitivity while providing below market rate housing.

There are three general problems which I wish to highlight in this letter:

- None of these programs encourage new housing production within the unincorporated County of San Diego
- Programs such as IHP put the burden on developers. There may be an opportunity to incentivize employers to participate in housing delivery.
- There seems to be little or no connective tissue between these programs.

I will limit my current concerns to these, although I expect to weigh in, later, on other specifics regarding each program.

## Create Zones of Efficiency

My firm has supported the many efforts within the City of San Diego and several other San Diego County municipalities to build in-fill housing. Through Complete Communities, for instance, the City of San Diego has changed the game with respect to offering up creative approaches and programming to encourage developers to build. Some of the smaller municipalities have followed suit. And the State of California has supported these efforts through legislation and mandates.

No amount of "infill" housing can mitigate the substantial decrease in single-family home production that provides larger housing units with multiple bedrooms. This can only be accomplished in the County of San Diego. It is the unincorporated areas that are the prime repositories of vast amounts of land, some of which is suitable for development.

Reflecting back on the County's approval of housing in 2018, it is hard to believe that some five years later these homes have not been built. These are all master planned communities which, at build out, would add 10,000 units. As a region, we are simply "nibbling around the edges" if we delude ourselves into believing that infill development can sufficiently address the deficiencies. In-fill programs alone can neither build enough housing nor the right type of housing. Most infill results in apartments that are small units and ill-suited for families.

The proposed programs do not increase housing counts. In other words, the County has elected not to participate in providing much needed housing. It is up to the County to address this issue now, and head on. The three land use policies that you have in front of you do nothing to achieve a solution to the deficiencies.

While I fully realize that there are ongoing litigation and regulatory restrictions that are out of the County's controls, what is in your control is to identify lands which can and should be considered for housing development that can accommodate family formation.

Rather than create, as you have, a de-facto urban limit line, beyond which housing cannot be developed, perhaps create "zones of efficiency" in which those properties that achieve certain standards would be invited to develop. Those zones could include unincorporated lands near the region's major transportation corridors and employment zones.

I believe this can be achieved in a simple map that defines areas which can be targeted for development under the following, basic philosophy:

- If housing is built near employment centers, there is less commuting, and fewer vehicle miles travelled.
- If housing is built near transportation corridors, there is less carbon emission.
- If housing is built, the very development of this housing tamps down the increase in housing prices, which has been, and will continue to be, bid up over time because of the housing shortage.



london moeder  
advisors

If the County were to make this effort, I believe it could be accomplished in full compliance with the rules, and in the spirit, of these new regulatory efforts before you.

## Create Carrots and Sticks To Encourage Employer Participation

The relationship between housing and jobs is fundamental to the demand for housing. Yet your County (you are not alone) remains silent to this fact. While our region has been remarkably successful in attracting and expanding new business clusters in the science and technology sectors, remains a repository of a huge military, and has successfully maintained and grown its tourist related businesses and other business sectors, we have not concomitantly considered how this has pressured the housing market.

The best transportation solution is to put housing near jobs. In your programming, I would suggest that you focus on this relationship. Perhaps the County could be at the forefront of programming which encourages employers to get involved with the housing of their employees (the carrot) and discourages business development which further festers the problems of inadequate housing, long commutes, congestion and carbon emission (the stick).

The VMT and CAP programs, in effect, focus on regulating housing developers. They would be significantly more powerful if these focused on employers. Programming including encouraging development on or near business locations, incentivize off-hour commutes, encourage employers to get involved with actual housing construction ventures or create housing purchase and financing assistance would all be helpful. Some of this may require working to amend State of California law which regulates proprietary housing. But if ever there was a time to do it, now would be the time.

This is fertile ground for a County that seems to be philosophically aligned with solving housing problems. Addressing the connection between housing and jobs gets to the heart of the issue.

## The Need for Connective Tissue

I am concerned that the County is embarking on a "piecemeal" approach to addressing issues, rather than a comprehensive, holistic approach.

If these policies remain in their current state, in my view this will severely limit the potential for new housing applications-something the County can ill afford in the specter of our long-standing housing shortage. The goal should be for all of them to work together seamlessly,

In their current state, these housing policies cannot be evaluated by a serious, professional builder-developer in making their feasibility determinations. Unknowns do not work in this regard. Thus, these three policies may be creating a de facto moratorium on new housing in the County.

Our recommendation is that the County incorporate the definition of these three important policies on a concurrent basis. Create the connective tissue that would have the effect of eliminating the "piecemeal" approach it has pursued to date.



london moeder  
advisors

Even if such a process were to be implemented, how far are we away from having these policies fully defined and functional-three to five years, maybe, post EIR work? In that period, the County will certainly see very few new housing applications.

Here are some thoughts regarding each:

#### [The Climate Action Plan \(CAP\).](#)

Among other important topics here, one of high importance would be how the County plans to address Greenhouse Gas (GHG) evaluation methods and their mitigation measures.

As we all witnessed over the last 10+ years or so, County policy regarding this one topic (GHG) proved quite controversial and ultimately negatively impacted the viability of thousands of otherwise feasible and urgently needed new housing.

Until this policy is fully defined, vetted, and adopted, it would be impossible for a prudent builder-developer to proceed with any new investment consideration in the unincorporated County. Does the County have a project adoption date for this important policy?

#### [Vehicle Miles Traveled \(VMTI\).](#)

The County has adopted a Transportation Study Guide (TSG), which is a start to developing a comprehensive, well-defined policy.

With the TSG start, the County now needs to add in the important components that truly allow a builder-developer a complete understanding of the impacts of this policy on a new development in consideration. There are a few important points here:

VMT Efficient Areas. The county has physically defined this geography, but it remains unclear just how much land within this definition is truly developable AND what the mitigation costs will be exactly, within this definition. More importantly, what about mitigation costs for possible projects "outside" of this area?

We understand an internal county (PDS) analysis, presented to the Planning Commission in January 2022, indicates that the two primary sources of buildable land-VMT Efficient Area and Infill (Village)-are largely built-out-and will produce only a small fraction (perhaps 10%) of the volume the County suggests (approximately 4,000 homes).

When taking either of these figures-4,000 or 400 possible future new homes-in consideration of the 58,000 home unbuilt capacity of the current General Plan-one would immediately question the County's thought process here. For example:

- Are the VMT Efficient area homes (whether 4,000 or 400) intended to fulfill both the County's current and future RHNA obligations? How does that work?



**london moeder**  
advisors

- What about the 54,000+ remaining unbuilt homes in the General Plan? We understand preliminary/current thinking from the County is that mitigation fees for proposed homes outside of the VMT Efficient areas are quite exorbitant and infeasible.

Until a fully formed VMT policy is determined (and it would appear the County could have some significant hurdles ahead of it to overcome), applications for new housing will remain at the current nil status.

### [Inclusionary Housing Policy \(IHP\)](#)

The current released information should achieve a better relationship with the CAP and VMT subjects. Here are some preliminary comments:

- The IHP appears directly linked and ergo, reliant on VMT policy, the impacts of which are now obvious. We are talking about the most minimal amounts of housing volumes.

The County lists numerous research input to its process. Some thoughts here:

- **Competitive Survey Results.** A County summary of the conclusions drawn from this research would be quite helpful. What did the county learn from this process that was adopted in the current policy?

One notes that a large component of this survey, even locally, comes from city jurisdictions that are either largely coastal and/or with significant urban components--i.e., Del Mar, Encinitas, Carlsbad, San Diego, Pismo Beach, Los Angeles County.

- **Project Participation Rates.** The county's IHP policy tested project participation rates that exceed 10% (i.e., 15% to 20%), and as referenced above, it is our experience that such rates (above 10%) are extremely impactful to viable new housing programs, particularly in (San Diego) unincorporated county locations.

## Some Final Thoughts

It has been more than 10 years since the County adopted its current General Plan update. The three policies referenced herein should be defined in terms of this update for the County to achieve a truly effective General Plan-one that would support the volumes of new housing we so desperately need.

One final suggestion: It would be EXTREMELY helpful if the County would allow public review and comment periods regarding such impactful, long-term policies as these beyond the minimal 45 days given at this juncture. We believe the County would engage in a more comprehensive, thoughtful approach to receiving like-kind input from its many stakeholders. Ninety to 120 days would be more sufficient-especially for a policy the County has been working on for more than 18 months.

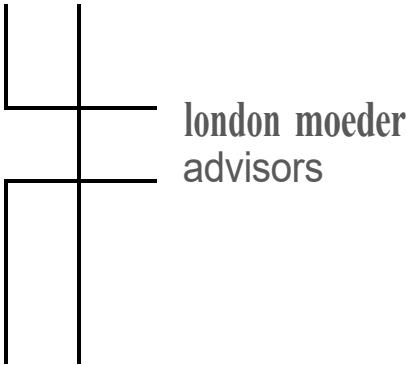
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Should you have any questions regarding this letter, please feel free to contact me.

Sincerely,



Gary H. London, Senior Principal  
London Moeder Advisors



# Corporate Profile

## London Moeder Advisors

### REPRESENTATIVE SERVICES

Market and Feasibility Studies	Development Services	Litigation Consulting
Financial Structuring	Fiscal Impact	Workout Projects
Asset Disposition	Strategic Planning	MAI Valuation
Government Processing	Capital Access	Economic Analysis

**London Moeder Advisors** (formerly The London Group) was formed in 1991 to provide real estate advisory services to a broad range of clientele. The firm principals, Gary London and Nathan Moeder, combine for over 60 years of experience. We have analyzed, packaged and achieved capital for a wide variety of real estate projects. Clients who are actively pursuing, developing and investing in projects have regularly sought our advice and financial analysis capabilities. Our experience ranges from large scale, master planned communities to urban redevelopment projects, spanning all land uses and development issues of all sizes and types. These engagements have been undertaken principally throughout North America and Mexico.

A snapshot of a few of the services we render for both the residential and commercial sectors:

- **Market Analysis** for mixed use, urban and suburban properties. Studies concentrate on market depth for specific products, detailed recommendations for product type, absorption and future competition. It also includes economic overviews and forecasts of the relevant communities.
- **Financial Feasibility Studies** for new projects of multiple types, including condominium, apartment, office, and master-planned communities. Studies incorporate debt and equity needs, sensitivity analyses, rates of return and land valuations.
- **Litigation support/expert witness services** for real estate and financial related issues, including economic damages/losses, valuations, historic market conditions and due diligence. We have extensive deposition, trial, mediation and arbitration experience.
- **Investment studies for firms acquiring or disposing of real estate.** Studies include valuation, repositioning projects and portfolios, economic/real estate forecasts and valuation of partnerships. Often, the commercial studies include the valuation of businesses.
- **Estate Planning services** including valuation of portfolios, development of strategies for disposition or repositioning portfolios, succession planning and advisory services for high net worth individuals. We have also been involved in numerous marriage dissolution assignments where real estate is involved.
- **Fiscal Impact, Job Generation and Economic Multiplier Effect Reports,** traditionally prepared for larger commercial projects and in support of Environmental Impact Reports. We have been retained by both developers and municipalities for these reports. The studies typically relate to the tax revenues and employment impacts of new projects.

The London Group also draws upon the experience of professional relationships in the development, legal services, financial placement fields as well as its own staff. Clients who are actively investigating and investing in apartment projects, retail centers, commercial projects, mixed use developments and large master plans have regularly sought our advice and financial analysis capabilities.

**San Diego:** 825 10<sup>th</sup> Ave | San Diego, CA 92101 | (619) 269-4010  
**Carlsbad:** 5946 Priestly Dr #201 | Carlsbad, CA 92008 | (619) 269-4012

**San Diego Inclusionary Housing Program**  
**Draft Ordinance Comment (POD-20-007)**  
**Michelle Krug**

**Accessibility:** There is no mention of accessibility married to the affordability. This is a major problem. For the disabled community, this is a very significant oversight. My request is that a minimum 50 percent of the affordable housing should likewise be accessible and that there be incentives to promote construction of additional accessible units beyond that minimum.

**Definitions, Section 1100 of the Zoning Ordinance, subsections 2 & 3 (Page 2)**

- Clarification: Is purchase mortgage insurance included in the “monthly housing payments” calculation?
- Issue: Please add to the definition of Rehabilitated Dwelling Unit, after the word mobilehome, “as defined in Civil Code section 798.3, subsections a and b.”

**Applicability, Section 6341.b, subsection 1 (Page 3-4)**

- Preference on options: Prefer option 1 over the other two options.

**Affordable Housing Unit Compliance, Section 6341.c, subsection 1 (Page 4-5)**

- Comment of Tables: “Example of calculation for a project” would be easier to understand if 100 units was used and the same number of units was used for all three scenarios (rent, sale, and general plan).
- Inquiry: I need information about how the economically feasible scenarios were calculated. It does not make sense that the same 5% percent for both extremely low and very low income categories are deemed “economically feasible.” We should be able to include more very low to be economically feasible.
- For the General Plan Compliant for Rent: Want an option that includes all four categories of AMI, including “extremely low-income.” Of all the options, that are currently listed, I prefer the 5% very low + 5% low + 10% moderate (21a) option.
- For the General Plan Compliant for Sale: Want an option that includes all four categories of AMI, including “extremely low-income.” Of all the options, that are currently listed, I prefer the 5% low + 10% moderate (18a) option.
- Duration of Affordability: Really like the 55 years deed requirement!

**In Lieu Fees, Section 6341.1d, subsection 1 (Page 6-7)**

- Issue: No amounts are listed for how much the in lieu fees should be. (Should cost double what it cost to build it.) Unclear how the in lieu fees are calculated.

- Issue: In lieu fees do not generate housing. Against any in lieu fees in exchange for housing. Housing is the crisis. Opposed to all three options under this subsection (100% under 10 units, 100 percent, and fractional).
- Issue: Affordable housing inclusionary fund should be able to rehab housing, as well.
- Issue: All money should go the rehabbing or construction of affordable housing. Money should be used to build housing. Should not use it for administration and enforcement direct costs.

**Off-Site Construction, Section 6341.1d, subsection 2 (Page 7)**

- Issue: For the exceptions to the one-mile requirement, only support exception where the additional 5 percent of the housing is restricted to building for a lower AMI--for 0 to 60 percent AMI.

**Land Donation, Section 6341.1d, subsection 4 (Page 9)**

- Issue: Why is there a restriction on the donation of land where the property was improved with a residential use in the last five years prior to the submission of a land donation proposal?
- Issue: One of the major goals of housing inclusivity, is to mix people's income levels up. Low-income living near medium income. Building off-site should be generally discouraged to avoid this separation of income-levels.
- Issue: The same ambiguity regarding the in lieu fees and how those fees are calculated make this section difficult to assess.

**Rehabilitation, Section 6341.1d, subsection 5 (Page 10)**

- **Issue:** Don't take 100 percent affordable housing units and turn them into less than 100 percent affordable housing. (eg. PQ Village).

**FALLBROOK COMMUNITY PLANNING GROUP  
P. O. Box 1419  
Fallbrook, CA 92088**

March 21, 2023

Honorable Commissioners  
San Diego County Planning Commission

Honorable Supervisors  
San Diego County Board of Supervisors

Dear Supervisors and Commissioners:

The Fallbrook Community Planning Group at its March 20<sup>th</sup> meeting had extensive public discussions regarding the proposed Inclusionary Housing Ordinance. Members of the public as well as Planning Group Members shared concerns regarding the proposed ordinance as it would apply to Fallbrook and other unincorporated areas.

Following this extensive review and analysis of the proposed ordinance, a motion was made, seconded and carried unanimously, to recommend to the Planning Commission and the Board of Supervisors that the Inclusionary Housing Ordinance NOT be adopted.

It is the consensus of the Planning Group that although the Inclusionary Housing Ordinance may be a workable plan in a high density urban environment, it is totally unsuitable for rural Fallbrook and most likely other areas in Unincorporated San Diego County as well.

Many factors played into this conclusion, including, but not limited to the extensive high risk fire areas and resulting difficulties and expense of providing insurance, (if available); difficult building terrain; inadequacy of public transportation and misconceptions on the various maps used by the County to form their conclusions.

While the County did attempt to obtain public input regarding the proposed ordinance, the dismal attendance at the two sessions (40 participants at the June 28 session and 25

participants at the March 1 session) hardly provides the County with meaningful input upon which to base any decisions.

It was also noted that the public hearings only sought input on how to modify the proposed Ordinance and there was no attempt made to establish the threshold question of whether the ordinance should be adopted or not.

We hope that our recommendation is seen as realistic for Fallbrook and accepted by the Planning Commission and the Board of Supervisors.

Yours truly,

*Eileen Delaney*

Eileen Delaney, Chair  
Fallbrook Community Planning Group  
[Eileen.fallbrook@gmail.com](mailto:Eileen.fallbrook@gmail.com)

Steve Brown  
Fallbrook Community Planning Group  
Land Use subcommittee Chair



# Twin Oaks Valley Community Sponsor Group

April 18, 2024  
San Diego County Planning Commission  
Submitted via email to Agenda Item 3

San Diego County Planning Commission  
Item #3 Inclusionary Housing Ordinance  
Hearing date April 19, 2024

Dear Honorable Members of the Planning Commission

We ask that the Planning Commission delay the Inclusion Housing Ordinance, specifically for the Buena Creek/ Buena area<sup>1</sup> and Twin Oaks Valley Community planning area. First, we ask that this ordinance not be finalized until the Development Feasibility Analysis (DFA) is completed so the true costs and challenges of developing within the VMT Efficient Areas and Infill areas are known. Second, we ask Staff to evaluate the Infill Areas before changing the zoning on existing SR1 and SR10 semi-rural properties that are outside the Village areas as specified in the General Plan. Third, although the Staff report said the County did extensive outreach, most residents and property owners in the Buena/Buena Creek area, in the VMT Efficient and/or infill areas, have not been notified about the changes this ordinance will have on land use in their community. They deserve to be part of this process before the Planning Commission makes its decision.

1. **Why we ask for the County to wait until after the Development Feasibility Analysis (DFA) is completed:**

South Santa Fe is the main two-lane road that runs between Vista and San Marcos and is part of historic route 395. There are several low-income apartment buildings near the Sprinter train station, but this area lacks sidewalks or a safe path of travel to get to the Sprinter Station or shopping in Vista. There is only a marked area along the road for use by pedestrians. There are no public parks or community gathering spaces for the residents in this area. Solutions for Change has what appears to be a private park for use by residents of its two buildings. These apartments are filled with

<sup>1</sup> Note: due to different County documents referring to the Buena Creek area as either Buena or Buena Creek, this document will refer to this area as Buena Creek/Buena. All our comments below apply to Buena Creek/Buena and or the Infill areas within the Twin Oaks Valley Planning Area

families who could benefit from open space. We would like to ask Staff, what happened to the PDLO funds that should have been spent on this community? Even though there is the Sprinter Station and bus service, most of the people living in the apartments rely on vehicle transportation. In the evenings and weekends, because of insufficient parking, the vehicles from the apartment buildings park on every scrap of dirt shoulder, down narrow side streets, and on top of asphalt road shoulder that have been marked as bike lanes and pedestrian along Lobelia Drive. In addition, there are over 17 registered sex offenders, listed on the California Megan's law website living within a two-minute walk of the Sprinter Station. (Figure 1)

Although the County has not provided enough production in the Very Low-income range housing, we are concerned that this ordinance will not address the shortfall providing decent low-income housing in the Buena Creek/Buena area. This area reflects 50-years of bad land use planning. We believe that the County should not zone for more low-income housing until it has identified and addressed the lack of infrastructure and resources in the Buena Creek/ Buena area. Not addressing this and but building more low-income housing only further degrades the living conditions of the very residents you are tasked to serve with the Inclusionary Housing Ordinance.

**2. Evaluate Infill designated areas outside the DFA boundary before you finalize the ordinance:**

We realize the VMT efficient and Infill area is where the County wants to incentivize growth. However, Some of the Infill areas are outside the Village zone and in the General Plan they are designated Semi-Rural 1 (one dwelling unit per acre) and Semi-Rural 10 (one dwelling units per ten acres). Some of these infill parcels are adjacent to existing biological open space. (Figure 2) Some are on steep slopes, in very high fire designated areas, and lack sewer access to sewer or natural gas. We don't think it is advisable to place higher density units, including lower income, in high or very high fire areas. These areas are outside the DFA analysis boundary and are not financially compatible with the goals identified in the Inclusionary Housing Ordinance. The burden to provide infrastructure and insurance costs may be too great in these areas to create lower income housing that this ordinance is supposed to address. We ask the County to use the location for multi-family as found on the Planned Land Use interactive map from the SANDAG, SANGIS GIS site. This would place multi-family within a reasonable walk from the Sprinter and bus stations. (Figure 3)

**3. Get input from the property owners and residents who live in the DFA and Infill areas first:**

We ask the County to get input from the property owners and residents who live in the DFA and Infill areas before finalizing the Inclusive Housing Ordinance. There is no planning or sponsor group for much of the area shown as VMT Efficient or Infill. Most residents in this area know nothing about the County's Engage website, or about the Twin Oaks Valley Community Sponsor Group, or saw any public notice about the hearings related to the Inclusionary Housing Ordinance. The County may have posted notices in the San Marcos library but so many people use online information services and seldom visit the physical library. Please ask staff how many people from the Buena Creek/Buena area have attended Staff's online presentations. Ask Staff, how many times they have visited the local library for un work related purposes.

The Twin Oaks Valley Community Sponsor Group does not have the funds nor the means to send mailers to each property owner or resident in our planning area or in the Buena Creek/Buena area to the west of our planning area. In addition, some of the residents in the DFA and Infill areas are Spanish speaking only and no one on the Twin Oaks Valley Community Sponsor Group speaks Spanish. Therefore, we do not believe the County has property conducted outreach and received community input on this ordinance.

**Recommendations and Solutions related to the above three items:**

- A. We ask the Planning Commission and the County to honor the County General Plan. Do not include existing Semi Rural Residential on steep slopes and in high fire areas as infill housing.
- B. Reduce the distance from the inclusionary units can be built from the market rate development from five miles to one mile so that areas that are five and over miles from a market rate housing projects don't become dumping grounds for only the lowest affordable housing product types. The area near the Buena Creek Sprinter Station that is along South Santa Fe reflects this concentration of poor housing product types for low-income people. We need to avoid concentrations of low-income housing in areas without resources or adequate infrastructure, such as can be found in the Buena Creek/Buena area near the Sprinter Station. It simply does not meet the County's *obligation to affirmatively further fair housing, which requires jurisdictions to adopt policies that take meaningful actions to combat discrimination, overcome patterns of segregation, and foster inclusive communities free from barriers that restrict access to living in certain areas.*
- C. Develop a Master Plan with design guidelines for multi-family housing for the Buena Creek/Buena area, especially for the area within the DFA boundary, to create a holistic approach to developing the community. The Staff Report notes most people who fall within the Very Low-income range will not likely be able to buy homes so Very Low-income projects will likely be rental units. Therefore, before finalizing the Inclusive Housing Ordinance, the County needs to understand the real-world conditions and create a master plan for the area. Until this is done, it is highly unlikely that a developer will be willing to build decent housing that is other than very low income in this area. If the County does not have a plan before it enacts the Inclusionary Housing Ordinance, the result will likely generate more of block style buildings having minimal appeal in communities having no positive community character. Like today, the landlords who own these lower income buildings will do the bare minimum to maintain them and the area will continue to deteriorate over time.
- D. For low-income multi-family rental projects, create funding mechanism, similar to a CFD, to ensure funds from development or VMT mitigation can be used to maintain important amenities such as parks, community gathering spaces and landscape in the community. Use the CFD type structure to ensure Landlords keep the low-income properties maintained and don't allow them to degrade.

