

**LL-14**  
**Latham & Watkins LLP**  
**on behalf of the Golden Door Properties, LLC**  
**Dated: April 17, 2018**

1. Introduction

The comment letters submitted by Latham & Watkins on behalf of the Golden Door Properties, LLC, dated April 17, 2018, May 8, 2017, and May 10, 2017, are either late letters in response to the Newland Sierra Draft EIR or letters to other agencies that do not require a written response from the County.

Under CEQA Guidelines Section 15105, the County was legally required to provide a 45-day public review period on the Draft EIR. In order to provide additional time, the County instead afforded 60 days for public review and comment. The public comment period for the Draft EIR began on June 15, 2017, and ended on August 14, 2017. All comment letters received after expiration of the public review and comment period ending on August 14, 2017, are considered late comments.

A lead agency is required to consider comments on the Draft EIR and to prepare written responses if a comment is received within the public comment period. (Pub. Resources Code, §21091(d); CEQA Guidelines, §15088.) When a comment letter is received after the close of the public comment period, however, a lead agency does not have an obligation to respond. (Pub. Resources Code, §21091(d)(1); Pub. Resources Code, §21092.5(c).) Accordingly, the County is not required to provide a written response to late comment letters, including the April 17, 2018, letter from Latham & Watkins. (See, CEQA Guidelines, §15088(a)).

Nonetheless, for information purposes, the County has elected to respond to these letters, but without waiving its position that written responses to late comment letters are not required by law.

2. The letters misinterpret Housing Element Policy H-1.9.

The County received letters from Golden Door Properties, LLC (through its counsel Latham & Watkins, LLP) — one dated April 17, 2018 to the Board of Supervisors, another dated May 8, 2018 to the California Department of Housing and Community Development, and a third dated May 10, 2018 to the County’s Office of County Counsel. Each letter cites current County General Plan Housing Element Policy H-1.9, which provides as follows:

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**H-1.9 Affordable Housing through General Plan Amendments.** Require developers to provide an affordable housing component when requesting a General Plan amendment for a large-scale residential project *when this is legally permissible*. (Italics added.)

In summary, each letter states (a) it is “legally permissible” for the County to require developers requesting a General Plan amendment on a large-scale residential project to provide an “affordable housing component,” (b) the Newland Sierra project includes 2,135 units and none are affordable housing, (c) the project’s market analyses is outdated and inaccurate, and (d) the project is therefore inconsistent with the County’s General Plan affordable housing policy and cannot be approved, unless and until the County adopts an inclusionary housing ordinance to implement its General Plan requirements, or imposes a condition requiring an affordable housing component for the project.

Golden Door requests that County Counsel immediately prepare an affordable housing ordinance and that delays in preparing such an ordinance are unreasonable, an abuse of discretion, and in violation of Government Code 65860. Golden Door also suggests that devising and adopting such an ordinance is not “difficult or complicated” and that the County could simply impose the same affordable housing ordinance as adopted by the City of San Diego or the City of San Jose in *California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435 (“*City of San Jose*”).

For the reasons discussed below, the County does not concur with Golden Door’s affordable housing claims or its interpretation of General Plan Housing Element Policy H-1.9.

### 3. The County’s General Plan is the guiding document behind Policy H-1.9.

In August 2011, the County Board of Supervisors certified the Final Program EIR and adopted its General Plan. The General Plan represents a framework for the future growth and development of the unincorporated areas of the County. The unincorporated County is divided into 24 community planning areas with unique topography, natural resources, community character, and a diverse mix of physical, demographic, socioeconomic, and other constraints and opportunities.

The General Plan includes Housing Element Policy H-1.9, with language requiring developers to provide an affordable housing component when requesting a General Plan Amendment for a large-scale residential project “when this is legally permissible.” This policy was first introduced into the draft General Plan Goals and Policies framework in the 2008 Public Review Draft of the General Plan. The language “when ... legally permissible” was *added* to Policy H-1.9 in response to feedback on the 2008 Public Review Draft of the General Plan in recognition that the County, at that time and to date, had not established the legal grounds for imposing an affordable housing requirement on General Plan Amendment projects because the County had not adopted an affordable housing program or ordinance by which it could impose such requirements on large-scale General Plan Amendment projects. Therefore, in light of these facts, the policy was drafted

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and revised to add the language “when this is legally permissible” and was incorporated into the County’s 2011 Public Review Draft of the General Plan.<sup>1</sup> Based on this, the County has determined it will be legally permitted to require an affordable housing component when it has completed its General Plan implementation program, as set forth in its General Plan annual progress reports and explained in more detail below.

