



Public Correspondence Item 2

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May 10, 2021

Ms. Sohab Mehmood
State of California
Department of Housing and Community Development
Housing Policy Division
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833

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RE: County of San Diego Housing Element, 6th Cycle

Dear Ms. Mehmood:

Thank you for this opportunity to provide input on the County's Housing Element Update. The Building Industry Association of San Diego represents 650 member companies in the San Diego Region comprising a workforce of 35,000 San Diegans. As HCD knows, the state is experiencing both a housing crisis and public health crisis that have combined to exacerbate the housing affordability situation in many major metropolitan areas of the state.

BIA is involved throughout California as local jurisdictions update their Regional Housing Needs Assessment's and prepare 6th Cycle Housing Elements. Our primary goals are to ensure that these updates are consistent with the many changes to state law since the last round of Housing Element Updates and that the housing capacity local jurisdictions are showing is real.

There is a severe housing crisis in the San Diego region. Our population continues to grow as a result of natural, economic, and migratory factors, yet many of our local general plans and associated zoning and land use regulatory frameworks do not allow for or facilitate sufficient housing to be built for our growing population.

This disconnect between the need for housing and our land use regulatory environment's ability to accommodate it has persisted for decades and in many areas has gotten worse, translating into a lasting housing crisis that is worsening. It has resulted in longer and even far out-of-region commute patterns (rising VMT, which accounts for upwards of 40% of local GHG emissions) and in some of the highest housing costs in the United States. Other parts of our region, such as older commercial districts and areas targeted for village-style and infill development, are experiencing a slow decay, in some cases becoming blighted, because general plan, zoning, and land use constraints and other regulatory burdens combine to effectively block, despite the intent to encourage, housing in these areas.

The County of San Diego's General Plan was comprehensively updated in 2011 to accommodate approximately 62,000 new housing units and a forecasted 42% increase in population by the year 2030. Since the adoption of the County's comprehensive General Plan Update in 2011, less than 8,000 housing units have been built in the ten years that followed¹. This is less than 13% of the total number planned with the General Plan Update and about a quarter of the projected need for the same time period, despite a record national recovery in the housing market following the Great Recession. The County's General Plan in conjunction with its CEQA process, zoning ordinance and zoning parameters ("zoning boxes"), and associated environmental regulations combine to preclude most housing projects, especially in areas where the County's General Plan encourages or directs housing.

The County's General Plan Framework is Fatally Flawed

The basic land use framework of the County's General Plan (i.e., the Regional Categories Map) is not working to accommodate housing in Village areas. In many cases, the Village boundaries and associated village land use designations do not cover sufficient physical area within communities to provide enough opportunity to create new housing. Areas designated Village are predominantly smaller parcels and have been built out with significantly less-intense land uses (i.e., single family residential and single-story commercial). Redevelopment only makes financial sense through an assemblage (i.e., acquiring multiple parcels from various property owners) and at densities the community often does not support. In fact, based on Building Permit data from the County, since the General Plan was updated in 2011, only 1,580 building permits have been issued in Village areas, despite the General Plan's goal to create smart growth, infill Village areas for purposes of reducing GHG emissions and vehicle miles traveled.

Areas immediately outside of Villages, which should appropriately be considered village support areas are instead designated "Semi-Rural" in the General Plan, despite being relatively unconstrained environmentally and despite having or being adjacent to sewer and water services, multiple access/ingress/egress points, and other site or neighboring conditions appropriate to accommodate housing. Instead, these Semi-Rural areas predominantly have land use designations which only match the existing low-density housing patterns in that area of the community, despite being close to services and infrastructure and having the potential to provide the necessary housing to support more dense Village development. To effectuate vibrant Village areas, there needs to be sufficient supportive demand in the form of enough rooftops and population to frequent Village areas. As shown by the County's own numbers, the demand for housing in Village areas is not enough to support businesses and residual land values; thus, more housing needs to be focused in these Semi-Rural areas.

¹ Based on statistics from the Construction Industry Research Board

Outside of Semi-Rural areas are areas designated as “Rural” where housing is either precluded or highly restricted, areas where collectively the County removed around 40,000+ housing units with its 2011 General Plan Update.