- E. For multi-family projects, build for various incomes. It is important people of mixed incomes live within the same community. This helps to create a community where character is more important than income level. This would also help eliminate the “us and them”, “rich and poor” attitudes that foster negative social attitudes between people of varied incomes and make areas not inclusive.
- F. For multi-family projects, Build for real world conditions. Build high density within actual walking distance from the Sprinter and bus line. For apartments and multi-family, provide enough parking. If the time comes when the residents heavily use the Sprinter and bus system and don’t need as many cars, the parking can turn into additional units or community facilities. Avoid using the typical incentives of reduced parking space or not giving lower income residents open space in order to build a couple more units. Low-income people need open spaces just as much as people with higher income.
- G. For multi-family projects, within actual walking distance of the Sprinter, create a mechanism that provides reasonable building quality and provides resources for the residents of the project. Incorporate mixed-use which can have commercial or services on the ground floor and residential above you can provide housing and increase access to services that low-income people really need in the area near the Sprinter Station. Develop flex housing so residential buildings can have a live/work component.
- H. Rehabilitate existing run-down appartements units to increase the quality of life for low-income residents. This may not directly increase the housing stock of low-income rentals but as long as the existing units near the Buena Creek/Buena area remain degraded, it reduces the chances of developers investing or building better quality low-income housing in this area.
- I. Adjacent to the Sprinter, create a Safety District with a police substation next to the Sprinter to provide safety and a positive community connection with law enforcement.
- J. Within the infill areas, count ADUs as satisfying the lower income housing which will help the County achieve housing goals. According to the documents supplied to the Planning Commission, *RHNA anticipates constructing 1,800 ADU’s as part the County’s share of the regional housing needs. As evidenced in Tables 9 and 10, ADU’s make up 25% of “Pipeline” units. ADU’s are compatible with the largely single-family dominated County. (comment from AECOM Economic Analysis)*

This concludes our requests, comments, and recommendations to the Inclusive Housing Ordinance. We strongly believe the above items should be addressed before finalizing the ordinance before you today.

Thank you very much for your time on this matter.

Sincerely,

Joe Bunn, Chair  
Twin Oaks Valley Community Sponsor Group



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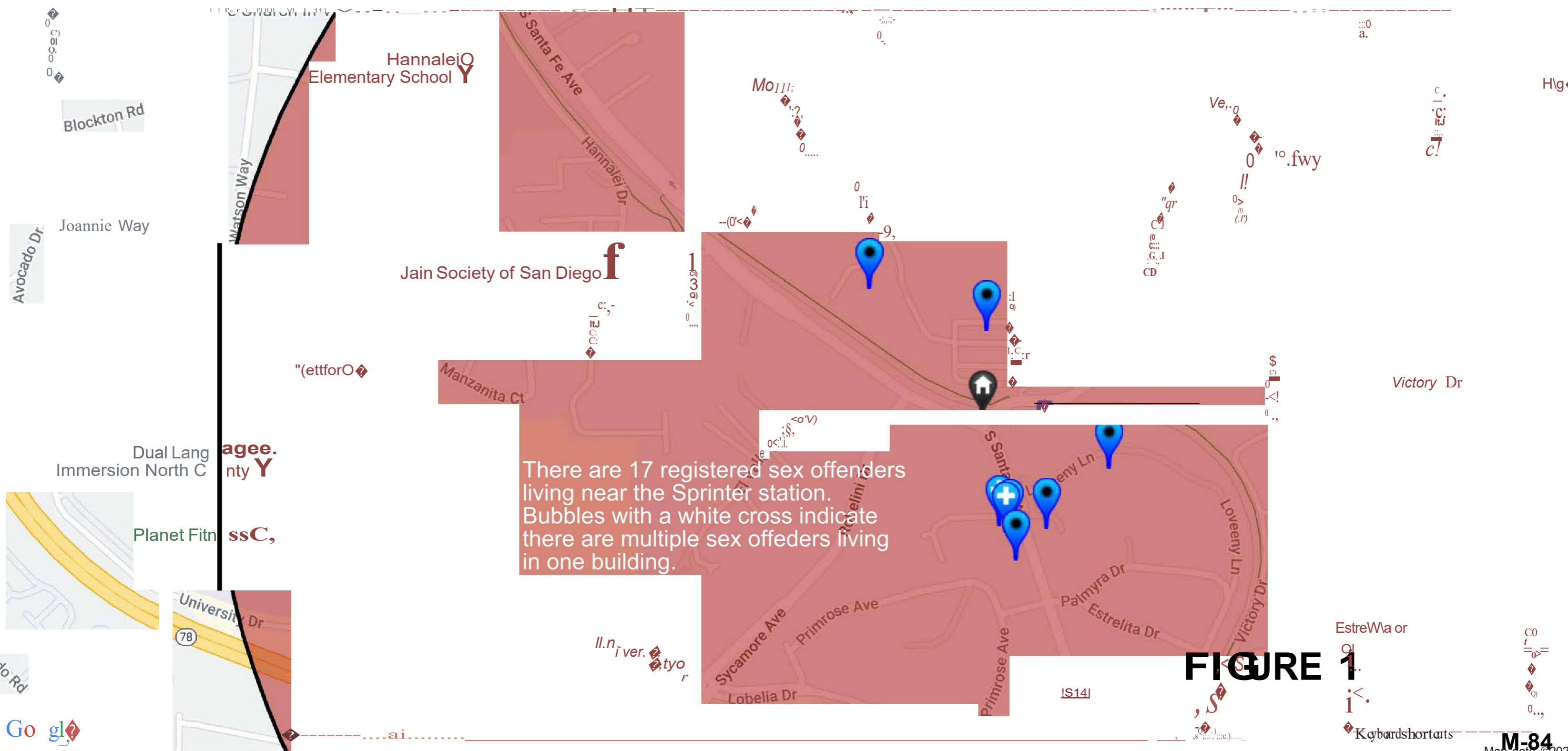
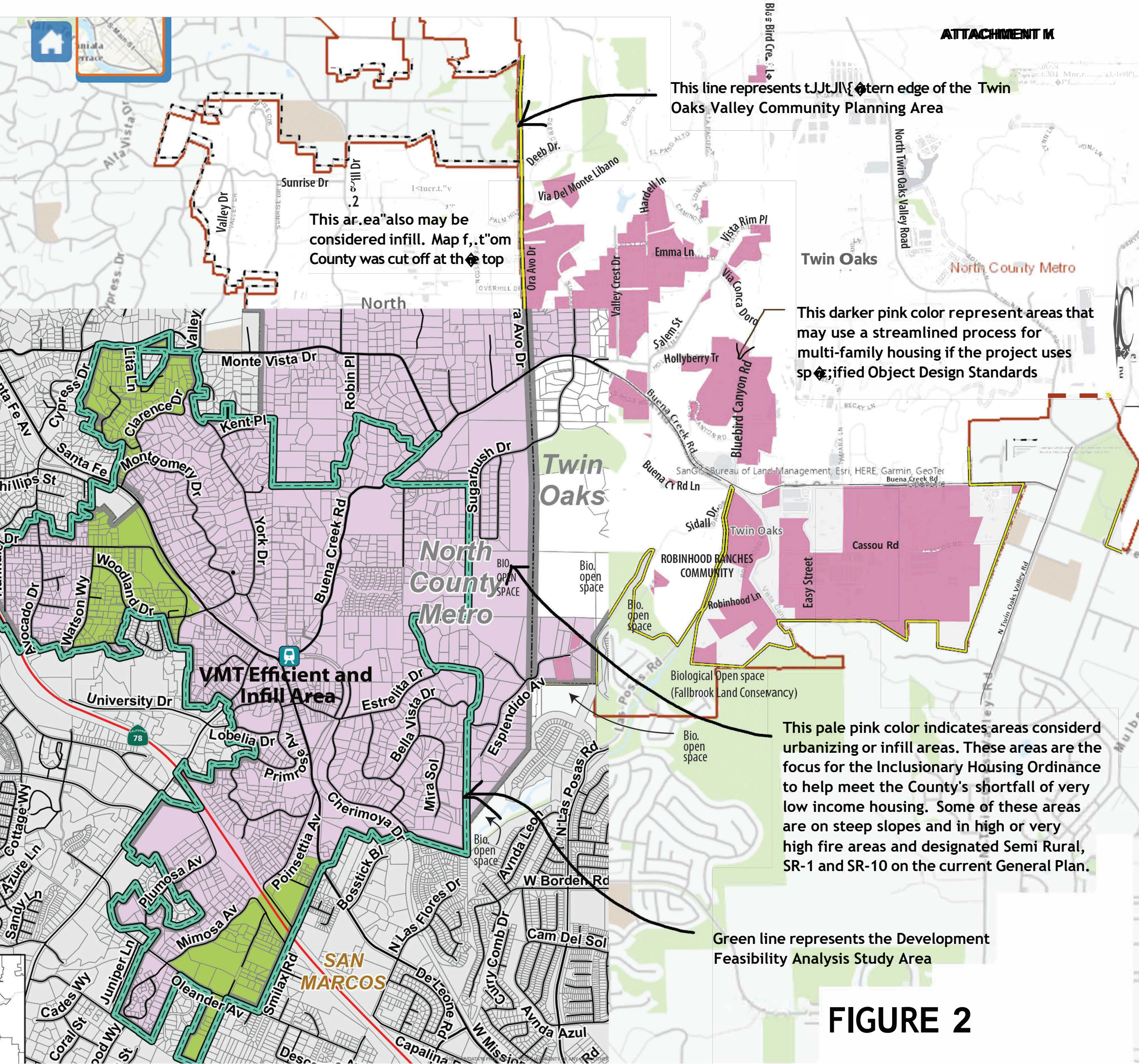


FIGURE 1



This line represents the eastern edge of the Twin Oaks Valley Community Planning Area

This area also may be considered infill. Map from San Diego County was cut off at the top

Twin Oaks

North County Metro

This darker pink color represent areas that may use a streamlined process for multi-family housing if the project uses specified Object Design Standards

Twin Oaks

North County Metro

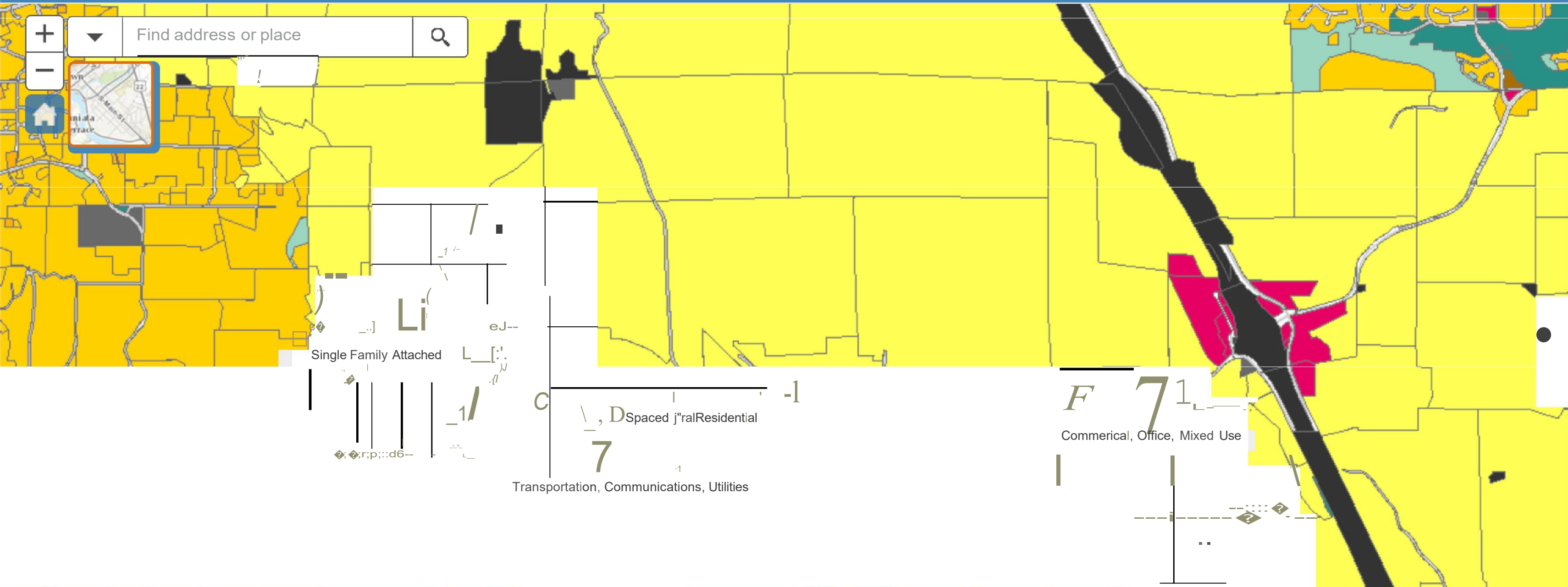
VMT Efficient and Infill Area

This pale pink color indicates areas considered urbanizing or infill areas. These areas are the focus for the Inclusionary Housing Ordinance to help meet the County's shortfall of very low income housing. Some of these areas are on steep slopes and in high or very high fire areas and designated Semi Rural, SR-1 and SR-10 on the current General Plan.

Green line represents the Development Feasibility Analysis Study Area

FIGURE 2

This map is a combination of maps and images supplied by San Diego County Planning and Development Services, Long Range Planning and shows how land use may change in the Buena, Buena Creek Road and Twin Oaks Valley neighborhoods.



**Layers**

**Planned Land Use**

- Planned Land Use
- Spaced Rural Residential
- General Single Family or SF Detached
- Single Family Attached
- Mobile Homes
- Multiple Family
- Commerical, Office, Mixed Use
- Heavy and Light Industry
- Extractive Industry
- Transportation, Communications, Utilities
- Education and Institutions
- Public/Semi-Public
- Military
- Recreation
- Open Space Parks
- Agriculture
- MIXED USE; SPECIFIC PLAN AREAS
- Indian Reservations
- Water
- Road Rights of Way
- Railroad Rights of Way

Part Parcel Table

Export Parcel Features

Print Map

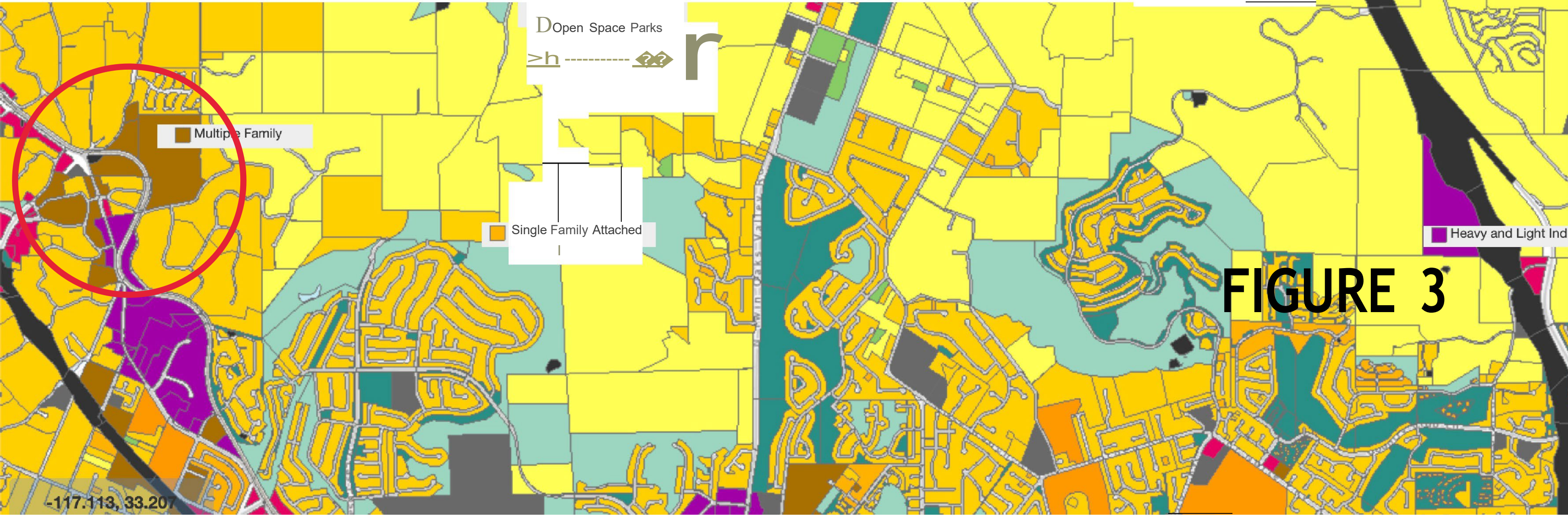


FIGURE 3



South Santa Fe at Palmyra



Unscreened light industrial next to residential uses



South Santa Fe at Overflow parking for apartments



Graffiti



Buildings house multiple sex offenders close to the Sprinter station



This appears to be the only well maintained apartments. Mill Creek apartment complex- next to the Sprinter



Path of travel to the Sprinter station



Off of Santa Fe, glimmer of hope. This complex has garages!



April 18, 2024

County of San Diego Planning Commission  
County Operations Center  
5520 Overland  
San Diego, CA 92123

[DELIVERED VIA EMAIL CORRESPONDENCE]

RE: Opposition to Proposed Inclusionary Housing Ordinance

Dear Members of the County of San Diego Planning Commission,

On behalf of the Building Industry Association of San Diego (BIA), I am writing to express our opposition to the proposed inclusionary housing ordinance currently under consideration. If implemented, this ordinance will further contribute to the lack of new housing production we have seen in the unincorporated areas of our county.

While we recognize the importance of addressing housing affordability and providing opportunities for low-income residents, the proposed inclusionary housing ordinance is not the most effective or equitable solution. As noted in the County-directed Fiscal Analysis, mandating affordable housing in new residential developments places additional costs on builders and developers, which has the potential to stifle housing production, and ultimately exacerbates the very problem it seeks to solve.

The imposition of inclusionary housing requirements adds significant costs and complexities to the development process, making projects financially infeasible and deterring investment in much-needed housing supply. Because land prices are “sticky” and can be slow to adjust per the Fiscal Analysis, these additional costs must be passed on to homebuyers and renters in the form of higher prices and rents, further exacerbating affordability challenges for middle-income families.

As outlined in the most recent General Plan Annual Progress Report, in 2023, the County approved only 57 new homes. Additionally, the County did not approve any tentative maps, indicating that there are zero larger development projects that have entered the pipeline to help alleviate our housing crisis. For reference, it often takes one to two years for a project to move from a Tentative Map to a Final Map capable of being built.

Furthermore, while it has been stated that there are “1,400 units in the pipeline,” some 1,000 of those units are part of applications which do not anticipate any affordable housing requirement (Attachment). Consistent with the findings of the Fiscal Analysis, the imposition

of an inclusionary housing requirement can have up to a 30 percent reduction in land value. How many of these units would be feasible if they were required to participate in the Inclusionary Housing Ordinance?

Lastly, as the industry and this Commission called attention to at the Planning Commission Workshop last March, staff is currently in the midst of a myriad of planning projects, including adoption of a VMT Mitigation Program, the Sustainable Land Use Framework, the Development Feasibility Analysis, the Climate Action Plan, and the Housing Blueprint. Each of these plans or analyses could have a large impact on the feasibility of developing new homes in the unincorporated areas. Rather than view each of these projects in a vacuum, at the very least the planning projects should be completed prior to the consideration of any additional development requirements that could negatively impact projects.

We encourage the Planning Commission to place on a future agenda this holistic review and allow public input on how each of these items are comprehensively intertwined.

In conclusion, we respectfully request that the County of San Diego Planning Commission table the proposed inclusionary housing ordinance and engage in meaningful dialogue with the public to develop more effective and equitable solutions to address our region's housing challenges.

Thank you for considering our concerns and recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Holt Pfeiler". The signature is written in a cursive, flowing style.

Lori Holt Pfeiler  
President & CEO

Enclosure

County Pipeline Projects

BOS	Record ID	Project Name	# of affordable Units	Total # of Units	Planning Group	VMT Category
1	N/A	Ridgeview Drive Apartments	5	78	County Islands	VMT Efficient
1	PO.S2019-TM-5636	Spring Valley Housing	0	7	Spring Valley	Infill
1	TM-5604TE	Sweetwater TM TE	0	8	Spring Valley	Infill
District 1 Total			5	91		
2	PO.S2021-MUP-85-053W2	Bradley Court Convalescence	0	101	Lakeside	Infill
2	PO.S2021-STP-21-035	Winter Gardens Site Plan	0	2	Lakeside	Infill
2	PO.S2022-STP-22-007	O-Gara 16 Unit Apartments	0	16	Lakeside	Infill
2	PO.S2022-TM-5646	Mansour TM (COUNTER)	0	11	Lakeside	Infill
2	PO.S2021-TM-5645	Julian Avenue Major Subdivision Tentative Map	0	8	Lakeside	Infill
2	PO.S2016-TM-5611	Greenhills Ranch (Phase 2)	0	64	Lakeside	Infill
2	PO.S2014-TM-5591	Marilla Park Deposit	0	11	Lakeside	Infill
2	N/A	First Street Apartments	3	38	Lakeside	VMT Efficient
2	N/A	Bradley Apartments	5	60	Lakeside	VMT Efficient
2	PO.S2022-TM-5619TER	El Nogal Time Extension Revised Map	0	17	Lakeside	Infill
2	N/A	RICC	100	100	Ramona	N/A
2	PO.S2023-STP-23-025	Pulver Residential Triplex	0	3	Lakeside	Infill
2	PO.S2023-TM-5598TE	Pearcock Hill TM Time Extension	0	64	Lakeside	Infill
2	PO.S2023-TM-5623TE	Priest Properties TM-5623 TE	0	8	Lakeside	Infill
2	PO.S2023-TM-5624TE	Priest Properties TM-5624 TE	0	14	Lakeside	Infill
District 2 Total			108	517		
3	PO.S2015-TM-5608	Residences At The Inn	0	16	San Diegoito	Infill
3	PO.S2021-TM-5575TE	Valiano	0	243	San Diegoito	Infill
District 3 Total			0	259		
4	PO.S2022-STP-22-027	Valencia Apartments Site Plan	0	10	Spring Valley	Infill
District 4 Total			0	10		
5	N/A	Sunbury Ct. Multifamily	1	8	North County Metro	Infill
5	PO.S2018-MUP-18-017	Plumosa Ave	0	114	North County Metro	Infill
5	PO.S2021-MUP-21-008	York Drive Senior Living	0	183	North County Metro	Infill
5	PO.S2022-TM-5648	Montreal Road - Lot Subdivision	0	10	North County Metro	VMT Efficient
5	PO.S2022-TM-5647	Vista II	0	37	North County Metro	Infill
5	N/A	Santa Fe Supportive Housing (Sabilla)	84	85	North County Metro	Infill
5	PO.S2023-STP-23-020	KFH Mixed Use STP Exemption	0	3	Fallbrook	VMT Efficient
5	PO.S2023-LD-GRMJ-30466	Alvarado St. Apartments	53	54	Fallbrook	N/A
District 5 Total			138	494		
Grand total			251	1371		

Total Count

- 955
- 95
- 45
- 239
- 37
- 1371

- Pre-VMT
- Time Extension
- 11 Units or less
- Not subject to VMT
- Need more info/potentially subjected to VMT



Thursday, April 18, 2024

County of San Diego  
Planning & Development Services  
5510 Overland Avenue, Suite 110  
San Diego, CA 92123

RE: Comments on the DRAFT San Diego County Inclusionary Housing Ordinance, Item 3, April 19, 2024

Honorable Planning Commissioners:

Nolen Communities, LLC (Nolen) appreciates the opportunity to provide the following comments on the County of San Diego’s (County) Draft Inclusionary Housing Ordinance (IHO).

Nolen is developing several projects that include affordable housing. We support efforts to generate housing, including affordable housing and attainable housing, and we endeavor to integrate affordable units with market-rate units using the benefits of State Density Bonus Law when appropriate to further enhance project design and improve project feasibility. While we recognize an Inclusionary Ordinance is an additional cost to housing projects<sup>1</sup>, we value affordable housing and the benefits it accrues, especially to the households that participate and their communities.

We are resubmitting comments that we provided last March, including comments on the AECOM Fiscal Analysis and the CEQA Addendum (see Attachment 1). Unfortunately, over the preceding twelve months, there was a missed opportunity to work with staff to address these questions, and we only learned the IHO was returning to the Commission last week. This process raised concerns because there was ample time over the prior year to address the questions we raised, yet the County is now rushing to move the IHO forward for consideration.

Preliminarily, we believe the adoption of an Inclusionary Ordinance without additional detailed information, including the costs and implementation mechanisms, of other ongoing County policies, plans and programs, notably the VMT Mitigation Program, the Climate Action Plan, and the Housing Blueprint, is premature. The financial implications of these plans, policies and programs could practically render the pending Inclusionary Ordinance obsolete if the implementation requirements increase development costs. At a minimum, we believe the Fiscal Analysis should be updated with “best guess” estimates for what the County expects the VMT Mitigation Program, CAP requirements, and other pending programs could add to the cost of housing and confirming or updating the in-lieu fee calculations and the feasible Set-Aside amounts.

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<sup>1</sup> Consistent with the AECOM Fiscal Report, which states that an Inclusionary require results in “revenues lost to affordable set asides...” (AECOM, pg 64)

Recognizing that there is little appetite to delay implementation of the Inclusionary Ordinance in the face of an ever-growing housing shortage, we offer the following comments based on the Planning Commission Agenda Item.

#### General Observations

The staff report (page 3-1) states that “To address the housing shortage and lack of affordable housing in the County, the Board of Supervisors (Board) directed staff to develop an Inclusionary Housing Ordinance.” However, based on the County’s latest General Plan Annual Progress Report, as summarized in Table 1 of the Staff Report, the County is making commendable progress towards its RHNA requirement for Low, Moderate, and Above Moderate housing production.

Specifically, the County claims to be 71% towards RHNA compliance for Low-Income housing production, and 87% towards Moderate Income housing production, as well as 94% towards Above Moderate housing production. Given that the County is less than halfway through the RHNA cycle, there is little evidence to support charging an Inclusionary Fee for either Low or Moderate Income units, unless the County is not genuinely providing the type of housing at these income levels it claims. Therefore, we ask the County to provide the following:

- Of the Very-Low, Low, and Moderate income units that the County is taking credit for in the GPAPR, how many of each are (1) ADUs, (2) Mobile Homes, and (3) Deed-Restricted?
- For any unit that is not deed restricted and was a “For Sale” home [such as those in the Park Circle and Horse Creek Ridge subdivisions], please provide the sales price.

The Staff Report also states that “the primary goal of inclusionary housing programs is to expand the supply of affordable housing and support the creation of more economically diverse and inclusive communities while not slowing overall housing production” (page 3-1) Because the housing crisis is so acute, and to meet the primary goal of not slowing overall housing production, we believe that any program should be phased in over 5 years, much like other jurisdictions.

As stated on page 3-2, the Staff Report “highlights economically feasible options for the set-aside requirement and Ordinance Implementation Options” which “were tailored to achieve specific policy goals and address the public input received.” While achieving policy goals is admirable, the current state of housing prices is partially the result of “piling on” of social, environmental, and other goals to the production of housing that have increased costs to the point of unattainability. The Options provided only further muddied the water by providing multiple options addressing different policy goals for three different types of projects. Even someone with nearly 20 years of real estate experience struggled to make sense of the proposed program and how it will be regulated.

Ultimately, we believe the best programs are the simplest. While we appreciate the work that went into the options provided in the staff report, we believe it is unnecessarily complex and will only invite confusion into what is already a confounding process. Therefore, we offer the following recommendations based on the four decision points staff have identified.

#### Set Aside

We believe the County should establish a 10% Low Income Set Aside requirement Countywide, which can be reduced to 5% if a project commits to Very Low income units, and increased to 15% for project’s that elect to set aside Moderate Income units. This should apply to both For-Sale and For-Rent Projects. We recommend this approach for the following reasons.

- 1 These income categories are “feasible” across the different scenarios studied in the Fiscal Analysis.
- 2 The “in-lieu” fee amount is generally commensurate for these set-aside amounts (\$14.16/SF for 5% very low, \$15.17/SF for 10% low and \$18.34 for 15% moderate).
- 3 This type of flexibility allows projects to decide the level of housing affordability based on the unique economic and neighborhood characteristics of each project.
- 4 This approach provides for clarity on project type by eliminating confusion between for-sale and for-rent.

While we disagree with creating a separate Set-Aside for GPA projects, we recognize this is direction from the Board, and believe that establishing a clear and consistent requirement will allow proponents to accurately underwrite their projects, rather than an ad-hoc approach if no consistent Set-Aside is established. Therefore, for GPA Projects, we recommend the threshold(s) for “GP-Compliant” projects should increase by 5% by Income Level (i.e., 10% very-low, 15% low and 20% moderate).

Relative to Vehicle Miles Traveled (VMT), Nolen strongly disagrees with any requirement that increases the set-aside amount in VMT efficient or Infill areas. Just because these areas may not be subject to a VMT fee is not a reason to arbitrarily increase development costs by requiring a higher percentage of affordable housing. These are areas the County has prioritized for residential development. Any higher threshold to develop these sites through a higher Set-Aside requirement is a disincentive to development and makes housing in VMT-efficient and infill areas more expensive and less feasible.

Instead, rather than changing the Set Aside requirement for projects based on the underlying VMT attributes, the County should consider reductions in the pending VMT Mitigation Fee for projects that meet or exceed affordable housing requirements (i.e., projects that build a higher percentage of affordable housing should be eligible to reduce any potential VMT fee as affordable housing is a VMT mitigation strategy – see *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity*, CAPCOA, December 2021).

#### Minimum Project Size

All projects should be subject to the IHO; however, those that are fewer than a minimum of 10 units (or 20 for purposes of “Very Low Income”) should be able to pay the in-lieu fee to satisfy 100% of the obligation. Any project over 10 units (or 20 for Very-Low Income) should be required to produce affordable units on-site (or through the Alternative Compliance options). All projects should have the option to pay the in-lieu fee for any fractional unit. This approach provides the “best of both worlds” because it discourages developers from limiting yields before triggering the next affordable unit and will allow the County to collect fees to ensure “fractions” of affordable units can be built.

For instance, if a 1.5-acre property at R-10 zoning would allow for 15 units, but a 10% set aside would round to 2 affordable units (1.5 acres \* 10 units = 15 units \* 10% low income = 1.5 affordable units), a developer may elect to only build 10 units (and thus only trigger 1 affordable unit). However, if eligible to pay an in-lieu fee for the fractional (0.5) affordable unit, the developer could build all 15 permitted units, including 1 affordable unit, and pay the in-lieu fee for the fractional unit. Thus, more housing is provided, and more fees are collected.

### Alternative Compliance

As expressed in our previous comments, the County should ensure ADU's remain an alternative to meet affordable housing requirements. ADU's would only be eligible to qualify as affordable housing under the IHO if they met requirements to be "comparable" to the market rate units (we take "comparable" to be 80% of the square footage of market-rate units). Therefore, a 600 SF ADU would not be eligible to meet the affordable housing requirement(s) for a subdivision of 3,000SF homes; but in a subdivision of 1,500SF homes, a 1,200SF ADU could be eligible. This maintains the comparability of affordable and market-rate units while also addressing concerns about community character.

While it's true that under current local housing law, ADU's would have to be deed-restricted and managed by individual property owners (not unlike a qualifying mixed-income apartment project); under AB1033, ADUs could be saleable – either to an affordable housing manager, or to a qualifying low-income purchaser who would then be responsible for demonstrating compliance with applicable income requirements (like any-other for-sale home). Because ADU's are an accepted typology in the County, allowing ADU's to meet affordable housing requirements would maintain the character of more rural areas in the County. If the County took a holistic approach to housing, adopting a local ordinance under AB1033 could be included in a suite of options to expand housing opportunities.

### Incentives

The biggest challenge to entitling projects in San Diego County is the long, duplicative process that can often take over three years, even for GP-compliant projects. As noted in the Staff Report, the County already has a Board Policy (Board Policy A-68, see pages 37-40 of Attachment 1) that allows for expedited permit processing for projects that include affordable housing (for clarity, nothing in the Board Policy requires a qualifying project to be 100% affordable, nor does the Board Policy facially only apply to projects that use CalFHA financing). Therefore, these proposed benefits identified in the Staff Report do not offer sufficient incentive to enhanced affordability.

As our previous comments indicated, the greatest incentive to enhanced affordability would be a ministerial, by-right process that allows qualifying projects to move straight into construction drawings, rather than going through a full entitlement before moving forward. This would provide additional certainty, reduce risk and timeframes, and will materially improve developers' ability to produce housing in San Diego County.

Therefore, we recommend the County permit any project that exceeds the minimum Set Aside by an additional 5% (so for GP-compliant projects<sup>2</sup>, 10% Very-Low, 15% Low, and 20% Moderate) should be permitted by-right. Such a program would be consistent with the Housing Element Update, specifically Policy 3.1.1.0 which calls for an expanded by-right approval program.

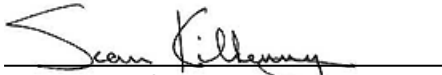
We also support the concept of additional density and incentives for projects under Density Bonus, but believe that without the by-right, ministerial process described above, the benefits of Density Bonus alone are not sufficient to induce significant housing under the Inclusionary Ordinance.

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<sup>2</sup> Such an incentive would not be available to GPA projects because of inconsistencies with the analysis in the County's General Plan Update Final EIR.

We believe additional time is warranted to allow staff and the County's consultant(s) to meet with stakeholders, review responses to previous comments, and achieve a consensus recommendation for the Planning Commission and Board of Supervisors to consider. However, realizing this is unlikely, we wanted to provide the above comments for your consideration and expect to provide additional comments and hope to work with staff prior to the final adoption of an Inclusionary Housing Ordinance.

Respectfully submitted,



Sean Kilkenny, Co-Founder and Partner Nolen  
Communities, LLC



Tuesday, May 26, 2026

The Honorable Chair Lawson-Remer and County Supervisors  
San Diego County Board of Supervisors  
1600 Pacific Highway, Room 335  
San Diego, CA 92102

RE: COUNTY OF SAN DIEGO INCLUSIONARY HOUSING ORDINANCE

Honorable Chair Lawson-Remer and Supervisors:

Nolen Communities appreciates the opportunity to comment on the County of San Diego's (County) proposed Inclusionary Housing Ordinance (IHO). We are providing early comments regarding the Ordinance and the "process" since this item was presented to the Board in August 2024. We hope this provides time for meaningful discussion with your offices and staff before the scheduled June 24, 2026 Board meeting.

By way of background, Nolen focuses on entitling residential projects. We buy land based on the underlying General Plan designations, zoning, and existing use, with the intent to design projects in compliance with applicable regulations and laws. Those plans often utilize Density Bonus and typically include deed-restricted affordable housing units on-site. We believe in the benefits of attainable housing, including subsidized affordable housing, which support positive outcomes by providing housing security.

Our projects, including those that have been developed, those currently being built, and those in the entitlement process, span a range of product types including attached and detached for-sale communities, rental communities, and communities that include both for-sale and rental units. All but one includes deed-restricted, affordable units on-site.

The following comments are therefore offered based on our support for affordable housing – especially as it relates to the production of more attainable housing – and our role processing these projects through the entitlement process.

"Process" is a theme throughout these comments. Our ability to deliver approved projects that can be built at targeted income levels depends on how effectively we can navigate several processes. One of those is the entitlement process, through which the County

grants project-specific development rights such as a Tentative Map or Site Plan. That process was created by the State but is controlled by the County’s implementation of the Map Act and state law, including CEQA. CEQA was adopted in 1970 and the modern version of the Map Act went into effect in 1975. As intended, these are good policies, but they have had deleterious unintended consequences.

Our ability to navigate entitlements is affected by the process the County takes related to various policy and ordinance decisions, including the Inclusionary Housing Ordinance and the Housing Element Update Implementation Plan. This is where our initial concerns arise.

**1. The Inclusionary Housing Ordinance Process Bypassed Long-Standing Direction and Legally Required Updates to the Zoning Ordinance.**

As shown in Attachment A, General Plan Update Program EIR Response to Comments, the County has known 15 years the Zoning Ordinance precludes effective implementation of the General Plan Village areas due to outdated zoning regulations. The County responded to the BIA’s comment on the General Plan Update in 2011 promising “[t]o the extent necessary, existing documents and regulations, such as the...Zoning Ordinance, would be updated to be consistent with the General Plan.” Yet, no comprehensive zoning update occurred following adoption of the General Plan Update to implement the Village concept, even though such discrepancies are impermissible under state law (Attachment B, BIA Letter on California Government Code Section 65860).

Nearly a decade later, as the County prepared the 6<sup>th</sup> Cycle Housing Element Update in 2020, the County reiterated the need to update the Zoning Ordinance, adopting multiple Actions as part of the Housing Element Implementation Plan which called for updates to the Zoning Ordinance to be completed by June 2023 (See Table 1, below). In fact, the State’s Department of Housing and Community Development recently sent an inquiry to the County asking for an update on these measures (Attachment C).

By early 2024, staff indicated they were beginning the Zoning Ordinance updates (albeit multiple years delayed) in the 2023 GP APR, stating “The County is developing a scope of work to procure a consultant to complete this program. The project is expected to be completed in 2-3 years.” (2024 General Plan Annual Progress Report)

The Housing Element Update also called for an Inclusionary Ordinance to be adopted within 2 years, which would have been the middle of 2023, AFTER the above Zoning Ordinance update(s) were completed. This is logical progression – it’s difficult to accurately understand the impacts of a mandatory inclusionary ordinance without first having a clear baseline of what can be built.

Housing Element Update Action Item (2021)	Required Completion Date	Complete?	Status (2025 GP APR)
<p><b>3.1.3.A Zoning Ordinance Cleanups.</b> Review the development designators in the Zoning Ordinance, and amend Code by the end of 2022 as necessary and appropriate to ensure that a range of housing types and densities can be achieved, and that the designators facilitate development at the maximum density allowed by the General Plan.</p>	<p>End of 2022</p>	<p><b>No</b></p>	<p>In progress, anticipated completion by Fall 2026 through Zoning Ordinance amendment as part of the Housing Unlocked project. The Housing Unlocked project will amend the Zoning Ordinance development designators, which establish development standards such as height, building type and setbacks for properties, to ensure a range of housing types and densities can be accommodated and that zoning standards more effectively facilitate development at the maximum density allowed by the General Plan.</p>
<p><b>3.1.1.C Zoning Ordinance Amendments to Achieve Maximum Density.</b> Amend the Zoning Ordinance by early 2023 to facilitate development on sites identified in the Sites Inventory for the 6th Cycle RHNA. Specifically, establish minimum densities for multi-family districts at 70 percent of the maximum allowable densities, with the goal of achieving an average development density at 80 percent of the maximum allowable density.</p>	<p>Early 2023</p>	<p><b>No</b></p>	<p>In progress, anticipated completion by Fall 2026 through a Zoning Ordinance amendment as part of the Housing Unlocked initiative. The County has a contract and task order in place with a consultant, supported by \$675,000 in one-time funding. County staff have initiated outreach and community engagement to inform program development, including interviews with developers and a public workshop to introduce the technical framework of the development designators. A draft ordinance amendment is anticipated to be released for</p>

The need to understand the challenges presented by the Zoning Ordinance was reinforced by the findings of the Development Feasibility Analysis (2025), which recommended:

**Amend County Regulations to Increase Certainty and Flexibility to Maximize Housing Development.** This near-term recommendation is to update zoning regulations to ensure the current General Plan’s densities can be achieved. This could be done by providing more flexibility in housing regulations in areas such as setbacks, height, and housing typologies. This aligns with an existing Housing Element implementation action that would effectively reduce processing time and cost associated with a need for rezones or other discretionary actions to achieve planned densities. *Ensuring development regulations allow for planned densities would provide developers with more clarity on an area’s development potential.* (Development Feasibility Analysis, pg. 4)

Nolen went so far to as to prepare the “Expedite Permitting and Increase Construction (EPIC) Housing Plan” and submitted it to the County Department of Planning and Development Services in September 2024 (Attachment E). The EPIC Housing Plan included updates to the County’s outdated Zoning Ordinance that we believed would facilitate housing production across the housing ladder. Focused in the Village areas (i.e., it only applied to VR-designated land uses), these measures addressed minimum lot size, building heights, building types, setbacks and other zoning requirements that had been bypassed by modern building typologies and buyer preferences.

**2. The County Has Not Comprehensively Addressed the Cause of the Housing Crisis.**

The Board’s motion in 2024 regarding the IHO included language the directed staff to “[e]nsure overall housing production is not negatively impacted”. This is an admiral goal, and Nolen supports the direction, but there are certain realities we must recognize.

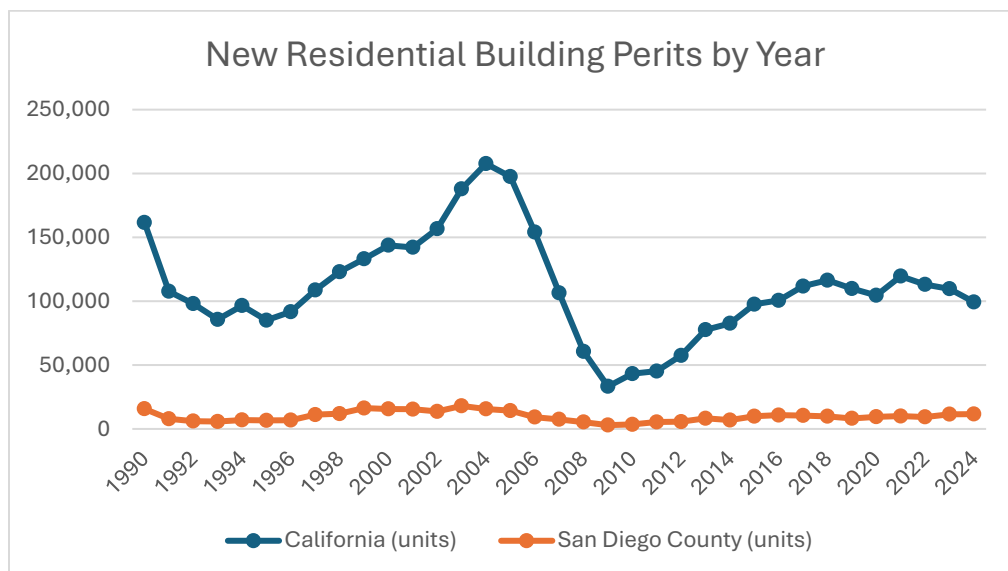
1. Any mandatory inclusionary requirement will necessarily hinder the production of housing. Inclusionary housing is a cost to development projects. AECOM makes this clear in the economic analysis. “[c]ompliance with a mandatory inclusionary housing requirement...will reduce project return” which “could have a negative impact on development...” (AECOM, 2023, pg. 67)
2. AECOM also makes clear that the “cost” of an inclusionary ordinance is GREATER than the benefits under Density Bonus. [“for unincorporated area projects, **the available density bonuses provided by the State Density Bonus Law do not offer enough value to fully offset the revenues lost to affordable set-asides.**” (AECOM, 2023, pg. 64)]

To suggest otherwise, that an inclusionary ordinance will not impact housing production, is inaccurate. The IHO may stop certain projects for three reasons.

- It will LOWER the residual land value to a point that a seller is no longer interested in selling, so a project doesn't move forward, or,
- It will INCREASE costs (in the way of fees) to the point where certain projects will no longer "pencil" and won't move forward, or,
- It will LOWER total revenues (by reducing the number of market rate homes) to a point where certain projects no longer "pencil" and won't move forward.

Our concern stems from what is driving the housing crisis in the first place. A significant reason for why the inclusionary ordinance is needed is because we haven't built enough housing, which has limited supply and increased housing costs. That's Economics 101 – supply has not kept pace with demand.

In the 9 years before the Great Recession (1997-2006), our region averaged 14,659 building permits/yr. Since 2006, the region has averaged just under 8,200 homes/yr. This is a difference of 6,450 fewer homes produced annually, resulting in a shortfall of 122,854 homes over the last 19 years.<sup>1</sup> And that is with changes to state law to facilitate production that are now being rolled back by local judications over "local control". Overall production needs to increase if we are to make meaningful impacts on affordability.



<sup>1</sup> Even counting the recession of the early 1990's, which saw production fall from over 15,000 units/year to under 6,000 units/yr (5,750 in 1993), the region is still over 62,250 units less than production levels prior to the Great Recession.