The 2011 General Plan Update also heavily restricted housing on Sphere of Influence lands and in “County Island” areas, areas immediately adjacent to or between incorporated cities. Rather than designating these areas with a designation that matched development in the neighboring city, the County designated many of these areas with Semi-Rural or lower designations. The consequence has been a wave of General Plan Amendment projects for these lands, approvals which have been subsequently challenged in court and/or made subject to referendum by opponents of new housing.

The County’s Zoning Ordinance is not consistent with its General Plan Guiding Principles or its Land Use Designations

The County applied a range of higher density multifamily land use designations to its Village areas but in some cases did not create the zoning standards (setbacks, building heights, etc.) for projects to be able to effectively achieve these higher densities. In other cases, the County applied land use designations in Village areas that support housing and other uses (like retail or office) but did not assign housing density in the zoning boxes for parcels within these areas. So even though the General Plan envisions housing in these areas, the zoning for the property does not allow it.

Outside of Village areas, despite the stated intent to disconnect lot size from density with the 2011 General Plan Update, this exercise never occurred and Semi-Rural and Rural areas are still constrained by pre-2011 lot size standards.

The County’s CEQA, and Environmental and Engineering Processes and Regulations Place a Heavy Burden on Most Projects

Housing projects in the County are often forced to undergo a costly, time-consuming and uncertain EIR process that can take 5 years or longer. One recently approved, but already challenged project took 13 years from first application to reach a hearing. Even projects that are consistent with the County’s General Plan, including those in Village areas and Specific Plan areas, are subject to lengthy, project specific planning and environmental reviews despite being covered under the 2011 General Plan Update.

Many projects also face costly offsite road improvements, fire and habitat mitigation fees and obligations, and, increasingly, an array of costly GHG mitigation measures. Many projects also get tripped up by the County’s Resource Protection Ordinance which has avoidance measures that exceed state and federal regulations for the same, including prohibitions on any impacts and requirements for buffers that exceed federal and state regulatory standards. Finally, the County has required projects to engage in costly, detailed, final engineering-level analysis of storm water, drainage, and flood control conditions at the planning level, resulting in significant delays, ballooning engineering costs, and forcing multiple design iterations.

Infrastructure and Fire Service Deficiencies Result in Costly Mitigation and Exactions on New Housing Projects

The on-the-ground conditions in many communities result in costly mitigation and exactions on potential housing projects. Many communities in the County have significant infrastructure and fire service deficiencies. Decades of population growth without creating new housing combined with historic land use patterns, patterns that the 2011 GPU largely perpetuated, have spread out demand and require more linear infrastructure per capita that makes many smaller and medium-size projects infeasible.

As a result, many County Circulation Element road segments are failing or experiencing congestion during the peak periods, consequently placing a heavy burden on individual housing projects to solve. Further, many local fire districts are running annual budget deficits due to an imbalance between the number of fire stations and fire personnel required to serve a physical area versus the number of people living in that area funding that fire service. New housing projects are often pressured to solve these structural deficits with financial contributions to the fire district, above and beyond the fire mitigation fees already imposed.

Pending New County VMT Standards and Conditions on Housing Projects Will Make the Situation Significantly Worse.

The County Board of Supervisors is moving forward with a new Climate Action Plan (CAP) and revised VMT Regulations which could effectively preclude any new housing development in unincorporated communities. On January 13, 2021, the County Board of Supervisors took action to direct County staff to “develop a CAP that...does not rely on the purchase of carbon offsets to meet emission reductions targets,”² taking a critical California Air Resources Board-supported GHG reduction tool off of the table for new housing projects to use to mitigate the impacts of GHG caused by traffic/VMT.