There are several factors that contribute to housing production.

The first is the availability of land for development. When there is more land to develop, there is naturally more development because land prices are kept low as one parcel can be “replaced” by another parcel. This is why places like Arizona, Nevada and Texas have relatively lower prices – there are plentiful amounts of land available to develop. It’s why prices in Southern California were relatively lower 30-40 years ago, because at the time there were still large tracts that could be subdivided and costs could be spread out across thousands of units. We see a similar pattern in areas like the Inland Empire today.

But San Diego has run out of land due to our geographic constraints (i.e., the Pacific Ocean, international boarder, Camp Pendleton, and desert) and through important habitat conservation efforts. This has increased land values for those areas that do have development potential as developers and builders compete. We must have land to develop, and with such limited inventory of land left, values are skyrocketing.

The second is the feasibility of development. We agree with the results of the Development Feasibility Analysis, which generally found that higher-density development does NOT pencil in the unincorporated area. At the same time, the DFA held that zoning regulations and other county policies such as VMT, create uncertainty that limit feasibility. We must be able to process projects that make financial sense, with some level of certainty.

The third is the cost to build a project. When costs increase, as they have over the last five years, projects that once looked like they might pencil are no longer feasible to build. While much of this cost burden is due to broader economic considerations including materials and labor markets, the County controls costs including things like the Inclusionary Housing Ordinance and impact fees.

Finally, revenues from the rental or sale of new construction must justify the project. When revenues increase, development feasibility may increase (subject to the previous factors not disproportionately increasing). This is where the San Diego market has sustained serious structural challenges, and where an inclusionary ordinance can provide affordable housing that would not likely be produced. San Diego is a desirable place to live and work, with limited supply of land, there is a greater demand to live here than our region can supply in terms of housing. That demand has increased revenues, which is shuffled back through the production system as reflected by higher land values, higher processing costs/greater entitlement challenges, and higher impact fees.

Unfortunately, the County is prioritizing adding additional COSTS to housing without commensurate actions to offset those costs. This conflicts with the Board’s direction to “[e]nsure overall housing production is not negatively impacted”.

### 3. Comprehensive Approach to Housing

The Board recognized the need to understand how several important policy decisions would affect the IHO in August 2024 when deferring action on the Inclusionary Ordinance and directing staff to study and analyze the effects of the Development Feasibility Analysis (DFA) and Vehicle Miles Traveled (VMT) on the ability to provide affordable housing. (Attachment E, Statement of Proceedings, August 28, 2024)

In addition to directing staff to provide updates on the DFA and VMT prior to re-considering the IHO, the Chair called for a “cohesive affordable housing implementation strategy.” We strongly supported this comprehensive approach.

In November 2025, working with the Building Industry Association, we prepared the “Comprehensive Housing Implementation Plan & Strategy” (CHIPS, Attachment F) which provided the exact cohesive strategy called for in 2024. Included in the CHIPS proposal was a call for the County to finally fulfill the promise 15 years in the making and updating the County’s Zoning Ordinance, with a focus on Village areas.

Industry was encouraged at the Board’s response to the CHIPS proposal. Implementing the recommendations in the CHIPS proposal in a cohesive manner would start to address the availability of land, increase the feasibility of development in Villages, and reduce costs for new development. BIA and EHL wrote a joint Letter to the Editor (Attachment G) identifying where industry and environmental stakeholders had overlapping recommendations, including “... fast-tracking overdue updates to the county’s zoning ordinance to allow greater flexibility, facilitating more feasible village development at moderate densities, [and] offering expedited permitting to projects in village areas”.

Yet, we stand on the precipice of the County bypassing meaningful updates to the Zoning Ordinance and important time to review and understand the implications of forthcoming (but yet to be released) updates on Vehicle Miles Traveled while adopting an Inclusionary Ordinance that hasn’t fully incorporated those implications. This is a flawed process.

The Board, and the public – including the only industry regulated under the Inclusionary Housing Ordinance – will have only two weeks to make sense of updates on VMT, while potential changes to the Zoning Ordinance are still being prepared, and the results of a peer review of an outdated Economic Analysis leave much in question.

### 4. Process Recommendation

What we propose the Board try to accomplish, and what industry has generally been supportive of, is an inclusionary ordinance that *minimizes* impacts to the production of housing. This is where working with Industry, appropriately setting expectations and goals,

and providing maximum flexibility is necessary to achieve the Board's priorities. As one representative of that Industry, we believe there are two important steps that need to be addressed before adopting the Inclusionary Ordinance.

1. The best way to support projects is to have a clear, predictable outcome for projects to get permitted. Right now, we don't have that because so much is "up in the air" including a long overdue update to the Zoning Ordinance. Therefore, we recommend the County complete the Zoning Ordinance Update so we can more accurately understand what development is feasible under the Inclusionary Ordinance without having to rely on Density Bonus.
2. We also need to clearly understand the REAL costs of an IHO. Unfortunately, we do not support or agree with the AECOM economic analysis for several reasons, including.
  - a. As the KMA report calls out, that was done using data that has been overcome by significant changes in the market.
  - b. The AECOM analysis needs to be reconsidered in the context of the findings of the DFA.
  - c. The state has now released mitigation fees for VMT that were not included in the AECOM analysis for projects that qualify under AB130/SB131.
  - d. Industry disagrees with certain cost assumptions in the AECOM analysis, notably off-site and horizontal improvements.

The KMA Findings are important to understand. The KMA analysis found:

- (1) the methodology (NOT the underlying numbers) comports with industry standards for preparing this type of analysis, and
- (2) the recommended in-lieu fees and set aside rates based on the analysis were generally consistent with the fees and set-asides of three other jurisdictions.

KMA did NOT conduct a review of the actual costs, etc. in the pro-formas and did not offer an opinion about whether the analysis was accurate. Instead, they offered a warning that MOST of the changes on the underwriting since 2021 would increase costs.

Simply no longer recommending the Tier 3 option does not do anything to adjust the Tier 1 or Tier 2 recommendations. Maybe those fees are too high now? Maybe some of the set-asides are no longer feasible? We simply don't know because the analysis is outdated.

We believe these two items can be completed simultaneously. Staff are already working through updates as part of Phase 1 of the Zoning Ordinance Update, which they have indicated will be complete later this year. As that is being completed, staff can coordinate with KMA, AECOM, and the BIA to update the 2022 fiscal analysis. These updates will not

indefinitely delay adoption of the IHO, but may delay it a few months to ensure the findings are up to date and accurate.

## **5. Ordinance Recommendations**

Nolen understands the politics around inclusionary housing, and we support the production of more housing. We support an IHO that works within the context of the County, even though it will hamper projects, because it is the right thing to do.

While we think it's premature, we realize the Board is likely to move forward with adopting an Ordinance. Accordingly, we support several of the Board's recommendations from the August 2024 motion including:

- a. Comply with item (b) of the Board's August 2024 motion and ensure the IHO aligns with state density bonus. In furtherance of this policy, we recommend that if a project qualifies for and uses Density Bonus, it satisfies compliance with any local IHO requirement(s).
- b. Comply with item (c) of the Board's August 2024 motion and phase in the IHO over a five-year period to allow time for land values to theoretically adjust.
- c. Comply with item (d) of the Board's August 2024 and continue to engage with industry experts.
- d. Consistent with item (f) of the Board's August 2024 motion, allow maximum flexibility for Alternative Compliance, including:
  - i. In-lieu fees for ALL projects
  - ii. Off-site affordable within the same Community Planning Area
  - iii. Allow ADU's to meet a project's inclusionary requirement.
  - iv. Allow for Land Donations in the same Community Planning Area.

In addition to the Board's previous motion, we offer the following recommendations based on our experience developing both for-sale and rental projects.

- a. Adopt local checklist/streamlining/exemptions for General Plan- and zoning-compliant projects that meet their inclusionary requirement on-site. This is an incentive to do mixed income communities AND it follows the Board's priorities.
- b. Adopt a local density bonus for projects in the VR-2, 2.9, 4.3, and 7.3 land use categories. The additional bonus should be equal to the project's set aside amount.
- c. Provide additional incentives that will reduce costs for projects that comply with the inclusionary ordinance. Expedited/streamlining options are typically already available by existing County policies (such as Removing Barriers to Housing and Board Policy A-68) or state law (SB330) and are not a "new" benefit.

- d. Require the County to create a fund and act as a “buyer of last resort” for deed-restricted units so developers have certainty that for-sale units will not remain unsold and slow or stop production.
- e. Update the AECOM fiscal analysis and return back with any changes, in concert with updates to the Zoning Ordinance.
- f. Continue to update the Fiscal Analysis annually or as the County prepares additional fees for new development such as the VMT Mitigation Fee program and any Community Benefits fee(s).
- g. Coordinate with the BIA to implement the recommendations in the CHIPS proposal.

When the staff report is available for the item, we will provide additional comments. Before then, we look forward to working with your offices and staff, and are available to answer any questions.

Thank you.



Sean Kilkenny, Partner  
Nolen Communities, LLC

#### Attachments

- A. San Diego County General Plan Update Program EIR Response to Comments
- B. BIA Letter on California Government Code Section 65860
- C. CA HCD Letter, January 2026
- D. EPIC Housing Plan, Nolen Communities, September 2024
- E. Board of Supervisors Statement of Proceedings, August 28, 2024
- F. Comprehensive Housing Implementation Plan and Strategy, Building Industry Association, November 2025
- G. Silver, Dan, Faucett, Aimee, “*Developers and Environmentalists Agree – More Housing Is Needed Outside City Boundaries*”, Voice of San Diego, January 14, 2026

CC: Ms. Dahvia Lynch, Deputy Chief Administrative Officer  
Mr. Vince Nicholetti, Director, Planning and Development Services  
Mr. Rami Talleh, Deputy Director, Planning and Development Services  
Mr. Ben Larson, Land Use and Environmental Planner, Planning and Development Services

**FINAL ENVIRONMENTAL IMPACT REPORT**

**San Diego County General Plan Update  
DPLU Environmental Log No. 02-ZA-001  
State Clearinghouse (SCH) #2002111067**

**COMMENT LETTERS AND RESPONSES  
TO COMMENTS ON THE DRAFT EIR**

***INTEREST GROUP***

**Lead Agency:**

**County of San Diego  
Department of Planning and Land Use  
5201 Ruffin Road, Suite B  
San Diego, CA 92123**

**Contact: Devon Muto, Chief of Advanced Planning**

**August 2011**

**Comment Letter G 3, Building Industry Association (BIA)**

9201 Spectrum Center Blvd., Suite 110  
San Diego, CA 92123-1407

P 858.450.1221  
F 858.552.1445

www.biasandiego.org

**PRESIDENT**

Andrew Murphy  
American Property Enterprises August 31, 2009

**VICE PRESIDENT**

Bob Cummings  
Barratt American

Devon Muto  
Chief, Advance Planning  
County of San Diego  
Department of Planning and  
Land Use

**TREASURER / SECRETARY**

Russ Haley  
CityMark Development

5201 Ruffin Road, Suite B  
Mail Station O-650  
San Diego, CA 92123

**IMMEDIATE PAST PRESIDENT**

Sherman D. Harmer, Jr.  
Urban Housing Partners, Inc.

Re: County of San Diego Draft Environmental Impact Report

**CHIEF EXECUTIVE OFFICER**

Borre Winckel

Dear Mr. Muto:

- G3-1.** The Building Industry Association of San Diego and the Alliance for Habitat Conservation have reviewed the County's Draft General Plan Environmental Impact Report (DEIR) and have the following comments and concerns.
- Summary of Project**
- G3-2.** The Project proposes to downzone vast portions of the unincorporated area, primarily in the eastern part of the County, and increase densities in certain areas in the western portion of the unincorporated area, ultimately planning to accommodate 678,270 people in the year 2030. In contrast, the existing General Plan accommodates a forecast of 768,000 people in 2030. The General Plan Update would accommodate 235,861 housing units in 2030, a decrease from the 279,304 housing units that the existing General Plan would accommodate in that same timeframe. The regional agency tasked with responsibility for regional planning, the San Diego Association of Governments (SANDAG), forecasts are that there will be 723,392 people in the unincorporated area of the County by 2030. According to the Draft Environmental Impact Report (DEIR), the lower General Plan Update population and housing unit forecasts are based not on evidence that fewer people will move into the unincorporated area or that fewer people will be born that are forecast by SANDAG; rather, that the County has determined that certain infrastructure and environmental constraints preclude the County from accommodating more people or housing units. The County's conclusion that environmental and infrastructure constraints will preclude it from accommodating the additional population is incorrect and not supported by sufficient evidence.
- G3-3.**
- G3-4.**
- G3-5.**
- G3-6.**

## Comment Letter G 3, Building Industry Association (BIA) (cont.)

Devon Muto  
August 29, 2009  
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### Population and Housing Unit Assumptions

- G3-7. There is a discrepancy between the County's population forecast of 678,270 people and the population forecast from SANDAG of 768,000 people. The County's population forecast is based on the assumption that environmental and infrastructure constraints will limit population growth in the unincorporated area to the lower number. *However, it is not environmental and infrastructure constraints that preclude the County from planning for SANDAG's higher population number, it is in fact the County's existing and proposed land use and policy constraints that limit the provision and expansion of infrastructure and the provision of higher density housing to meet this number.*
- G3-8. *However, it is not environmental and infrastructure constraints that preclude the County from planning for SANDAG's higher population number, it is in fact the County's existing and proposed land use and policy constraints that limit the provision and expansion of infrastructure and the provision of higher density housing to meet this number.*
- G3-9. *However, it is not environmental and infrastructure constraints that preclude the County from planning for SANDAG's higher population number, it is in fact the County's existing and proposed land use and policy constraints that limit the provision and expansion of infrastructure and the provision of higher density housing to meet this number.*
- G3-10. The environmental impacts of the proposed Project should essentially be a function of two fundamental planning principles: the footprint of new development, which governs impacts to biology, cultural resources, agriculture, soils, etc., and the relationship between jobs and housing in each community, which governs impacts to traffic, land use, air quality, and climate change. These two major elements of a General Plan will govern the nature of the most significant impacts. Planning for higher density development on smaller development footprints will reduce impacts to natural resources. Planning for a jobs/housing balance within communities and in connection with incorporated areas and other job centers like Tribal Lands will reduce impacts to traffic, air quality, land use, and climate change. *If these planning principles are implemented correctly, there is not a one to one relationship between impacts and population growth, and therefore there is no predetermined limit on to what extent the County can implement these principles. Thus, the assumption that environmental and infrastructure constraints are precluding the County from achieving the higher population target is incorrect.*
- G3-11. *If these planning principles are implemented correctly, there is not a one to one relationship between impacts and population growth, and therefore there is no predetermined limit on to what extent the County can implement these principles. Thus, the assumption that environmental and infrastructure constraints are precluding the County from achieving the higher population target is incorrect.*
- G3-12. *If these planning principles are implemented correctly, there is not a one to one relationship between impacts and population growth, and therefore there is no predetermined limit on to what extent the County can implement these principles. Thus, the assumption that environmental and infrastructure constraints are precluding the County from achieving the higher population target is incorrect.*
- G3-13. *If these planning principles are implemented correctly, there is not a one to one relationship between impacts and population growth, and therefore there is no predetermined limit on to what extent the County can implement these principles. Thus, the assumption that environmental and infrastructure constraints are precluding the County from achieving the higher population target is incorrect.*
- G3-14. This issue is further complicated by the fact that SB 375 requires that SANDAG not house the forecasted population by assuming some percentage will live in surrounding counties. It is far from clear that the Project is planning for sufficient densities to accommodate anticipated growth, especially given the many obstacles presented in the Project's policies and existing regulations that make it impossible to achieve the maximum densities allowed. Only a small amount of acreage in the entire County is designated for high-density village and in these locations, it is probable that the allowed density will not be achieved given the emphasis on only allowing development consistent with "community character" or when allowed by the Community Plan and the obstacles presented by compliance with the vague General Plan policies.
- G3-15. It is far from clear that the Project is planning for sufficient densities to accommodate anticipated growth, especially given the many obstacles presented in the Project's policies and existing regulations that make it impossible to achieve the maximum densities allowed. Only a small amount of acreage in the entire County is designated for high-density village and in these locations, it is probable that the allowed density will not be achieved given the emphasis on only allowing development consistent with "community character" or when allowed by the Community Plan and the obstacles presented by compliance with the vague General Plan policies.
- G3-16. It is far from clear that the Project is planning for sufficient densities to accommodate anticipated growth, especially given the many obstacles presented in the Project's policies and existing regulations that make it impossible to achieve the maximum densities allowed. Only a small amount of acreage in the entire County is designated for high-density village and in these locations, it is probable that the allowed density will not be achieved given the emphasis on only allowing development consistent with "community character" or when allowed by the Community Plan and the obstacles presented by compliance with the vague General Plan policies.
- G3-17. For example, Policy LU-1.6 referenced in the DEIR on page 2.1-48 states that expansion of village density areas will be allowed only where it is consistent with community character – thus the reader of the DEIR cannot discern whether or not the Project will allow for village densities and accommodate the necessary population forecast.

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**Responses to Letter G 3, Building Industry Association (BIA) (cont.)**

G3-13 The County disagrees with the comment. As stated in responses to comments G3-11 and G3-12, the General Plan Update does incorporate the planning principles referred to in the comment, and as a result, the proposed land use designations were developed to concentrate development where infrastructure is currently provided or can be made available, and where fewer environmental constraints exist, as discussed in Section 1.7.1.1, Land Use, of the DEIR. The planning principles used in the General Plan Update Land Use Element respond to existing infrastructure and environmental constraints, they do not create or designate constraints, as the commenter implies. Additionally, the DEIR evaluates the environmental impacts of the proposed General Plan Update in accordance with CEQA Guidelines Section 15126, Consideration and Discussion of Environmental Impacts. Refer to response to comment G3-10 for additional information.

G3-14 This comment summarizes the revisions to Section 65080(b)(2)(B) of the Government Code in Section 4 of Senate Bill (SB) 375 (Addressing Greenhouse Gas Emissions from the Transportation Sector via Regional Transportation Plans) which includes the following statement:

"Each metropolitan planning organization shall prepare a sustainable communities strategy, subject to the requirements of Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, including the requirement to utilize the most recent planning assumptions considering local general plans and other factors. The sustainable communities strategy shall (i) identify the general location of uses, residential densities, and building intensities within the region; (ii) identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth; (iii) identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584..."

SANDAG is the metropolitan planning organization for San Diego County. While the commenter's summary is generally correct, it is more accurate to say that SANDAG is required by SB 375 not to assume that the forecasted population would be housed in surrounding counties specifically when preparing its sustainable communities strategy. This comment does not raise a significant environmental issue for which any additional response is required.

G3-15 The County does not agree with the commenter's opinion that the General Plan Update does not plan for sufficient development densities to accommodate anticipated growth. As discussed in DEIR Section 1.13, County Population Forecast Model and Projected Growth, the County's population forecast model identifies the number of future residential units that would be allowed at build-out according to the proposed land use map and existing constraints. From this information, the forecast population is derived by considering several additional factors, such as existing population, population living in group quarters, vacancy rate, and persons per household. Using this information, the County's population model forecasts a build-out population of 678,270 for the County. This population would be accommodated

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**Responses to Letter G 3, Building Industry Association (BIA) (cont.)**

by the proposed project (Referral Map). Therefore, anticipated population growth is consistent with the proposed land use designations.

The comment also states that the proposed project's policies would result in many obstacles; and existing regulations would make it impossible to achieve the maximum densities allowed. However, the commenter does not identify which of the project's numerous policies they think would result in obstacles, what the obstacles are, or which existing regulations would prevent the achievement of the maximum densities allowed by the General Plan Update. The County disagrees with the comment. The policies identified in the General Plan Update are intended to support implementation of the land use designations proposed by the land use map. To the extent necessary, existing planning documents and regulations, such as the County's community plans, Resource Protection Ordinance and Zoning Ordinance, would be updated to be consistent with the General Plan Update. Therefore, the proposed project's policies and existing regulations would not result in obstacles or prevent the achievement of the maximum densities allowed by the General Plan Update.

G3-16 The County does not agree with this comment. The comment states that only a small amount of acreage in the County is designated for high density village residential uses. While "small" is a relative term, the allocation of approximately 38,819 acres to village residential use is not considered by County staff to be a small amount of acreage.

The comment also argues that allowed densities will not be achieved because of incompatibility with community character. The compatibility of the General Plan Update land uses with community character is discussed under the heading Impact Analysis in Section 2.1.3.3, Issue 3: Visual Character or Quality. As discussed in this section, the General Plan Update would accommodate intensified development within several communities which would have the potential to result in substantial changes to community character.

These communities are Alpine CPA, Bonsall CPA, Central Mountain Subregion, Crest/Dehesa/Harbison Canyon/Granite Hills Subregion, Desert Subregion, Fallbrook CPA, Julian CPA, Lakeside CPA, Mountain Empire Subregion, Rainbow CPA, Ramona CPA, San Dieguito CPA, and Valley Center CPA. Thus, the DEIR recognizes the potential for the land uses proposed in the General Plan Update to result in a potentially significant impact to community character, and proposes mitigation measures in DEIR Section 2.1.6.3, Issues 3: Visual Character or Quality, to reduce impacts to the extent feasible.

The DEIR concludes that impacts associated with visual character and quality would be significant and unavoidable. Therefore, the General Plan Update does not preclude development as a result of conflicts with community character; it would allow development to occur despite the impacts. Further, as discussed in DEIR Section 2.1.6.3, a mitigation measure that was considered but ultimately rejected was a requirement for community plans to severely limit the potential for development growth in order to maintain the existing visual character or quality of



November 17, 2025

Honorable Chairwoman Lawson-Remer  
 San Diego County Board of Supervisors  
 1600 Pacific Highway  
 San Diego, CA 92101

**RE: Inconsistencies Between the County 2011 General Plan and County Zoning Ordinance Impermissible Under State Law**

Dear Chair Lawson-Remer

The Building Industry Association of San Diego (BIA) has been monitoring the concurrent planning efforts directed by the Board of Supervisors. These include the pending Inclusionary Housing Ordinance, the Sustainable Land Use Framework and VMT Mitigation Plan, the Climate Action Plan and the CAP Smart Growth Alternative, the Options to Streamlining Housing, implementation of the 6th Cycle Housing Element Update including the General Plan Annual Progress Reports, and the Development Feasibility Analysis (DFA).

As part of the DFA, County staff identified “Countywide Barriers” which are “systemic barriers that impact the entire unincorporated County.” One of these “systemic barriers” is:

Barrier 2. **Current development regulations** (e.g., **zoning standards** such as setbacks, minimum lot sizes, height and building types) **can prevent General Plan densities from being achieved. (emphasis added)**

This finding is consistent with previous County findings that identified the need to update the Zoning Ordinance to achieve General Plan densities. Specifically, the County’s 6<sup>th</sup> Cycle Housing Element Update (HEU) included several “Implementation Actions” intended to align the General Plan and Zoning Ordinance, including:

- 3.1.1.C **Zoning Ordinance Amendments to Achieve Maximum Density. Amend the Zoning Ordinance by early 2023 to facilitate development** on sites identified in the Sites Inventory for the 6th Cycle RHNA. Specifically, establish minimum densities for multi-family districts at 70 percent of the maximum allowable densities, with the goal of achieving an average development density at 80 percent of the maximum allowable density.

- 3.1.3.A Zoning Ordinance Cleanups. Review the development designators in the Zoning Ordinance, and **amend Code by the end of 2022** as necessary and appropriate **to ensure** that a range of housing types and densities can be achieved, and **that the designators facilitate development at the maximum density allowed by the General Plan.**

The County committed to achieving each of these within “0-2 years” as shown in Table 6-4-1 of the HEU; however, the County only recently initiated the “Development Designator” project which has a 2-3 year schedule for completion (roughly commensurate with the end of the current housing element cycle). BIA members have frequently cited the inconsistencies between the General Plan and the Zoning Ordinance as an impediment to housing production. Aside from the 2011 General Plan Update process and the more recent 2021 Housing Element Update, BIA members have submitted several comment letters since adoption of the HEU noting the lack of action to amend the Zoning Ordinance.

In fact, BIA members have gone as far as to submit focused recommendations to better align the Zoning Ordinance with the General Plan, and suggested CEQA strategies to expedite implementation of those Zoning Ordinance revisions (See EPIC Housing Plan Recommendations, September 2024). To the best of our knowledge, the County has never responded to any of these requests.

Accordingly, due to the habitual inaction of behalf of the County, the BIA is compelled to call your attention to Section 65860 et seq of the California Government Code. According to Section 65860(a) “zoning ordinances shall be consistent with the general plan”. Subsection a(2) requires that “the various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the [General] [P]lan”.

As identified by the DFA, the Zoning Ordinance does not permit attainment of the general plan land uses. For instance, the Zoning Ordinance is not compatible with the General Plan because the minimum lot size requirements in the Zoning Ordinance preclude full implementation of the “general land uses” specified in the General Plan. Specifically, the VR-2 Land Use, which permits 2 dwelling units per acre, typically requires a 0.5-ac lot size. Such a minimum lot size does not provide for any area for public or private roads and right of way, effectively forcing developments to request a variance or waiver to reduce the minimum lot size. This requires additional review and discretion, which is impermissible under the Government Code.

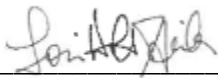
This is one example of why the Housing Element Update committed to, and REQUIRED, the County to “amend [the Zoning Ordinance] **by the end of 2022** as necessary and

appropriate to ensure that a range of housing types and densities can be achieved, and that **the designators facilitate development at the maximum density allowed by the General Plan**". (*emphasis added*)

The General Plan was adopted in 2011, over 14 years ago. The Housing Element Update was adopted in 2021, over four years ago. The County is responsible to bring the Zoning Ordinance into compliance with the General Plan "within a reasonable time". That reasonable time has long expired.

The BIA stands ready to support the County's expeditious update to the Zoning Ordinance. Failure to remedy this inconsistency could be viewed as a violation of state housing law.

Respectfully,



---

Lori Hold Pfeiler, CEO  
Building Industry Association of San Diego

CC: Supervisor Paloma Aguirre, District 1  
Supervisor Joel Anderson, District 2  
Supervisor Monica Montgomery-Steppe, District 4  
Supervisor Jim Desmond, District 5  
Ms. Dahvia Lynch, Deputy Chief Administrative Office  
Mr. Vince Nicholetti, Planning and Development Service, Director  
Mr. Rami Talleh, Planning and Development Services, Deputy Director  
Ms. Inga Lintvedt, County Counsel

(a) **County or city zoning ordinances shall be consistent with the general plan of the county or city by January 1, 1974.** A zoning ordinance shall be consistent with a city or county general plan only if both of the following conditions are met:

- (1) The city or county has officially adopted a plan.
- (2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan.

(b) A resident or property owner within a city or a county, as the case may be, may bring an action or proceeding in the superior court to enforce compliance with this section. An action or proceeding shall be governed by Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure. An action or proceeding shall not be maintained pursuant to this section by a person unless the action or proceeding is commenced and service is made on the legislative body within 90 days of any of the following:

- (1) The enactment of any new zoning ordinance.
- (2) The amendment of any existing zoning ordinance.
- (3) The failure of a local agency to comply with this section.

(c) (1) ***In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the general plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan, as amended.***

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

651 Bannan Street, Ste. 400  
Sacramento, CA 95811  
(916) 263-2911 / FAX (916) 263-7453  
[www.hcd.ca.gov](http://www.hcd.ca.gov)



January 28, 2026

Ebony N. Shelton, Chief Administrative Officer  
County of San Diego  
1600 Pacific Highway, Room 209  
San Diego, CA 92101

**RE: County of San Diego's 6<sup>th</sup> Cycle Housing Element Program Requirements –  
Letter of Inquiry**

Dear Ebony N. Shelton:

The purpose of this letter is to inquire about the status of the County of San Diego's (County) implementation of 6<sup>th</sup> Cycle Housing Element Programs pursuant to Government Code section 65585, subdivision (i). The California Department of Housing and Community Development (HCD) sent the County a letter on November 2, 2021 finding the County's housing element in substantial compliance with Housing Element Law.<sup>1</sup> This was based on, among other reasons, the County's commitment to implement Programs according to specific timelines.

As the commitment date has passed for the programs listed below, HCD requests that the County provide an update on the status and accompanying documentation (e.g., ordinances, resolutions, zoning codes, etc.) as appropriate, or timeline for completion for the following:

- Program 3.1.1.C (Zoning Ordinance Amendments to Achieve Maximum Density) was due by June 1, 2023. While the County has indicated this is ongoing as part of the Housing Unlocked effort, the County should provide a clear timeline for when the program will be completed.
- Program 3.1.1.E (Low to Moderate Inclusionary Ordinance) was due by November 1, 2023. While the County has indicated this program is ongoing, the County should provide a clear overview of remaining actions and a timeline for when the program will be completed.
- Program 3.1.1.H (Housing Yields in Mixed-Use Zones) was due by December 1, 2023. The County has provided some information on efforts to implement Assembly Bill 2011 and Senate Bill 6. The County should confirm what actions have been taken and clarify how they expand beyond state law.

<sup>1</sup> Gov. Code, § 65580 et seq.

- Program 3.1.1.K (Expand Eligibility of Checklist Exemptions) was due November 1, 2023. While the County has indicated this is ongoing as part of the Housing Unlocked effort, the County should provide a clear timeline for when the program will be completed.
- Program 3.1.3.A (Zoning Ordinance Cleanups) was due by January 1, 2023. While the County has indicated this is ongoing as part of the Housing Unlocked effort, the County should provide a clear timeline for when the program will be completed.
- Program 3.1.4.A (Zoning Ordinance Amendments for ADUs) was due by December 1, 2022. The County has provided an updated zoning ordinance regarding ADUs from 2023. While the County took actions to address this program, it should provide updated actions to address the latest changes to state law and provide a clear timeline for implementation.
- Program 3.2.1.A (Density Bonus Ordinance Update) was due by November 1, 2023. The County has provided an updated zoning ordinance regarding State Density Bonus Law from 2023. While the County took actions to address this program, it should provide updated actions to address the latest changes to state law and provide a clear timeline for implementation.
- Program 3.3.2.A (Group Homes for Seven or More) was due by December 1, 2022. While the County has indicated this is ongoing as part of the Housing Unlocked effort, the County should provide a clear timeline for when the program will be completed.
- Program 3.6.5.A (Removal of Constraints to Multi-Family Housing in Areas of Opportunity) was due by January 1, 2025. While the county has indicated this effort is ongoing, it should provide an overview of completed actions and a clear timeline for when the program will be completed.
- Program 3.6.5.B (Enhanced Housing Choices and Affordability in Areas of Opportunity, including Rancho Santa Fe) was due by November 1, 2023. While the County has indicated this effort is ongoing, it should provide an overview of completed actions and provide an outline of remaining steps and clear timeline for when the program will be completed.
- Program 3.6.6.B (Conserved and Improved Assets in Areas of Lower Opportunity and Concentrated Poverty) was due by January 1, 2025. While the County has indicated this effort is ongoing, it should provide an overview of completed actions and provide an outline of remaining steps and clear timeline for when the program will be completed.
- Program 3.6.6.C (Negative Environmental, Neighborhood, Housing, Health Impacts, Strategy) was due by January 1, 2025. The County has indicated implementation of this program has not begun. The County should provide an outline of remaining steps and clear timeline for when the program will be completed.

- Program 3.6.6.F (Twin Oaks Community Plan Update) was due to begin implementation in 2025. The County should provide an overview of completed actions and provide an outline of remaining steps and clear timeline for when the program will be completed.
- Program 3.6.6.G (Placed-Based Strategies in Low Resource Communities and Environmental Justice Communities) was due by December 1, 2022. The County has indicated this program has not yet been initiated. The County should provide an outline of remaining steps and clear timeline for when the program will be completed.

### **Consequences of Failure to Implement Programs**

Government Code section 65585, subdivision (i), 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. Failure to implement program actions described above by the statutory deadline may result in HCD revoking its finding of substantial compliance with Housing Element Law.

Various consequences may apply if the County does not have a housing element in compliance with Housing Element Law, including ineligibility or delay in receiving certain state funds, referral to the California Office of the Attorney General, court-imposed financial penalties, the loss of local land use authority to a court-appointed agent, and the application of the “builder’s remedy.”<sup>2</sup>

### **Conclusion**

Housing elements are essential to developing a blueprint for growth and are a vital tool to address California’s prolonged housing crisis. Accordingly, state law has established clear disincentives for local jurisdictions that fail to comply with Housing Element Law. To ensure the County continues to meet the 6<sup>th</sup> cycle update requirements for a substantially compliant housing element, the County must submit any adopted ordinances, resolutions or documentation that demonstrates that housing element program commitments have been met to HCD for review.<sup>3</sup>

HCD understands that the County has many commitments and recognizes the challenges of implementation. HCD will consider any written response before taking further action authorized by Government Code section 65585, subdivision (i), including issuance of a Corrective Action Letter and removal of HCD’s finding of housing element compliance.

<sup>2</sup> Gov. Code, §§ 65585, subds. (j), (l)(1), (i); 65589.5, subd. (d)(6).(h)(11).

<sup>3</sup> Gov. Code, § 65585.

Please provide a written response to this inquiry by February 28, 2026. If you have any questions or would like to discuss the content of this letter, please contact Sayed Murad at [Sayed.Murad@hcd.ca.gov](mailto:Sayed.Murad@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Melinda Coy", with a long horizontal stroke extending to the right.

Melinda Coy  
Housing Accountability Unit Chief



Friday, September 20, 2024

Mr. Rami Talleh, Deputy Director  
Planning and Development Services  
San Diego County  
5510 Overland Ave  
San Diego, CA 92123

**RE: Expedite Permitting and Increase Construction (EPIC) Housing Implementation Strategy (DRAFT – For Discussion Purposes Only)**

Dear Rami:

Nolen Communities, LLC (Nolen) offers the following draft recommendations to the County of San Diego (County) Department of Planning and Development Services (PDS). In combination with other countywide initiatives, such as the Inclusionary Housing Ordinance, Options for Streamlining Affordable and Attainable Housing (“Housing Options”), Housing Blueprint, Housing Element Update (HEU) Implementation Plan, the Sustainable Land Use Framework (SLUF)/Development Feasibility Analysis (DFA), the Climate Action Plan (CAP), and Removing Barriers to Housing, we believe the following updates to the Zoning Ordinance could facilitate the production of more housing, including more affordable and attainable/middle income housing. These units would be consistent with the densities in the Smart Growth General Plan Update, adopted by the Board of Supervisors in 2011.

Importantly, the General Plan Update consolidated development in Village areas, reducing development pressures in more exurban environments, preserving open space, limiting Vehicle Miles Travelled (VMT) to 6.6% below 1990 levels, reducing wildfire risk and significantly reducing GHG emissions associated with on-road transportation. Unfortunately, General Plan Update did not include a commensurate overhaul of the County’s antiquated Zoning Ordinance, which in many ways is still “living in the past” of large lot subdivisions, hindering much-needed, General Plan compliant infill and urban-scale housing developments. This is recognized in the County’s Housing Element Update Implementation Plan which includes several action

items to address deficiencies in the Zoning Ordinance, as further described below, as well as the County's Development Feasibility Analysis.

Consistent with the recent direction from Chairwoman Vargas and the Board of Supervisors, we view the following as one piece of a much broader "Housing Puzzle" that must be addressed comprehensively. Therefore, while these recommendations on their own could be helpful in supporting General Plan consistent projects, we believe their effectiveness will be multiplied when combined with other actions that we have been and will continue to advocate. We've endeavored to call these out as applicable.

These revisions are proposed, consistent with **Housing Element Update Implementation Action 3.1.3.A**, which requires the County to

*Review the development designators in the Zoning Ordinance, and amend Code by the end of 2022 as necessary and appropriate to ensure that a range of housing types and densities can be achieved, and that the designators facilitate development at the maximum density allowed by the General Plan.*

Further, HEU **Implementation Action 3.1.1.C** requires the County to,

*Amend the Zoning Ordinance by early 2023 to facilitate development on sites identified in the Sites Inventory for the 6th Cycle RHNA. Specifically, establish minimum densities for multi-family districts at 70 percent of the maximum allowable densities, with the goal of achieving an average development density at 80 percent of the maximum allowable density.*

The preliminary recommendations below are broken into two categories – zoning standard improvements and zoning process improvements. We believe the proposed changes to both the standards and the process are eligible to be addressed with an Addendum to the County's General Plan PEIR because none of the recommendations would change the density or intensity of development analyzed in the General Plan PEIR, nor would they result in a significant new, or greater impact than was previously analyzed therein.

Projects would be limited to their maximum density under the General Plan (as well as any State and Local Density Bonus). While the revisions to zoning standards would provide for generally smaller lots and greater flexibility in design, they would not significantly alter the type of development with each residential zone, and therefore, would avoid conflicts of community character (i.e., these changes don't permit multi-family apartments in a large lot, rural estate area) or visual impacts due to substantially altering building massing, public views, etc. Therefore, we believe these revisions could be made through an Addendum to the existing General Plan Update EIR, limiting the County from any significant CEQA analysis and instead allowing for immediate adoption in the face of the growing housing crisis.

While we believe the changes to the process would ultimately have a much greater effect on the production of housing, including attainable and affordable housing, we believe those changes likely take more time to implement than the zoning standard improvements, which can be accomplished through a straightforward series of strikeout/underline revisions to the existing Zoning Ordinance. Therefore, this set of recommendations is focused on zoning standards, while they also touch on suggested process improvements. The zoning standards below, we believe could be consolidated as a set of “Objective Design Standards” as required under Housing Element Update Implementation **Action 3.1.1.H.**, which the County staff started but progress has appeared to stall.

## I. Revisions to Zoning Standards

### A. CONFLICTS & SPLIT ZONING

Section 4011 of the Zoning Ordinance states that, “Where a use is bisected by a split zone line within a legal lot, *the more restrictive Use Regulations shall apply.*” (*emphasis added*)

Because the County’s General Plan Village Development Model promotes mixed use and infill development within Village areas, it’s foreseeable that current and future General Plan land uses (and zoning) could result in split zoning in commercial/retail areas with multi-family housing. Further, the County’s Sixth Cycle Housing Element Update also recognized the potential/need for clarifying housing yields in Mixed-Use areas, which are similar to situations with split zoning (see **Housing Element Implementation Action 3.1.1.H.**). In these instances, the County should prioritize permissive use regulations to promote housing in these areas. Therefore:

- **We recommend the County revise Section 4011 to specify that if the use regulations in conflict include residential and non-industrial, extractive, or other heavy manufacturing uses, that the least restrictive and/or residential use regulation(s) shall apply.**

By providing for greater flexibility and allowing the most permissive regulations, the County would encourage more residential development in proximity to commercial/retail and potential other professional/office uses. The effect of this could be leveraged through the County’s VMT Guidelines, the Development Feasibility Analysis, and the Climate Action Plan, by providing additional GHG/VMT or other offsets or benefits to encourage more housing in these mixed-use locations. Alternatively, the County could reduce the Affordable Housing obligation of projects in these areas or offer greater incentives and/or density bonuses – especially in instances where the County also makes a significant contribution toward infrastructure and service improvements.

In addition, Section 4011 states that, “If a property has split zoning that includes residential and commercial zoning, parking for a commercial use may be located on the residentially zoned portion of the property, subject to the issuance of a Zoning Verification Permit.”

Parking requirements have been steadily decreasing state-wide with the adoption of ride sharing and a focus on transit and alternative forms of transportation. We believe this trend will continue. So, while not proposing any changes to actual parking ratios, flexibility in the way and location of where certain parking is provided is logical. Therefore,

- **We recommend the County consider revisions to allow for a portion of the residential use on the commercial projects, specifically, the guest parking to be achieved in the commercial area, and no additional permit or use requirement should be added.**

This also could be combined with the County’s VMT/DFA analysis to provide for relaxed parking standards in areas where residential and commercial or office/professional uses are co-located. Reducing parking requirements not only lowers development costs and reduces drainage through reducing impervious surfaces, but it could reduce on-road GHG emissions by discouraging vehicles and encouraging alternative modes of transportation.

## **B. DENSITY CALCULATIONS**

Ensuring a projects General Plan density can be achieved, as required by Housing Element Implementation Action 3.1.3.A, was the impetus for Nolen reviewing the Zoning Ordinance in greater detail and developing these recommendations. The General Plan is a contract of sorts, which provides for a specific land use and corresponding amount of development potential on each parcel. The Zoning Ordinance should not preclude attainment of that development potential, rather, the Zoning Ordinance should establish minimum requirements that ensure General Plan land uses can be implemented, with flexibility and procedures for unique circumstances.

The Zoning Ordinance [Section 4110] explains that “the adopted San Diego County General Plan provides the maximum allowed residential density for residential land use designations” and that “the maximum number of dwelling units permitted within the exterior boundary lines of any subdivision or a single lot shall be equal to the product of the total of the net lot area of that subdivision, or lot expressed in acres multiplied by the applicable maximum density designator.”

The County relies on the “Net Lot Area” for calculating the maximum number of dwelling units. The Zoning Ordinance (Section 2000) defines Net Lot Area as:

The gross area of a parcel minus:

1. The area of any street right-of-way,
2. Any fenced flood control or walkway easement. The area within any trail easement dedicated pursuant to the County Trails Program shall not be subtracted from the gross area of a parcel to calculate the Net Lot Area.
3. Irrevocable offers of dedication when the property is within a Village classification of the General Plan; and
4. The area contained in the panhandle of a panhandle lot when the lot is in a zone where the minimum required lot size is 10,000 square feet or less.

The use of Net Lot Area creates ambiguity for developers and project proponents because many of these exclusions are not immediately apparent during due diligence and may only be uncovered much later in the planning and entitlement process. Further, many of these exclusions are themselves public benefits, which represent in some way a “cost” to a project – whether that be in the dedication (and usually improvement) of a public road, and dedication of land for public use which precludes use of the parcel for private development. To add insult to injury, not only are these areas not available for development, but they are also excluding from being used to calculate based Density. Rather than exclude these areas,

- **We recommend the County remove exclusions 1 (street ROW), 2 (walkway easement) and 3 (irrevocable offers of dedications) from the definition of “Net Lot Area” for purposes of calculating maximum number of dwelling units.**

Further, the Zoning Ordinance is inconsistent with the General Plan related to the rounding of fractional units. Section 4115 of the Zoning Ordinance states that when the product of the Net Acres and the applicable maximum density designator results in “a *fraction of more than one half of a dwelling unit shall be rounded up to the nearest whole number of dwelling units.*” However, County General Plan Land Use Policy LU 1.7 states that “*When more than one dwelling unit is permitted, fractional dwelling units are rounded down to the nearest whole number of dwelling units.*” Such conflicts create ambiguity, therefore,

- **We recommend the County correct the General Plan policy to be consistent with the Zoning Ordinance to state, “When more than one dwelling unit is permitted, fractional dwelling units are rounded down to the nearest whole number of dwelling units.”**

Finally, the Zoning Ordinance explicitly anticipates situations wherein the General Plan Density is not achievable. Specifically, Section 4115 states, “*The maximum number of dwelling units ... shall be reduced to an achievable number of dwelling units when such reduction is needed to comply with all applicable land use requirements*” and Section 4110 states that “*Maximum residential densities ... may be established in zoning to regulate the density of residential development where densities are not specified in the General Plan or lesser densities than those in the General Plan are deemed appropriate.*”

This is unacceptable. This type of language creates ambiguity and uncertainty for developers and builders, and should be either removed (preferable – such that projects may achieve their maximum density) or more explicitly defined so project proponents can ensure they understand how many units are possible on a particular site. This could be done through specific references to situations where the density may be reduced – such as accounting for steep slopes, etc.

As a contrast, Section 4125 outlines the computation of the minimum number of dwelling units is straight forward. It clearly explains that “*The minimum number of dwelling units required ... shall be equal to the product of the total of the net lot area of such subdivision, or lot expressed in acres multiplied by the applicable minimum density designator, if any. A product with any fraction of a dwelling unit shall be rounded up to the nearest whole number of dwelling units.*” This straightforward computation facilitates understanding of project requirements, rather than sowing confusion by references to potentially reduced unit counts based on unspecified “land use requirements”. Therefore, to encourage housing production:

- **We recommend the County focus on establishing Density Minimums, or at least using similar language for calculating the maximum allowed density.**

Such an approach would be consistent with, and could be combined with, the County’s **Housing Element Update Implementation Action 3.1.1.A** that calls for the County to ensure MINIMUM densities are achieved on RHNA sites. In fact, the County could also establish such density MINIMUM’s in other priority development areas, such as the DFA areas, Village and Infill areas, and TOAs – another opportunity for the County to coordinate approaches across multiple ongoing planning efforts. Again, there are implications for how the County treats affordable housing requirements in these locations as well.

### **C. LOT AREA/MINIMUM LOT SIZE**

It appears several of the residential land uses/densities in the County General Plan are the result of simply dividing one acre by a standard lot size. The VR-2.9 land use is the

result of dividing one acre (43,560 SF) by a 15,000 square foot lot ( $43,560/15,000 = 2.9$ ). Similarly, VR-4.3 (10,000SF lots), VR-7.3 (6,000SF lots) and VR-10.9 (4,000SF lots) all appear to be based on the underlying minimum lot area. However, this simplistic approach necessarily means projects are incapable of achieving their General Plan density because it does not account for other uses such as roads, parkways, open space and parks – all of which are common, if not required, for residential projects.