At a subsequent workshop, the County Board asked County staff to analyze the use of a per capita VMT *regional* average as the basis for its VMT threshold and changing criteria that currently screen out smaller projects. In June 2020, a previous Board of Supervisors adopted VMT regulations that use an *unincorporated area* average as the basis for the threshold, more closely matching actual travel and commute patterns in unincorporated communities and consistent with what many other counties in the state have done. In a striking contrast, based on an analysis prepared by County staff, using a per capita regional average would result in only 2% of the unincorporated area being considered “VMT efficient” and would result in VMT mitigation costs between \$50,000 and \$900,000 per new home. These are the County’s own costs estimates. How would such a policy provide for any semblance of affordable housing? Without understanding the ramifications of VMT, the County cannot reasonably expect to update its Housing Element in a meaningful way to accommodate very-low, low, and moderate-income housing. Similarly, without an

² Refer to County of San Diego Board of Supervisors Wednesday, January 13, 2021, Minute Order No. 5.

enforceable CAP, the County can't assure HCD that any unit identified in this Housing Element Update Cycle can actually be constructed.

Pending New County Standards and Conditions May Violate the Housing Crisis Act of 2019

These pending regulatory changes—related to the County's CAP and VMT threshold—will get adopted after HCD's approval of the County's Housing Element Update. However, they will severely limit new housing construction in unincorporated communities if adopted as currently contemplated by the Board of Supervisors. Importantly, these proposed regulatory constraints may also violate Senate Bill 330, the *Housing Crisis Act of 2019*, by constituting a “development policy, standard, or condition...that would have the effect of...(B) imposing or enforcing a moratorium on housing development within all or a portion of the jurisdiction...or (D) establishing or implementing certain limits on the number of permits issued by, or the population of, the county...” or by being a policy, standard or condition that does not “facilitate or accommodate development at a density permitted on the site and proposed by the development.”³

In summary:

- 1) the County's General Plan is structurally flawed as to not accommodating sufficient housing;
- 2) The County's Zoning Ordinance does not correctly implement the vision and housing objectives of the County's General Plan;
- 3) The County's CEQA process, environmental and engineering regulations, and exactions make most small and medium-sized projects infeasible. Only a handful of larger master-planned community-style projects have the resources, scale, and timeline to navigate the County's process and absorb the cost and risk associated with getting County approval. Making matters worse, all of these larger projects have or currently face extensive litigation from the environmental community and other self-interested anti-housing organizations.
- 4) Finally, the County Board of Supervisors is moving forward with new environmental standards and policies that would further constrain new housing in the County and potentially violate the Housing Crisis Act.

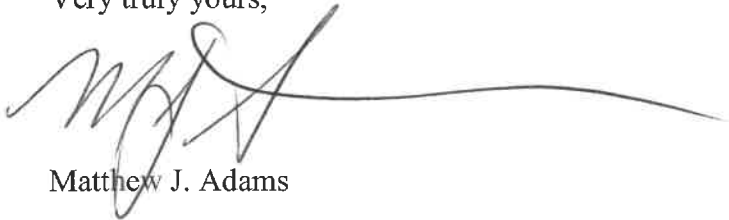
All of these issues should be addressed in the context of the County's proposed Housing Element Update. We encourage HCD to raise these issues with the County and request that the County outline a plan or identify options to address them to ensure that the Housing Element Update is not frustrated by other subsequent County actions and processes. Based on our experience in Encinitas, BIA is very familiar with how state law has changed around

³ Refer to Senate Bill 330, the Housing Crisis Act, Preamble Part (4)(B) and (D), and Section 3, i.e., new Government Code Section 65589.5(f)(1).

the latest requirements for housing, and we believe that the County's Housing Element Update does not meet the state's requirements. We do not desire to see the County in a state of perpetual catch-up, but under the current proposal, we believe the County is behind the proverbial 8-ball and must reconsider strategies to achieve its share of the RHNA, with a focus on properties that are vacant and underutilized, with property owners that have expressed an interest in development, and with a demonstrable ability to redevelop during the planning horizon. Without these assurances, the County's Housing Element Update will be doomed to the same shortcomings as the current Housing Element, further exacerbating the housing shortage which in turn forces more families out of San Diego, commuting longer and longer distances from Temecula, the Inland Empire, or Tijuana, Mexico, in direct conflict with the state's goal of reducing VMT.

Thank you for this opportunity to provide input on HCD's review of the County's Housing Element Update. Please do not hesitate to contact me if you would like to discuss the issues above or need additional supporting information.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'M. J. Adams', followed by a long horizontal line extending to the right.

Matthew J. Adams

Vice President

Building Industry Association of San Diego County