We believe it's important to contextualize the General Plan Update. The GPU was a decade of planning, balancing interests of stakeholders including community groups, environmental stakeholders and the development/building industry. The result was a compromise that removed 15% of the total housing units of the prior general plan and shifted over 80% of the remaining housing units to more urban portions of the County. Not only did the General Plan include less housing focused in more westerly communities, but that housing was also concentrated in Village and town centers. This was the "Population Distribution Strategy" upon which the "Village Development Model" of the General Plan Update was focused.

Accordingly, much of the open space, natural resources and other geographic features of the County that were previously at risk of development under the prior General Plan were significantly conserved by the General Plan Update. In fact, it could be stated that the General Plan is effectively a "Conservation Subdivision" because it already "*avoids environmental resources, preserves open space areas, and responds to unique site and area features.*" [Section 4230(a)]

Therefore, consistent with the provisions of Zoning Ordinance Section 4230 that allow for lot area averaging, a practice permitted in Conservation Subdivisions, the Zoning Ordinance should allow "flexibility in lot size". This is best accomplished by establishing minimum lot sizes that allow projects to achieve their General Plan density. Therefore,

- **We recommend the County establish the following minimum lot sizes for Village-residential land uses:**
  - **VR-2 – from 20,000SF or ½ acre to 15,000SF**
  - **VR-2.9 – from 15,000SF to 9,000SF**
  - **VR-4.3 – from 10,000SF to 6,000SF**
  - **VR-7.3 – from 6,000SF to 3,600SF (60'x60' or 40' x 90')**
  - **VR-10.9 – From 4,000SF to 2,400SF Minimum**
  - **VR-15 – 1,500SF Minimum**

The recommendations above include lots under both 6,000SF and 3,000SF, each of which are identified in the Zoning Ordinance as minimum lot sizes under which some type of additional permit is required. By allowing for smaller lots in the appropriate locations, no additional permit(s) are required, which facilitates production of smaller

lots and more attainable housing typologies that are limited based on lot size and other controlling development standards. To achieve this:

- **We recommend deleting or revising reference in Section 4210 (b) and 4221 (a) restricting lots below 3,000 SF and 6,000 SF respectively.**

Reducing lot sizes would enable different product/building types. As described below, this is one of the County's Housing Element Update Implementation Action items (3.1.1.D); therefore, updating the minimum lot size could be combined with implementing the Housing Element Update. Smaller lot sizes could also be combined with the County's Housing Options process which includes things like small lot subdivisions (and which implements **Housing Element Update Implementation Action 3.1.1.N**). Similar to other recommendations, reducing lot sizes could be focused in specific areas to further facilitate and prioritize certain kinds of development, including village areas, DFA areas, VMT efficient and/or infill areas, and TOAs. Lastly, reducing lot size would avoid project's having to request this as a waiver under State Density Bonus.

#### **D. BUILDING TYPES**

The County's Housing Element Update Implementation Plan includes **Action 3.1.1.D**, which would provide for the County to "accommodate various building types and styles, including but not limited to: small lot single-family homes; tiny homes; detached condominium Projects; townhomes; duplex/triplex/multiplex; courtyard apartments; bungalow courts; live/work units; mixed-use projects; moveable tiny homes; 3D printed homes; and new prefab housing types that meet state and local building code standards." Further, this Policy calls on the County to "Continue to explore innovative building types and housing options that can be implemented through the County's Zoning Ordinance by reviewing development designators and designations and amend the Ordinance as appropriate (in coordination with Action 3.1.3.A)."

The current construct of the Building Types must be updated to meet the requirements of the Housing Element Update. Rather than being too specific:

- **We recommend the Zoning Ordinance provide for flexibility by establishing fewer categories of housing, and then defining the types of housing that may be accommodated in each. For Instance:**
  - **Single Family Detached, which can include: Small-lot single-family homes, tiny homes, detached condominium Projects,**
  - **Single-Family Attached, which man include: Townhomes, duplex/triplex/ multiplex, bungalow courts,**
  - **Multi-Family, which may include: small-lot single-family homes, tiny homes, detached condominium, townhomes, courtyard apartments, bungalow courts**

The goal is to provide for more flexibility within the three categories of housing, SFD, SFA and MF. This gives projects more options for how they can best achieve their maximum density or otherwise address the needs of the market. This type of update to the Zoning Ordinance could be combined much like reduced lot sizes with other ongoing County programs such as the Housing Options, the Housing Element Update Implementation Plan, and development of incentives under the County's Inclusionary Housing Ordinance.

## E. FLOOR AREA

As the County moves towards a Village-development model, the Zoning Ordinance should focus on placemaking through the use of Floor Area Ratios, rather than density, for certain product types. This could be achieved by setting FAR minimums or maximums, and allowing developers to design projects that work, regardless of actual unit count. Below is a list of preliminary FAR's for discussion.

- **VR-10.9 – .5 FAR**
- **VR-15 – .65 FAR**
- **VR-20 – .75 FAR**
- **VR-24 – .85 FAR**
- **VR-30 – 1.0 FAR**

Because this approach could result in the development of more units than currently contemplated by the General Plan, it may need to be accompanied by additional environmental review under CEQA. We understand the County is already planning and/or preparing a CEQA document for the Development Feasibility Analysis and it likely to include the Transit Opportunity Area(s) within this scope of the Phase 2 VMT Program. As part of this CEQA review, the County should consider the above FAR based approach – similar to the City of San Diego's "Complete Communities Housing Solutions" Program EIR. Similar to that program, the establishment of an FAR-based approach for project design could be combined with enhanced affordability requirements and additional incentives or density bonuses for housing projects in the DFA and/or TOA areas. Under this approach:

- **We recommend the County include all Village and Infill Areas within the PEIR, not just the DFA and TOA areas. The County can ultimately decide to only approve such an FAR-based approach in the DFA and TOA areas, but should provide CEQA coverage to provide for potentially applying this approach to other areas like the villages, rather than having to prepare another CEQA document at a later date.**

## F. HEIGHT SCHEDULE

Height designators used for the Development Regulations shall be limited to those in the following Schedule B:

The Zoning Ordinance, Section 4615 provides that an additional story may be permitted subject to issuance of an Administrative Permit. Several of the County's Building Height Designators capture this where different designators have the same maximum building height, but different numbers of stories. This is confusing, and adds another process to the project review and development phase. Therefore;

- **We recommend the County establish height limits independent of building stories. To accomplish this the County may "collapse" the designators to eliminate reference(s) to number of stories.**

This would be done through changing all C-designators to D-designators (i.e., any 25' tall building could be up to 3 stories); all E-designators would become F-designators, all G- and H-designators would become I-designators, all J-designators would become K-designators, and L-designators would become M-designators, and all P-designators would become Q-designators. Not only would this simplify the Zoning Ordinance, but it would provide projects with more flexibility.

Updating the Height Schedule(s) would be consistent with Housing Element Update Implementation Actions **3.1.1.C**, **3.1.1.D**, **3.1.1.F**, **3.1.1.H**, and **3.1.3.A**. It would also facilitate the Inclusionary Housing Ordinance because it would ensure projects could achieve their density, including higher-density infill projects where the County is looking to direct more growth under Option 3 of the IHO. Such an approach is also consistent with the Sustainable Land Use Framework and could accommodate more housing in the DFA areas, not to mention potential Transit Opportunity Areas, as a method of reducing VMT.

## **G. SETBACK REGULATIONS**

The Zoning Ordinance setback schedule and regulations are largely based on setbacks from street centerlines. This approach is confusing, if not impossible for projects because inevitably, there are different width streets and rights of way across the County. Rather than picking an off-site measuring point, most jurisdictions rely on setbacks measured from the property line (or future property line in the situation of a subdivision). Such a measurement is more readily understood and easier to implement. Therefore:

- **We recommend the County update the Setback Schedule to establish setbacks from the property line, rather than street centerline.**

Further, the Zoning Ordinance contains 23 different base designators for setbacks. And these don't even get into the exemptions, or other modifications to setbacks that can apply based on different road frontages, different community planning group areas, and

other scenarios. Designing a project, especially in more dense, infill and Village settings, with this setback schedule is confusing and problematic. Therefore:

- **We recommend the County simplify the Setback schedule to three building types – Single Family Detached, Single-Family Attached, and Multi-family, consistent with the Building types identified above, and establish setbacks for each of these – independent of other considerations<sup>1</sup>.**

Updating the Setback Schedule(s) would be consistent with Housing Element Update Implementation Actions 3.1.1C, 3.1.1.D, 3.1.1.F, 3.1.1.H, and 3.1.3.A. It would also facilitate the Inclusionary Housing Ordinance because it would ensure projects could achieve their density, including higher-density infill projects where the County is looking to direct more growth under Option 3 of the IHO. Such an approach is also consistent with the Sustainable Land Use Framework and could accommodate more housing in the DFA areas, not to mention potential Transit Opportunity Areas, as a method of reducing VMT.

## **H. USABLE OPEN SPACE**

Similar to the setback recommendation above, requirements for private and group open space should be based on building type, and should be limited to facilitate understanding and implementation. Therefore:

- **We recommend the County revise the Open Space requirements into three categories: Single-Family Detached, Single-Family Attached and Multi-Family, and recommend the following open space minimums:**
  - **Single-Family Detached (included small lot single family)**
    - **Private Open Space – 100 SF (10' x 10')**
    - **Group Open Space – 100 SF/unit (unless complying with PLDO on-site)**
  - **Single-Family Attached**
    - **Private Open Space**
      - **1 bed – 60 SF**
      - **2 bed – 80 SF**
      - **3 bed – 100SF**
      - **4+ bed – 120 SF**
    - **Group Open Space – 200 SF/unit (unless complying with PLDO on-site)**

<sup>1</sup> If needed, the County may consider breaking setbacks into “Village” vs. “Non-Village” but most non-village settings would only be conducive to SFD typologies and we don’t expect may, if any, developers to force development towards roadways in these settings.

- **Multi-Family**
  - **Private Open Space**
    - 1 bed – 40 SF
    - 2 bed – 60 SF
    - 3+ bed – 80 SF
  - **Group Open Space– 300 SF/unit (unless complying with PLDO on-site)**

Updating the Open Space Schedule(s) would be consistent with Housing Element Update Implementation Actions **3.1.1.C**, **3.1.1.D**, **3.1.1.F**, **3.1.1.H**, and **3.1.3.A**. It would also facilitate the Inclusionary Housing Ordinance because it would ensure projects could achieve their density, including higher-density infill projects where the County is looking to direct more growth under Option 3 of the IHO. Such an approach is also consistent with the Sustainable Land Use Framework and could accommodate more housing in the DFA areas, not to mention potential Transit Opportunity Areas, as a method of reducing VMT.

DRAFT - FOR DISCUSSION

## II. Special Area Designators

We understand the County is or will soon be reviewing the Special Area Designators. Accordingly, we'll provide specific comments on the Special Area Designators as part of that process. However, below are general comments on the Special Area Designators.

To the extent that another process or permit requires specific review requirements, or if a specific issue is or will be addressed through environmental review, no designator should be required. This would generally apply to the following Special Area Designators:

- **Agricultural Preserve** – either a project is or is not within an Agricultural Preserve. The Agricultural Resources section in a CEQA document would address this. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to agricultural resources.
- **Airport Land Use Compatibility Plan Area** – Project's shall be required to comply with any adopted ALUCP. The Hazards section in a CEQA document would address this. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to hazards and hazardous materials and/or noise.
- **Fault Displacement** – Projects typically prepare a geotechnical report which would disclose potential faults and make recommendations that would be stamped by an engineer. The Geo/Soils section in a CEQA document would address this. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to geology and soils.
- **Flood Plain** – Projects within the Flood Plain are required to prepare specific technical studies and potential go through the CLOMR/LOMR process. The Hydro/Water Quality section in a CEQA document would address this. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to hydrology and water quality.
- **Sensitive Resources** – Projects through the CEQA process are required to analyze and disclose natural resources, wetlands, floodplains, and prehistoric/historic sites and sensitive habitat lands. The Biology section in a CEQA document would address this. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to biological resources.
- **Historical Archaeological Landmark or District** - Projects through the CEQA process are required to analyze and disclose prehistoric/historic sites. The Cultural Resources section in a CEQA document would address this. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to cultural resources.

- **Specific Historic District** - Projects through the CEQA process are required to analyze and disclose prehistoric/historic sites. The Cultural Resources section in a CEQA document would address this. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to cultural resources.
- **Scenic** – The aesthetic analysis for a project would require analysis of scenic resources as part of the CEQA process. The Aesthetics section in a CEQA document would address this. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to aesthetics.
- **Vernal Pool Area** - Projects through the CEQA process are required to analyze and disclose natural resources, wetlands, floodplains, and sensitive habitat lands. The Biological Resources section in a CEQA document would address this. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to biological resources.
- **Flood Channel** - Projects within the Flood Plain are required to prepare specific technical studies and potential go through the CLOMR/LOMR process. The Hydro/Water Quality section in a CEQA document would address potential impacts. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to hydrology and water quality.
- **Unsewered Area** – Projects through the CEQA process are required to analyze and disclose impacts to sewer service and/or potential impacts associated with septic systems. The Utilities and Services and/or Geology and Soils sections in a CEQA document would address this. Projects could follow mitigation measures required by the General Plan PEIR to address potential impacts to septic systems.

The remaining Special Area Designators provide for opportunities for community review/design review or for developers to propose projects under site-specific zoning standards through the Planned Development Permit review process. Nolen understands the role that community and design review play in the application process. We believe the design review process should be focused on a consistency analysis, based on Objective Design Standards (Housing Element Update Action Item ), rather than on opinions of the project. Projects which are consistent with Objective Design Standards or which otherwise rely upon state- and County-authorized waivers and concessions through Density Bonus, should be exempt from further design review. Project's which are inconsistent with Objective Design Standards and/or require waivers or variances would be subject to Community and/or Design Review.

**Design Review / Community Design Review Area** - Recommend that the community design review be done to confirm that a project is compliant with Objective Design Standards, but this should only be an advisory vote. Project's which are consistent with

Objective Design Standards or which rely on Density Bonus to waive certain design standards, should be exempt from Design Review or Community Design Review.

**Planned Development** – Project's processing within a Planned Development should be controlled by the Planned Development Permit process contained in Section 6600 of the Zoning Ordinance. No additional designator should be required. Section 6600 may be modified to address the requirements of the Planned Development Designator such that all processing requirements subject to a Planned Development are located within one section of the Zoning Ordinance.

DRAFT - FOR DISCUSSION

### III. Revisions to Zoning Process

The Zoning Ordinance provides for or otherwise requires a variety of permits for different projects and plan requirements. These include Administrative Permits, Site Plans, Use Permits, Planned Development Permits, and Density Bonus Permits. As explained below, requiring a permit or site plan triggers “discretion” for a jurisdiction, which inserts uncertainty into the development process and becomes a hinderance to, and a cost of, new housing.

Over the past half decade, the State of California has passed legislation intended to limit the imposition of permit requirements or otherwise expedite permitting for residential development projects. These include SB9, SB35, SB330, as well as AB1397. The state has also provided by by-right processing for small lot subdivisions (SB684). In addition, recent court cases including the *Hilltop Group vs. County of San Diego*, have advanced opportunities to expedite and streamline, or even exempt, projects from the CEQA review process when they are consistent with the General Plan.

Following suite, the County is in the midst of several policies and programs that would follow state direction, including Housing Element Update **Action 3.1.1.B, By-Right Approval for Projects with 20% Affordable Units** (which follows AB1397), **Action 3.1.1.0, Feasibility Analysis of Expanded By-right Approval Program**, both of which are being reviewed as part of the pending Housing Options program, and HEU **Action 3.1.1.D, Expand Eligibility of Checklist Exemptions**. The County is looking at the Housing Options to provide for a local ordinance to follow SB684 to allow small lot subdivisions. In addition to these, the County is or will soon have recently adopted the Climate Action Plan, including a **CAP Checklist** that will not only expedite processing projects by limiting the GHG technical analysis, but will provide certainty to General Plan consistent projects that they can rely upon the General Plan, including all the design features contained therein such as the focus on development in Villages, to provide CEQA coverage. Finally, County Counsel has opined in the wake of the *Hilltop* ruling that projects which are consistent with the General Plan may be exempt from VMT analysis under CEQA Section 15183.

The benefit of allowing for checklist reviews and avoiding permits is that the issuance of a permit becomes a “Discretionary” action that triggers CEQA review. CEQA review, in the County, has been time consuming and uncertain in the best circumstances. Even General Plan consistent projects can take multiple years to approve, only to be subsequently challenged by project opponents. Thus, eliminating “discretion” through checklists and other programs is of paramount importance to facilitate development. Not only would this provide greater certainty, but it would also reduce processing time and costs, which makes projects more financially feasible and capable of possibly supporting higher quality design and construction/materials. Improving the “process”

doesn't change what can be developed on a particular project site, thus the recommendations to eliminate or otherwise avoid "permits" wouldn't require any new or additional CEQA review.

Based on the latest determination by County Counsel regarding VMT in the aftermath of the *Hilltop* Ruling, General Plan consistent projects should be considered to have CEQA coverage and can rely on a 15183 Addendum to make the appropriate environmental findings. This approach, combined with objective design standards (HEU Action XXX) would allow projects to be approved ministerially unless they required some type of subdivision or non-Density Bonus deviation from a development standard.

However, without revisions to the Zoning Ordinance procedures for Administrative Permits, Use Permits, Site Plans, and Density Bonus Permits, housing projects would still be subject to these discretionary permits – which is counter to many of the above policies. Therefore, we recommend the following revisions to Section 7000 et. seq of the County's Zoning Ordinance, as well as corresponding revisions elsewhere in the Development Code, Grading Ordinance, and other applicable regulations.

As noted consistently below, the requirement to prepare any one of the following types of permits is unclear. We commend the County for updates to several "User Guides" which have clarified some requirements.

- **We recommend the County continue to update User Guides and ultimately consolidate a "Permit Guide" that provides clear and consistent guidance for when each type of permit is required.**

This can be done important with Housing Element Update Action **3.1.1.L.**

**Coordination and Outreach with Developers, Builders, and Owners.** This stakeholder group prepares permits across different jurisdictions and can bring forward examples and best practices for when a specific permit may be required and ways to make the application and processing requirements clear.

#### **A. Administrative Permits –**

Preliminarily, whether in the County's Zoning Ordinance or elsewhere, it is unclear when Administrative Permits are required. The updated application form appears to identify several types of projects of when an Administrative Permit is required, but there are other instances when such a permit appears to be required. Nolen recommends the County clarify when Administrative Permits are required.

In our review of the Zoning Ordinance, we found at least two instances that trigger issuance of an Administrative Permit that would otherwise trigger a potential "discretionary" action. These include the following:

- Section 4230 (lot area averaging)
- Section 4615 (additional story)

As described in our recommendations above, we believe that revisions to Section 4000 et. seq. of the Zoning Ordinance could address each of these and avoid any additional permitting requirements. Specifically:

- **Lot Area Averaging** - The County General Plan, through the General Plan Update, restricted development in the most sensitive areas of the County and encouraged and planned housing in more urban villages and town centers. Accordingly, the General Plan is a de facto conservation subdivision and should allow for Lot Area Averaging “by-right”. Accordingly, no Administrative Permit should be required for projects which implement Lot Area Averaging as long as minimum lot sizes are respected.
- **Additional Story** – As recommended above, we recommend the Building Height schedule be revised to avoid situations where the same maximum height could provide for different numbers of stories. By accomplishing this, the County would avoid scenario’s where a project may need to add an additional story through a separate permit when the building height – and Objective Design Standard – could be achieved by the project.

In other instances, it is our opinion that the definition of “Administrative Permit” should be revised to clarify that the issuance of such permits is a “ministerial” action, subject to project conformance with the Zoning Ordinance, General Plan, and any other applicable regulations. In this way, we believe the definition should more closely align with the Zoning Verification Permit, which is defined as “A ministerial permit issued by the Department of Planning and Development Services for purposes of verifying that a particular use or structure complies with all applicable Zoning Ordinance regulations.”

## B. Site Plans

Similar to Administrative Permits, there are instances where Site Plan permits may be required which are not evident based on the Zoning Code or discretionary forms on the County’s website. The Site Plan User Guide references three Designators (B, D and J) which trigger a Site Plan, but the User Guide also includes references for a “Standard” and “Standard Modification” which are too vague to be useful.

As described in our general comments on the County’s Special Area Designators, we believe that both the “B” (Community Design Review Area) and “D” (Design Review) Special Area Designators should only be required when a project is not otherwise consistent with Objective Design Standards, and such a project is required to process a Waiver or Variance outside of Density Bonus.

In instances when a project demonstrates conformance with Objective Design Standards, no discretion should be required. While Site Plans may still be the appropriate mechanism to ensure a project complies with Objective Design Standards, the standard for review should be a conformance/consistency analysis. If a project is found to be in conformance with the applicable standards, no “decision” would be required and the project moves from a “discretionary” project subject to CEQA, to a “ministerial” project.

### **C. Density Bonus Permit**

The requirement for preparing a separate Density Bonus Permit, which could trigger a “discretionary” action is entirely counter to the Density Bonus project, which is based on removing uncertainty and incentivizing affordable and deed-restricted housing. We strongly encourage the County to remove any requirement for a permit simply for preparing a Density Bonus project. Specifically:

- We recommend the County eliminate the Density Bonus Permit. The same information can be required as part of an application for a Density Bonus project, however, if such a project is consistent with the General Plan and meets Objective Design Standards, no additional permit requirements should apply.

This would reduce risk and expedite processing for affordable housing projects. Such an approach is consistent with Board Policy A-68, which states that it is the Policy of the Board of Supervisors that “The County shall expedite the processing of permits and other clearances required by the County prior to construction or rehabilitation of a housing development to be occupied in whole or in part by lower income persons.” Requiring a separate permit is counter to this Policy and state-law encouraging the production of affordable housing.

### **D. Use Permits**

Similar to the previous types of permits, it is not clear when a Use Permit, or specific type of Use Permit, will be required. We recommend the County clarify when Major and/or Minor Use Permits are required as part of what we presume to be ongoing updates to create more user-friendly “User Guides”.

STATEMENT OF PROCEEDINGS  
COUNTY OF SAN DIEGO BOARD OF SUPERVISORS - LAND USE  
REGULAR MEETING  
**WEDNESDAY, AUGUST 28, 2024, 9:00 AM**  
COUNTY ADMINISTRATION CENTER, ROOM 310  
1600 PACIFIC HIGHWAY, SAN DIEGO, CALIFORNIA

Order of Business

A. REGULAR SESSION: Meeting was called to order at 9:40 a.m.

PRESENT: Supervisors Nora Vargas, Chair; Terra Lawson-Remer, Vice-Chair; Joel Anderson; Monica Montgomery Steppe, Jim Desmond; also, Ryan Sharp, Assistant Clerk of the Board of Supervisors.

B. Statement (just cause) and/or Consideration of a Request to Participate Remotely (emergency circumstances) by a Supervisor, if applicable.

C. Closed Session Report

D. Non-Agenda Public Communication: Opportunity for members of the public to speak to the Board on any subject matter within the Board’s jurisdiction but not an item on today’s agenda.

E. Approval of the Statement of Proceedings/Minutes for the meeting of July 17, 2024.

**ACTION:**

ON MOTION of Supervisor Anderson, seconded by Supervisor Montgomery Steppe, the Board of Supervisors approved the Statement of Proceedings/Minutes for the Regular Board of Supervisors meeting of July 17, 2024.

AYES: Vargas, Anderson, Lawson-Remer, Montgomery Steppe, Desmond

F. Consent Calendar

G. Discussion Items

NOTICE: THE BOARD OF SUPERVISORS MAY TAKE ANY ACTION WITH RESPECT TO THE ITEMS INCLUDED ON THIS AGENDA. RECOMMENDATIONS MADE BY COUNTY STAFF DO NOT LIMIT ACTIONS THAT THE BOARD OF SUPERVISORS MAY TAKE. MEMBERS OF THE PUBLIC SHOULD NOT RELY UPON THE RECOMMENDATIONS IN THE BOARD LETTER AS DETERMINATIVE OF THE ACTION THE BOARD OF SUPERVISORS MAY TAKE ON A PARTICULAR MATTER.

**Board of Supervisors' Agenda Items**

<b>Agenda #</b>	<b>Subject</b>
1.	AUTHORIZATION TO ADVERTISE AND AWARD A CONSTRUCTION CONTRACT FOR EMERGENCY POWER GENERATORS AT POTRERO COUNTY PARK AND VALLECITO COUNTY PARK AND CEQA EXEMPTION

**BUSINESS IMPACT STATEMENT**

N/A

**ACTION:**

ON MOTION of Supervisor Desmond, seconded by Supervisor Montgomery Steppe, the Board of Supervisors took action as recommended, and took action to further consider and adopt the Ordinance on September 11, 2024.

AYES: Vargas, Anderson, Lawson-Remer, Montgomery Steppe, Desmond

**11. SUBJECT: NOTICED PUBLIC HEARING:  
ADOPTION OF THE COUNTY OF SAN DIEGO INCLUSIONARY  
HOUSING ORDINANCE (DISTRICTS: ALL)**

**OVERVIEW**

This action proposes to update the County of San Diego (County) Zoning Ordinance to establish an Inclusionary Housing Program that will apply to certain new housing development projects in the unincorporated areas. Statewide and locally, affordable housing has become increasingly difficult for residents to obtain. Housing for Very Low income (up to 50% of the Area Median Income, or AMI) households has historically been the most difficult to build. California's Affirmatively Furthering Fair Housing (AFFH) law requires local governments to take specific actions to address and reduce inequalities resulting from past segregation, fostering the creation of more inclusive communities.

To address the housing shortage and lack of affordable housing in the unincorporated county, on February 10, 2021 (4) and August 31, 2021 (7), the Board of Supervisors (Board) directed staff to develop an Inclusionary Housing Ordinance. Adopting an inclusionary housing ordinance aligns with the AFFH law by ensuring affordable housing is built in unincorporated areas, as outlined in the County's Sixth Cycle General Plan Housing Element (Housing Element) and Regional Housing Needs Assessment (RHNA) goals. The Draft Inclusionary Housing Ordinance (Draft Ordinance) (Attachment A) would require new housing developments to rent or sell a certain number of units at designated affordability levels.

The main goal of inclusionary housing programs is to increase the supply of affordable housing and help create more economically diverse and inclusive communities while still supporting overall housing production, including market rate units. By adopting one of the three options for the Draft Ordinance as presented, or a modified option with any variation of the four ordinance components, the County can meet State requirements for affordable housing, foster equity, implement the County's General Plan Housing Element, and support the County's RHNA goals. To develop options for the Draft Ordinance, County staff conducted best practice research, an economic analysis, and public outreach. The three options in the Draft Ordinance were crafted to be responsive to feedback from diverse stakeholders, encompassing the land development industry, housing advocates, labor groups, the Planning Commission, and the public.

All three options for the Draft Ordinance are comprised of four key components, each of which is subject to adjustment by the Board: 1) the set-aside requirement, which is the percentage of a project's units that are set aside as affordable and the level of affordability of those units, 2) the minimum size of a project that the ordinance applies to, 3) alternative compliance, or alternative ways to comply with the ordinance and 4) incentives to help offset the costs of producing affordable housing and to encourage applicants to build the required affordable units on-site.

Staff has prepared three Draft Ordinance Options (Attachment M) for the Board's consideration based on stakeholder outreach, economic analysis, and best practice research. The options were developed by balancing the goals of providing affordable housing, supporting the financial feasibility of development projects, aligning with state density bonus law, and minimizing any adverse impacts on the production of market-rate units. The following options were tailored to achieve specific policy goals and address the public input received:

- Option 1: Focus on the least affordable housing requirement while still supporting the County's RHNA goals.
- Option 2: Focus on providing flexibility through a range of affordable housing requirement options for applicants to choose at a mix of income levels.
- Option 3: Focus on the highest affordable housing requirement maximizing the number of affordable housing units produced by projects.

This is a request for the Board to consider and adopt one of the three Draft Ordinance Options as presented or modify an Option with any variation of the four ordinance components, including: the set-aside requirement, minimum project size, alternative compliance, and incentives. The Board may also create an alternative Ordinance option as shown in the Mixing and Matching the Prepackaged Option section, by providing specific direction on each of these four components to best meet policy priorities.

**RECOMMENDATION(S)  
PLANNING COMMISSION**

On April 19, 2024, the Planning Commission recommended that the Board of Supervisors defer consideration of the Draft Inclusionary Housing Ordinance until the County's Vehicle Miles Traveled (VMT) Mitigation Program is adopted.

**DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES**

Planning & Development Services (PDS) does not concur with the Planning Commission's recommendation to the Board of Supervisors on the adoption of the Draft Ordinance. The 2023 General Plan Annual Progress Report presented to the Board of Supervisors (Board) on March 13, 2024 (10) highlights that the County of San Diego (County) is behind in meeting its very low income Regional Housing Needs Allocation (RHNA) goals. Adopting an Inclusionary Housing Ordinance is crucial for facilitating the production of Very Low to Moderate Income housing and making progress towards the County's affordable housing goals. In addition, this action aligns with the Board's prior direction on Inclusionary Housing provided on February 10, 2021 (4), August 31, 2021(7), and implements the adopted 6th Cycle Housing Element program.

While the Economic Analysis was completed before the adoption of the Transportation Study Guide and has not been updated to consider potential costs to projects associated with Vehicle Miles Traveled (VMT) mitigation, the Board can choose to limit the Ordinance's application to VMT Efficient and Infill areas, where there would be no additional VMT mitigation costs. This approach ensures that projects do not have to comply with both the Inclusionary Housing Ordinance and a VMT mitigation program simultaneously. Additionally, the Board can direct an update to the Inclusionary Housing Ordinance economic analysis when a VMT mitigation program is adopted, allowing mitigation costs to be factored in when analyzing project feasibility. Subsequent revisions to the Ordinance's components, for example, to where it applies geographically, minimum project size and set-asides for different project types, could then be considered by the Board. Finally, future projects anywhere in the unincorporated area that are consistent with the General Plan should typically not need to do VMT studies or pay for VMT mitigation based on recent case law (if relying on the CEQA 15183 exemption process; applicability to be determined on a case-by-case basis).

The Ordinance options have been developed in response to input from the Planning Commission, stakeholders, the public, and the Board. Staff recommends the Board adopt an Inclusionary Housing Ordinance that reflects the Board's policy priorities. In addition, staff recommends the Board:

1. Find that the General Plan Environmental Impact Report (EIR), dated August 3, 2011, on file with PDS as Environmental Review Number 02-ZA-001, was completed in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines and that the Board has reviewed and considered the information contained therein and the Addendum (PDS-2023-ER-00-001) thereto dated April 19, 2024, on file with PDS, prior to taking action.
2. Find that there are no changes in the project or in the circumstances under which the project is undertaken that involve significant new environmental impacts that were not considered in the previously certified EIR dated August 3, 2011; there is no substantial increase in the severity of previously identified significant effects; and no new information of substantial importance has become available since the EIR was certified as explained in the Environmental Review Update Checklist (PDS-2023-ER-00-001) dated April 19, 2024.
3. Adopt the attached form of Ordinances entitled:
  - a. AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO THE AFFORDABLE INCLUSIONARY HOUSING PROGRAM (POD 20-007) (Attachment A - Clean & Attachment B - Strikeout).
  - b. AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE RELATED TO THE AFFORDABLE INCLUSIONARY HOUSING PROGRAM IN-LIEU FEE PROGRAM (POD 20-007) (Attachment C - Clean & Attachment D - Strikeout).
4. Add 2.0 full time equivalent (FTE) positions to the Department of Housing and Community Development Services to support the implementation of services for the Inclusionary Housing Ordinance.

**EQUITY IMPACT STATEMENT**

With its focus on improving equity, the County recognizes the systemic impacts that inequitable policies can create for residents of the San Diego region. The Inclusionary Housing Ordinance seeks to equitably address the unincorporated area's housing needs by creating an inclusionary housing program that will help increase the production of affordable housing units and create mixed-income housing developments that will foster diverse, resilient communities. The inclusionary housing program would provide additional housing opportunities and help reduce housing inequalities by ensuring that new developments include units affordable to individuals and families that earn Moderate and Lower incomes.

**SUSTAINABILITY IMPACT STATEMENT**

The proposed action to adopt the Inclusionary Housing Ordinance implements a program in the County's Housing Element and facilitates compliance with State housing law. All three Draft Ordinance Options seek to increase affordable housing development and expand housing opportunities for communities across the unincorporated county by facilitating development of housing that is affordable to Moderate and Lower (including Low, Very Low, and Extremely Low) income individuals and families. Through engaging with these communities during this process, an Inclusionary Housing Ordinance advances Sustainability Goals #1 and #2 to provide just and equitable access to County policy decision-making in support of sustainable communities. In addition, all three Draft Inclusionary Housing Ordinance Options have been developed to support the sustainable development of housing including within VMT Efficient and Infill areas.

**FISCAL IMPACT**

Funds for this request to implement the Inclusionary Housing Ordinance are included in the Fiscal Year (FY) 2024-25 Operational Plan in the Department of General Services (DGS).

There is no fiscal impact to implement the Inclusionary Housing Ordinance in FY 2024-25 for Planning & Development Services (PDS). At this time, there will be no change in net General Fund cost and no additional staff years.

For DGS, there may be fiscal impacts associated with future related Board actions if a land donation is identified as an alternative compliance method. The request will result in costs including staff time to review land eligibility and processing of donation acceptance, costs for maintaining donated land, and releasing Request for Proposals (RFPs) for affordable housing developers. Staff would return to the Board for consideration, funding, and approval at that time.

Funds for this request are not included in the Fiscal Year (FY) 2024-25 Operational Plan in the Health and Human Services Agency. At this time there is no funding source budgeted to support these Recommendation(s). If approved by the Board, funding of \$240,000 in FY 24-25 and \$355,000 in FY 25-26 to cover two additional staff years within Housing and Community Development Services could be supported by redirecting budgeted appropriations currently allocated to Medical Care Services. This will result in a fiscal and indirect service impact to Medical Care Services, which is further described in the background of this Board Letter. Positions will be classified by the Department of Human Resources. There will be no change in net General Fund cost.

**BUSINESS IMPACT STATEMENT**

N/A

**ACTION:**

ON MOTION of Supervisor Vargas, seconded by Supervisor Anderson, the Board of Supervisors closed the Hearing, and took the following actions:

After the DFA and VMT Mitigations Programs Options are presented to the Board (Winter), staff to return with options that include the following considerations:

- (a) Ensure overall housing production is not negatively impacted
- (b) Align with state density bonus law
- (c) Include considerations for phasing-in the program to allow time for land values to adjust to the program
- (d) Continue to Engage with experts and community
- (e) Provide inclusionary housing production estimates for each of these options, including middle income home ownership
- (f) Development incentives that include infrastructure that can be provided in Option 3 to maximize units in the VMT Efficient and Infill areas, concurrent with the Development Feasibility Analysis for these areas.
- (g) Off-site development should be within a radius of 3 miles or the vicinity of the community planning area.

AYES: Vargas, Anderson, Lawson-Remer, Montgomery Steppe, Desmond

**12. SUBJECT: NON-AGENDA PUBLIC COMMUNICATION (DISTRICTS: ALL)**

**OVERVIEW**

Michael Brando spoke to the Board regarding speaker Giorgio Kirylo.

Robert Germann spoke to the Board regarding hangars at airports.

Dorothea Flanagan spoke to the Board regarding rumble strips in her community.

Purita Javier spoke to the Board regarding ceramic toxic air pollution.

Cesar Javier spoke to the Board regarding ceramic toxic air pollution.

Sandra Bell spoke to the Board regarding alleged horse neglect on Artesian Road.

Jim Ellis spoke to the Board regarding ways to acquire free money.

Michele Walther spoke to the Board regarding alleged horse neglect on Artesian Road.

Michael Fujimori spoke to the Board regarding alleged horse neglect on Artesian Road.

Annie Abram spoke to the Board regarding alleged horse neglect on Artesian Road.

Kathryn Rhodes spoke to the Board regarding year-round tents used by homeless individuals.

# San Diego County Comprehensive Housing Implementation Plan & Strategy

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November 2025

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## I. Introduction/Overview

In August 2024, in response to staff’s presentation on the Inclusionary Housing Ordinance (IHO), and a day following adoption of the Housing Blueprint, San Diego County (County) Board of Supervisors Chairwoman Nora Vargas called for the County to take “a more comprehensive and effective approach” on housing.

We need to see actual units that serve the needs of our population, including opportunities to move out of affordable housing and we need to think beyond deed-restricted. There has to be a continuum. [We must] [f]ocus on integrating all the moving pieces, the Housing Blueprint, VMT mitigation, the measures in the Climate Action Plan, *into a much more cohesive affordable housing implementation strategy...*

Specifically, Chairwoman Vargas called for the County to come back with the IHO as “part of an implementation packet.” Chair Vargas saw this implementation packet as having the potential to:

...provide opportunities for home ownership and stable affordable housing for middle income communities. By creating pathways to affordable home ownership, we help communities build generational wealth, ensuring that future generations can benefit from the economic stability and prosperity that comes from owning a home. [It is a] crucial step towards closing the wealth gap and fostering long term financial stability.

The Building Industry Association of San Diego (BIA) agrees with the need for the County to recognize how these multiple concurrent planning efforts relate to our ability to provide housing for San Diegan’s, including attainable, middle-income/workforce housing and deed-restricted affordable housing.

Preliminary, the BIA believes we need to approach Housing with an Abundance mindset, rather than a regulatory framework. And the priority needs to be on outcomes that benefit the most, rather than process, policies and regulations that have produced the least. This includes:

1. Implementing changes to facilitate the production of Housing

2. Equity approach – facilitate more for-sale housing countywide to enable more residents and communities to build wealth
3. Diversity approach – provide a wider array of housing types for residents of various economic conditions countywide
4. Inclusivity approach – extend the production of housing across all communities countywide, not just the DFA areas.
5. Reduce impacts of “exporting” homes to Riverside County and Mexico

San Diego County is in the middle of nearly a dozen work plans, programs, and reports, summarized in the following section, which impact housing production. All of these must occur within the context of the General Plan, the guiding master plan for how the County intends to build out over the next 25 years.

However, despite the County’s efforts, housing production is sorely lacking. The County’s General Plan Annual Progress Report purports to show admiral progress towards the County’s Regional Housing Needs Allocation (RHNA) goals; however, a deeper investigation, as BIA members have explained in previous correspondence, explain why the County’s numbers paint an incomplete picture of housing production. Most pointedly, the County is relying on an excess production of ADU’s spurred by changes in State law and a now-defunct fee deferral program, as well as building permit activity from long-ago master plans and tentative maps, including Park Circle, Horse Creek Ranch, and Citro. Without this combination of pre-Housing Element Update entitlements and ADU’s, the County would be further behind in the production of housing.

The Board has generally recognized this fact through the request for staff to prepare a Development Feasibility Analysis (DFA) to help the County understand why the type of development envisioned by the General Plan was not being produced, especially in “infill” or ‘VMT-efficient” communities and environmental justice communities. Comments on the DFA are provided under separate cover, and attached hereto, but generally the industry concurs with several of the findings. The following County Housing Implementation Plan & Strategy (CHIPS) is the building and development industry’s attempt to highlight and recommend specific policies to facilitate housing development.

Other stakeholders may disagree with or oppose several of the recommendations contained herein. Those stakeholders are not responsible for the actual construction of

homes, rather, many face conflicting policy goals including efforts to limit or oppose housing in some areas, conserve habitat, or otherwise preserve “community character” at the expense of equitable, diverse housing.

The reality is these stakeholders are responsible for nearly 10,000 homes that have not been built in San Diego County over the last decade, as well as the tens of thousands of homes that have been built in outlying areas, including the inland empire/San Bernardino County and Tijuana. According to the US Census Bureau, over 47,000 people commute to work from Riverside to San Diego County daily. This translates to over 1 BILLION VMT annually. This amount of VMT is commensurate with the GHG emissions of over 57,000 housing units that could instead be located in San Diego County at much closer commuting distances.

This Comprehensive Housing Implementation Plan & Strategy aims to provide common sense policies and recommendations that would facilitate housing as envisioned by the County’s General Plan and Housing Element, while addressing the shortcomings identified by the Development Feasibility Analysis.

## II. Action Plan

### Near-Term Actions (0-12 Months)

The following actions are proposed and feasible to be implemented within 12 months (i.e., the “Near Term”). These Near-Term Actions have been designed to rely on previous California Environmental Quality Act (CEQA) certification, relying largely on the adopted General Plan Update (GPU) Program EIR (PEIR), and building from existing County direction on efforts to increase housing production, with an emphasis on Village areas (i.e., areas planned for higher density/more attainable housing, and areas that tend to have lower per-capita VMT attributes than Semi-Rural and Rural areas).

None of the following actions would provide for greater density or intensity of development beyond what is envisioned and planned for by the General Plan and analyzed by the GPU PEIR; therefore, the impacts identified in the GPU PEIR would “cover” the environment effects of these Actions. In fact, the proposed Near Term Actions have the potential to reduce the development potential of the General Plan, but at more feasible and market-aligned densities that have a greater likelihood of development.

The goal of the Near Term Actions would be to facilitate Privately Initiated Development Project approvals and building of the housing anticipated in the General Plan, with priority/emphasis on “missing middle” and “for-sale” opportunities (7.3-15 du/acre). This type of housing and density is only available in Village areas and Town Centers, which is consistent with the County’s Population Distribution Strategy, while at the same time providing more generally accepted housing typologies (single family and for-sale/home ownership opportunities).

## A. Zoning Ordinance Update

**Action** - Update the San Diego County Zoning Ordinance to achieve General Plan densities per Housing Element Update (“HEU”), in accordance with **Actions 3.1.1.C** and **3.1.3.A**.

The HEU identified several updates to the County’s Zoning Ordinance as required actions in the Implementation Plan. Action 3.1.3.A required the County, within 2 years (i.e., by 2023) to update the Zoning Ordinance to achieve the densities envisioned by the General Plan and relied upon by the Housing Element.

In particular, the County should focus on:

- a. Minimum Lot Size/Lot Area
- b. Building Types
- c. Height Schedule
- d. Setback Regulations

**“Fit in Process”** – The DFA found that one “Countywide Barrier” to the production of more housing was that “Current development regulations (e.g., zoning standards such as setbacks, minimum lot sizes, height and building types) can prevent General Plan densities from being achieved.”

A long-outstanding Zoning Ordinance Update should have been completed following adoption of the General Plan Update and its associated establishment of Villages and Town Centers, consistent with the Population Distribution Strategy. Further, the Zoning Ordinance Update was required to have been completed within 2 years of adoption of the 6<sup>th</sup> Cycle Housing Element Update, in 2021. By updating the Zoning Ordinance to allow for the density and types of housing product anticipated and planning for in the GPU, the County will facilitate the production of middle-income housing typologies rather than de-facto requiring project proponents to process waivers and variances to achieve these densities. This Action would also support Housing Element Update Action 3.1.1.D requiring the County to maintain a diversity of land use designations and building types to “accommodate various building types and styles,”

**Rationale** – The General Plan increased densities in Village and Town Center areas. These increased densities followed more modern planning principles, including

higher-density, mixed use village areas. However, as explained in the DFA, “Current development regulations ... can prevent General Plan densities from being achieved”. This is consistent with the Housing Element Update, which provided two Actions (3.1.1.C and 3.1.3.A) to update the Zoning Ordinance. Higher density homes tend to be smaller, and therefore, more likely to be naturally occurring attainable housing, especially housing in the 12-18 unit/acre range.

**CEQA Conformance** – Section 15164 Addendum or 15183 Exemption. This action does not increase the intensity or density of development and should not require additional CEQA review (beyond an Addendum or other). It can either tier from the General Plan Update PEIR through a 15164 Addendum finding of no new impacts, or 15183 exemption for being consistent with the General Plan because this update would not change the overall development intensity or density of the General Plan and not result in peculiar impacts not analyzed in the GPU PEIR.

**Priority - HIGH**

## B. By-Right/Ministerial Approvals

**Action** – Expand the “By-Right program” to cover any project in a density range (7.3-20 du/acre) that agrees to dedicate 20% of “base” density at moderate or low income (or 15% very-low) by updating the County’s RHNA Inventory and Housing Element to include all Village sites/locations and extending the same protections under AB1397.

**“Fit in Process”** – Housing Element Action 3.1.1.A calls for the County to maintain land use policies that provide adequate sites to accommodate the County’s RHNA obligation through the Residential Sites Inventory. Based on feedback from staff, fewer than 10 of nearly 240 RHNA sites have been developed since the Housing Element Update.

An update to the RHNA inventory should have happened when the County eliminated the largest housing element site, Otay 250, from residential development due to an infeasible settlement agreement between the developer and the Sierra Club. Nearly 2,200 claimed affordable units, including over 600 “lower income” units were removed from the RHNA Sites Inventory with the Otay Majestic project and were never replaced with new units.

Accordingly, the County should prioritize the development of sites in Village areas, including those at densities that are likely to generate for-sale housing that is considered “missing middle/attainable”. This would include small-lot detached homes (VR-7.3 and 10.9) and Townhomes (VR-15, VR-20).

**Rationale** – AB1397 and housing element law give RHNA sites certain advantages and processing benefits that are not available to non-RHNA sites. Nothing in state housing law precludes identifying far more sites as RHNA eligible. The County should focus its update to the RHNA map on Village areas to facilitate/encourage implementation of General Plan buildout. It would not increase the density or intensity of development under the General Plan, it would simply remove the hurdle(s) for opponents to challenge “infill” housing by giving far more properties the benefit of being RHNA-designated sites.

**CEQA Conformance** - This can be accomplished through a CEQA Addendum (no Public Distribution, Industry to prepare) because

**Priority – HIGH**

### C. Village/Infill “Overlay”

**Action** – Develop and implement a “Land Use Overlay” for any parcel(s) designated VR-20 or greater to be developed at lower base densities (7.3-15 du/acre) before application of any density bonus.

**“Fit in Process”** – Consistent with the findings of the Development Feasibility Analysis, the Industry agrees and supports expanding land uses at medium density (VR-7.3 to VR15) which are feasible under current and reasonably foreseeable market conditions. This action could complement Short-Term Action A by providing MORE land that would be available for the types of housing that the rezone would affect (medium density) but could also be used for higher-density under Density Bonus.

**Rationale** – One problem identified by the DFA is that many sites are planned at densities that the market can’t support, including the second largest RHNA site around the Buena Creek Sprinter Station. This is only exacerbated with implementation of an Inclusionary Housing Ordinance, which further reduces the feasibility of projects at these densities (and which was not factored into the Financial Feasibility Analysis for the DFA). Instead, the County should consider a Land Use Overlay for properties designated at or above VR-20 to allow for lower density. This would increase the feasibility of these sites and encourage the use of Density Bonus (by reducing the base unit count and the associated set aside amount).

**CEQA Conformance** – The Action could reduce development intensity and density if it was focused on sites above VR-20. Therefore, it would be eligible for a CEQA Addendum or Exemption under either 15164 (Addendum) or 15183 (Exemption).

**Priority – HIGH**

## D. VMT Exemptions for Village Regional Categories

**Action** – In accordance with California Government Code Title 14, Section 15183 et. seq., adopt an official policy of the Board of Supervisors to exempt any General Plan and Zoning compliant project in the Village Regional Category from VMT analysis.

**“Fit in Process”** – VMT has been responsible for the dramatic reduction in the number and types of Privately Initiated Development Projects in the County in the last three years. Since the Transportation Study Guidelines were updated to requiring reducing VMT 15% below the regional average. The County has already concluded, correctly, that project’s which are consistent with the General Plan may be exempt from VMT on a “case by case” basis, in accordance with the *Hilltop Group vs. County of San Diego* court ruling.

**Rationale** – The DFA clarifies that lack of clarity on VMT is a barrier to housing as development proponents are unsure of how the County and Board will treat projects. Because the County is generally not “VMT efficient”, the overwhelming majority of projects would fall outside of VMT efficient areas. In fact, only roughly 4% of the County’s available housing stock in the general plan (roughly 2,000 of 50,000 units) fall within VMT efficient areas. Without prioritizing development in Village areas, the vision of the General Plan will never be achieved.

**CEQA Conformance** – As permitted by State Government Code, no CEQA would be required to implement state law.

**Priority – HIGH**

## E. Expand “Removing Barriers to Housing”

**Action** - Apply the processing/schedule requirements in the “Removing Barrier to Housing” to ALL Village projects and track actual performance. Goal is for 80% of project reviews on projects larger than 20 units to be completed within 30-days, 90% would have a maximum of 3 plan check/screen checks, and no “late hits” would be allowed.

**“Fit in Process”** – The County adopted the Removing Barrier to Housing item in 2023. This item was consistent with Housing Element Update Acton 3.2.2.A which required the County to “Implement expedited permit processing for affordable housing projects, including projects that qualify for density bonuses (in compliance with Board Policy A-68 as well as SB 35 – Affordable Housing Streamlined Approval). Continue to explore ways to expedite affordable housing development.”

The application of the “Removing Barriers to Housing” program was too limited to materially improve housing production because it only applies to 100% affordable projects, VMT efficient and Infill areas, and multi-family projects, which the DFA has demonstrated are less feasible than other housing typologies. Once the IHO is adopted, and all projects in Village areas are incentivized to build affordable housing onsite, they should be eligible for permitting under this item.

**Rationale** - To further incentivize the Village areas, the County’s broadening of the *Removing Barriers to Housing* would support more development, including non-residential uses that are pivotal to supporting communities. It remains unclear what if any impact the Court of Appeals ruling against the TSG will have on “infill” areas. Regardless, as noted in the staff report on the TSG, only approximately 12% of the County’s remaining housing is in VMT efficient and Infill areas, but once the findings of the DFA are applied, it is likely the actual development potential of these areas is much less.

**CEQA Conformance** - No additional CEQA required, rely on same *Removing Barriers to Housing* finding(s) and CEQA documentation.

**Priority - HIGH**

## F. Inclusionary Housing Ordinance

**Action** – Adopt and Inclusionary Housing Ordinance (IHO) that works for developers and builders by phasing in the Ordinance over 5 years. The Ordinance should start with projects of over 50 base units and shall require set aside amounts of 5% Low or 10% Moderate.

Each year, the minimum project size shall adjust down from 50 (yr 1) to 40 (yr 2) to 30 (yr 3) to 20 (yr 4) to 10 (yr 5) units. Further, each year the set aside requirement would go up 1% per year to 10% Low, or 15% Moderate, with the ability to do very low set at 5% (the minimum required for Density Bonus).

The IHO should include expanded opportunities to meet the affordable housing obligation. In particular, the IHO should allow for a project to achieve at least a portion of the set-aside through the provision of Accessory Dwelling Units (ADUs). We recommend the County review the City of Carlsbad as an example.

We also recommend the County provide for a “local” density bonus, of 5% to 10%, for projects within the VR-2, VR-2.9 and VR-4.3 land use categories.

Another incentive for projects to develop affordable housing units on-site would be for the County to limit the traffic analysis and/or off-site traffic improvements for projects in Village areas that build affordable housing.

Importantly, the IHO should NOT provide for a higher set-aside amount for projects in VMT Efficient or Village areas.

**“Fit in Process”** – The adoption of an Inclusionary Housing Ordinance was identified as an Action in the Housing Element Update. Specifically, Action 3.1.1.E, which required the County to “develop an Inclusionary Ordinance by 2022... to help facilitate construction of affordable housing for lower- and moderate-income households.” The County has prepared the Ordinance and heard the item, but deferred action until after staff presented the results of the DFA and VMT mitigation.

**Rationale** - Adopting an Inclusionary Housing Ordinance will support efforts to provide deed-restricted affordable housing. Consistent with the motion in August 2024, the above strategy would allow for the phasing in of the Inclusionary Ordinance, it would comport with the set-aside amounts needed to participate in state Density Bonus, and it was developed by experts in market-driven solutions to housing – the

Building Industry Association. The key is providing flexibility, both in the phasing in of the Ordinance – which other jurisdictions including the City of San Diego – have done, as well as Alternative Compliance, including the use of ADU’s to meet a portion of the affordable requirement and the potential for developing off-site affordable units.

Areas within designated “Villages” and are more likely to support higher-intensity land uses (i.e., smaller than 10,000SF lots). The recommendation for a local Density Bonus for VR-2, VR-2.9 and VR-4.3 designated lands is because these lower intensities would not necessarily allow a project to achieve densities that would provide for more attainable housing. However, the combination of State-permitted and a local density bonus could incentivize small-lot development in Village areas. The Development Feasibility Analysis demonstrates this type of development is feasible, but documented there is limited availability of land. Thus, by increasing a local density bonus, and allowing for ADU’s to be subdivided and sold, the County would be creating conditions for more feasible development.

With the latest Court of Appeals ruling against the Transportation Study Guidelines, the status of the County’s Transportation Study Guidelines and development within the “Infill” areas is uncertain, as is the potential to develop a feasible mitigation plan for VMT. Therefore, the County should avoid any increased set-aside requirements for projects in “Infill” areas.

**CEQA Conformance** – The CEQA analysis for the IHO has already been prepared. No further analysis is required.

**Priority - MODERATE**

## G. Eliminate “Public Disclosure”

**Action** - Eliminate the “Public Disclosure” period for Privately Initiated Development projects which do not require public review under the California Environmental Quality Act (CEQA).

**“Fit in Process”** – The elimination of Public Disclosure for certain projects would be consistent with Housing Element Update Acton 3.2.2.A and Action D (above) and could be another incentive to projects which provide affordable housing on-site (Action E).

**Rationale** - CEQA does not require public review for certain projects, including Addendums and Exemptions. However, the County’s practice has been to require a 30-day “public disclosure” period, which not only exceeds any requirement under state law, but represents a risk to projects in two ways. First, a disclosure period gives opponents an opportunity to slow a project through providing comments which would otherwise not be permitted under CEQA. Second, the County’s practice is for projects to then respond to these comments before moving a project forward for decision, which extends the permitting timeline and increases costs.

**CEQA Conformance** - No CEQA Required.

**Priority** - MODERATE

## H. Flat Fee Structure

**Action** – Restructure Project Planning from a Full Cost Recovery model to Flat Fee for qualifying General-Plan compliant Tentative Maps and Site Plans in Village areas as follows:

- a. Small Project (Fewer than 50 units total)
  - i. Exemption/Addenda - \$60,000
  - ii. MND - \$80,000
- b. Medium Project (51-200 DU)
  - i. Exemption/Addenda– \$120,000
  - ii. MND - \$150,000
- c. Large Project (201+ DU)
  - i. Exemption/Addenda - \$200,000
  - ii. MND - \$250,000
- d. Specific Plan – Deposit (TBD)
- e. GPA/Rezone – Deposit (TBD)
- f. EIR – Deposit (TBD)

**“Fit in Process”** – Moving to a flat fee structure would give Privately Initiated Development Project applicants more certainty in the total costs of project processing, and reduce overall costs. Combined with a ministerial process under Action B, and greater certainty in the processing schedule under Actions E and F, these would increase the likelihood of a project moving forward, as well as keep costs lower for developers which ultimately may improve housing affordability.

**Rationale** - As determined by the DFA, the development/redevelopment of areas within the DFA Study Area are not considered feasible; therefore, reducing the costs of processing projects would support development of these priority development areas. Bundling this with other actions, particularly in Village areas, supports housing projects.

**CEQA Conformance** – Changing a fee structure is not a “project” and would not be subject to CEQA conformance.

**Priority** – **LOW** (based on current County budget constraints and realities)

### Medium Term (12-24 months)

In addition to the Short Term Actions identified above, the following Medium Term Actions are recommended to facilitate residential development. These actions are recommended to be completed within two years because they either require some level of CEQA review or stakeholder outreach.

## I. Comprehensive Impact Fee Review

**Action** – Conduct a comprehensive Impact Fee Review for all County and county-located districts to determine if there are any reductions to impact fees that could lead to direct reductions in project costs, or other changes to fee structures to incentivize development in Village areas while providing adequate infrastructure.

**“Fit in Process”** – Following adoption of an Overlay Zone in Village areas, the County should initiate the Impact Fee Review, with a focus on following the Traffic Impact Fee model of Village vs Non-Village areas. Similarly, the County would work with special districts to conduct a similar fee review. For water services, this effort could be combined with any Urban Water Management Plan (UWMP) updates, which are statutorily required to occur every 5 years.

**Rationale** – One direct cost which the County has control over are the impact fees that Privately Initiated Development Projects pay for various infrastructure and services, including but not limited to, Parks, Traffic, Drainage, and Fire. Beyond these, special districts including water, sanitation and school, charge projects fees including water connection and capacity fees, sewer capacity and connection fees, and school fees. Combined, these fees can represent as much as 10% or more of the cost of a new home. As fees continue to climb, the planning and land use construct in the County has changes, with more development planned as “infill”, which would reduce costs by prioritizing development in areas of existing infrastructure.

**CEQA Conformance** – No CEQA is required to conduct the fee review.

**Priority** – HIGH

## J. Role of Community Planning Groups

**Action** – Review Board Policy I-1 under the requirements of state Density Bonus to consider Community Planning and Sponsor Groups a “consistency review” determination and not a vote regarding the merits of a project.

**“Fit in Process”** – Following updates to the County Zoning Ordinance (Action A), the County, in combination with Community Planning and Sponsor Groups, would review and update Community Plans.

**Rationale** - Consistent with the Housing Element Update, the County has adopted Objective Design Standards in several communities, or otherwise there are Community Plans which are developed with input from Community Planning and Sponsor Groups. However, often Privately Initiated Development Projects are judged based on characteristics that are subjective, including conformance with “community character”. This results in opposition to projects from local planning and sponsor groups, which represents a risk to development proposals, increases costs, and extends schedules. Reviewing Board Policy I-1 under the requirements of state Density Bonus to focus on consistency with objective standards and would allow project proponents a clearer understanding and more certainty in the process.

**CEQA Conformance** – No CEQA required to amend Policy I-1. For any conforming revisions to Community Plans, use the CEQA conformance document from Action A.

**Priority - MODERATE**

## K. Programmatic VMT and GHG Coverage for GPA/Rezoning

**Action** - Develop a programmatic approach to mitigate for non-General Plan compliant projects to reduce Vehicle Miles Traveled (VMT) and Greenhouse Gas (GHG) emissions by allowing General Plan-compliant projects that exceed GHG and VMT-minimum reductions to sell excess “credits” through the creation of local mitigation banks.

**“Fit in Process”** – The DFA identified uncertainty around Vehicle Miles Traveled as a barrier to housing in the DFA areas, which is only exacerbated by the Court of Appeals ruling that determined that “Infill” areas were not qualified to be VMT exempt based on the substantial evidence previously provided by the County.

**Rationale** - By providing a mechanism for local reductions in GHG and VMT emissions by allowing General Plan compliant projects that achieve additional GHG reductions beyond those required by the General Plan and Climate Action Plan (CAP), the County can create an incentive program for projects to then “sell” those credits to qualifying General Plan Amendment (GPA) and Rezone projects.

**CEQA Conformance** – The establishment of a local VMT and GHG mitigation bank may qualify as a “project” under CEQA and could require the preparation of environmental analysis.

**Priority - MODERATE**

## L. Self Certification

**Action** – Coordinate with the Building Industry Association to identify and prioritize additional permits and approvals that could be “self-certified”.

**“Fit in Process”** – The County previously provided an update to the Board on the status of the County’s Self Certification program. Self certification expedites certain plans and permits, reducing schedules and costs, which is consistent with the recommendations and findings under the DFA and would support Actions B and D, above.

**Rationale** – Allowing projects to “self-certify” reduces processing timelines and costs because it avoids additional County review of selected permits and approvals. While many of these approvals and permits may not affect residential development, at least at the entitlement level, they can expedite subsequent permitting which supports efforts to bring housing to the market faster.

**CEQA Conformance** – It is expected that most self-certification efforts would be minor and not require any additional CEQA review; however, certain efforts such as those related to certain grading permits, could be folded into existing County efforts related to the Resource Protection Ordinance.

**Priority - LOW**

## M. Discretionary to Ministerial

**Action** – Coordinate with the Building Industry Association to identify permits that would be eligible to be processed ministerially.

**“Fit in Process”** - The County is exploring permits that could be reclassified as ministerial. Allowing for ministerial approvals, instead of discretionary approvals, expedites certain plans and permits, reducing schedules and costs, which is consistent with the recommendations and findings under the DFA and would support Actions B and D, above.

**Rationale** - Allowing projects to be reviewed ministerially reduces processing timelines and costs because it avoids additional County review of selected permits and approvals. While many of these approvals and permits may not affect residential development, at least at the entitlement level, they can expedite subsequent permitting which supports efforts to bring housing to the market faster.

**CEQA Conformance** – It is expected that most ministerial efforts would be minor and not require any additional CEQA review; however, certain efforts such as those related to certain grading permits, could be folded into existing County efforts related to the Resource Protection Ordinance.

**Priority** – LOW

## Long Term (3+ Years)

Goal: Facilitate the conditions precedent to produce more housing in the unincorporated County consistent with the adopted General Plan and Housing Element, with an emphasis on for-sale housing at more attainable/middle income levels will also supporting the application of Density Bonus to generate deed-restricted affordable units.

Set up the next Housing Element Cycle to create an abundance of new housing opportunities that are “covered” and eligible to go straight to builder permit/improvement plans. These would be in Village areas, at reasonable densities, with clear requirements to qualify (similar to the Complete Communities – Housing Solutions).

## N. Amend SR-1 and SR-2 Land Use Categories

**Action** - Initiate a focused General Plan Amendment to designate SR-1 and SR-2 land uses to either more Village supporting (VR-2/2.9/4.3) or to SR-4 and lower.

**“Fit in Process”** – In anticipation of the next Housing Element Cycle, and to comply with state law requiring that Housing Elements include at least 50% of their inventory as vacant and underutilized, the County should identify areas near Villages that can support more market-appropriate densities to supplement development in Villages. This would follow the Zoning Ordinance Update (Action A) and would require CEQA which would take two+ years to prepare.

**Rationale** – The three largest sites/properties from the County’s 5<sup>th</sup> and 6<sup>th</sup> Cycle Housing Elements, including the Otay 250 project site, the area around the Buena Creek Sprinter Station, and County Island within the City of San Diego are no longer eligible Housing Element Sites. These comprised over 50% of the previous RHNA. As demonstrated by the current RHNA cycle, where less than 10 of over 240 RHNA sites have so far been developed, the County must re-strategize how to select RHNA sites, focusing on working with the development and building industry and private property owners to select sites that have a demonstrable potential to redevelop during the planning horizon.

**CEQA Conformance** – At a minimum, an amendment to the General Plan would require a focused analysis of total development potential before and after the proposed amendment. Depending on the extent of the amendment, a full EIR may be required if new or significantly greater impacts would occur as a result of the GPA. This could be part of the next Housing Element Update (2029)

**Priority - LOW**

## O. 7<sup>th</sup> Cycle Housing Element Update

**Action** – Complete a Comprehensive 7<sup>th</sup> Cycle Housing Element, which includes full CEQA, and any necessary land use and zoning changes, to facilitate “by-right” development of all Housing Element sites.

**“Fit in Process”** – The next Housing Element Update cycle, which is scheduled in 2029, can pull together all the actions contained herein to facilitate housing development.

**Rationale** – The County has seen a dearth of Housing Element projects during the current planning cycle, relying instead on previously approved master plan/planned development project such as Park Circle, Horse Creek Ranch and Citro (previously Meadowood), as well as Accessory Dwelling Units(ADUs) to demonstrate progress towards the County’s RHNA numbers. Very few if any of these units actually have any deed-restrictions, therefore, the actual amount of affordable housing being producing is minimal. By better selecting and planning for feasible development sites as part of the next Housing Element Update, the County may encourage more attainable housing production.

**CEQA Conformance** – CEQA review will be required for the Housing Element Update.

**Priority - HIGH**

### III. Tracking and Reporting

Action	Schedule	Priority	Work Plan
A. Zoning Ordinance Update		High	
B. By Right/Ministerial Approvals		High	
C. Village “Overlay” Zone		High	
D. Expand “Removing Barriers to Housing”		High	
E. Inclusionary Housing Ordinance		Moderate	
F. Eliminate “Public Disclosure”		Moderate	
G. Flat Fee Structure		Low	
H. Impact Fee Review		High	
I. Community Planning Groups		Moderate	
J. Local VMT/GHG Offset Program		Moderate	
K. Self Certification		Low	
L. Discretionary to Ministerial		Low	
M SR-1 and SR-2 Land Use Amendments			
N. 7 <sup>th</sup> Cycle Housing Element Update			

## Opinion

# Opinion: Developers and Environmentalists Agree – More Housing Is Needed Outside City Boundaries

by [Aimee Faucett](#) and [Dan Silver](#)

January 14, 2026



A housing development being built in Oceanside on Dec. 8, 2022. / Photo by Ariana Drehsler

*Silver is the CEO of the Endangered Habitats League, a regional leader in the field of conservation and growth management. Faucett is the President and CEO of the San Diego Building Industry Association,*

*representing homebuilders, building trades and subcontractors throughout the region.*

An environmentalist and a developer walk into a public meeting. It sounds like the start of a bad joke, but in this case it reflects how strained and challenging the county of San Diego's direction on land use and housing has become. Decades of chronic underbuilding of housing continue to exacerbate this housing crisis, causing families to flee to more attainable housing markets such as Riverside County and Tijuana.

The U.S. Census Bureau determined that over 47,000 households commute from Riverside to San Diego daily for work. At an estimated average one-way trip length of approximately 50 miles, this represents over one billion miles driven each year by commuters that San Diego is "exporting" to live in other, more affordable regions.

Similarly, thousands of workers now commute from Tijuana across the border each day, enduring some of the longest wait times in the nation to access jobs they can no longer afford to live near. To reduce vehicle miles traveled and greenhouse gas emissions, we must address this imbalance by building more housing in San Diego.

Most of the new housing will be located within the region's cities, closer to existing jobs, services and transit, but we must also address the housing needs of San Diego County residents who live outside city boundaries.

To meet those housing needs, we will need to build homes in parts of unincorporated San Diego which were previously identified in the 2011 General Plan Update.

To begin addressing this issue collaboratively, the Endangered Habitats League and the Building Industry Association of San Diego spoke at a county housing workshop on Nov. 19, where they urged the county to prioritize housing in existing village areas identified in the General Plan 14 years ago. Villages are those central "downtown" areas of commercial and retail uses and slightly higher densities which serve as anchors to the surrounding community. While these groups don't often agree, the walkable communities envisioned in these core locations facilitated this unique policy alignment. At the same time, the rural greenbelts that surround the villages – also home to wildlife – can remain intact.

A county study concluded the reasons for stymied building include outdated zoning, uncertain and lengthy processing requirements, high construction costs and lower rental rates and sales prices in unincorporated communities. This has left the county increasingly reliant on accessory dwelling units to meet state-directed housing goals. Village-style development also creates walkable, compact communities that reduce long commutes and support local services, improving both quality of life and environmental outcomes. New housing products in the villages can be townhomes, courtyards and homes on smaller lots, using land efficiently and increasing affordability.

EHL and BIA advocated for the county to facilitate development in areas already identified for more housing – villages. Our shared recommendations included fast-tracking overdue updates to the county’s zoning ordinance to allow greater flexibility, facilitating more feasible village development at moderate densities, offering expedited permitting to projects in village areas and adopting an inclusionary housing ordinance for low-income homes. These aren’t dramatic, but without urgency we remain deeply concerned we will continue to drive families into daunting commutes that damage both quality of life and the environment.

A key advantage is that they can be adopted without extensive environmental review because they are fully consistent with the general plan.

We urge the Board of Supervisors to expedite action on these recommendations.

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