Further, while the County could impose an ad hoc fee, it would need to complete studies documenting the basis for imposing such a fee and those studies are not completed; therefore, it may be construed as arbitrary to impose an ad hoc fee without underlying support with appropriate studies. Instead, the County’s implementation program calls for the development of criteria and that criteria, when completed, may well include the completion of studies justifying an ad hoc fee. But until that criteria is developed, vetted, and approved, the County is not inclined to impose a fee without a sound basis in the record for doing so. This rationale applies with equal force to the ad hoc imposition of an affordable housing requirement. Without the appropriate studies, any such requirement could be challenged as arbitrary; and, in any event, the County has developed an implementation plan calling for criteria that will lead to a final affordable housing program within the time frame outlined by the County in the annual implementation plans.

4. State Housing Element Law governs the County’s requirements to plan for affordable housing.

By way of background, the State of California identifies the provision of decent and affordable housing for every Californian as a statewide goal. The County’s General Plan Housing Element strives to meet that goal through the provision of appropriately designated land, which provides opportunities for developing a variety of housing types; and through policies and programs designed to assist the development of housing for all income levels and those with special needs. (See General Plan, Chap. 6, Housing Element, p. 6-2; and 2017 General Plan Annual Progress Report, p. 11.)

Government Code section 65588(e)(2)(B) requires that a local government in the San Diego Association of Governments (SANDAG) region that did not adopt a fourth planning period housing element by January 1, 2009, must revise its housing element every four years unless the local government meets certain specified conditions. (*Id.*, p. 3.) The County did not meet the section 65588(e)(2)(B) requirements, and, therefore, is subject to the four revision requirements until at least two consecutive revisions are adopted by the applicable completion deadlines. The County adopted the General Plan update in 2011 (including an update to the Housing Element),

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<sup>1</sup> Please see and compare the 2008 Draft General Plan (with no qualifying language) and the 2011 adopted General Plan (with the qualifying language). (Please see Draft General Plan, Nov. 2008, page 6-13 [<https://www.sandiegocounty.gov/content/dam/sdc/pds/gpupdate/docs/GP/HousingElement.pdf>], and 2011 General Plan, adopted August 3, 2011, also page 6-13 [[https://www.sandiegocounty.gov/pds/gpupdate/docs/draftgp/draftgeneralplan\\_111408.pdf](https://www.sandiegocounty.gov/pds/gpupdate/docs/draftgp/draftgeneralplan_111408.pdf)].)

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and a compliant Housing Element in March 2017, and met the first four-year update requirement. (*Ibid.*) The California Department of Housing and Community Development also issued a letter in June 2017, finding the County’s adopted Housing Element in “full compliance with state housing element law.” (Article 10.6 of the Government Code.)<sup>2</sup>

### 5. County General Plan Implementation Plan and Annual Progress Reports

The General Plan goals and policies are carried out through an Implementation Plan, which consists of implementation measures and programs. (See County General Plan Housing Element Background Report (April 2017), p. 107.) The County’s Board of Supervisors approved an Implementation Plan, along with the August 2011 adoption of the General Plan. The Implementation Plan includes County activities, processes, reports, assessments, and plans necessary to achieve the General Plan goals and policies. (See 2017 General Plan Annual Progress Report, p. 14.) Each policy in the General Plan includes one or more implementation programs or measures to assure there is a mechanism for its implementation. (*Ibid.*)

In 2012, the County’s annual progress report identified the “objective” and “timeframe” for implementing Policy H-1.9. Specifically, the County’s *objective* was to “[d]evelop criteria for privately-initiated amendments to the General Plan for large-scale developments to include an affordable housing component.” (See 2012 General Plan Annual Progress Report, Housing Element Implementation (March 2013), p. A-4, italics added.) This objective (i.e., develop criteria) was to be implemented in “0-3 years,” however, the County reported that the status of the program had not yet started. (*Ibid.*)

In 2013, the County adjusted the timeframe for implementing affordable housing “criteria” to be used for privately-initiated amendments to the General Plan for a large-scale residential development project to “2-7 years.” (See 2013 General Plan Annual Progress Report, Housing Element Implementation (March 2014), p. A-4.) The County also included the program in the Planning & Development Services “Advance Planning pending work program for accomplishment when staff and resources become available.” (*Ibid.*)<sup>3</sup>

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<sup>2</sup> For the Department of Housing and Community Development’s June 15, 2017, letter, please see **Attachment A** to the Latham & Watkins letter to the Department, dated May 8, 2018.

<sup>3</sup> Contrary to Golden Door’s claims, the County did not “delay” implementing its program. (See Latham & Watkins May 10, 2018 letter, p. 2.) Instead, in 2012, the County program had not yet started. However, by 2013, the County incorporated the program into the Planning & Development Service’s pending work program (subject to available staff and resources). Accordingly, the County’s timeframe was adjusted to 2-7 years (or by 2020).

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In 2014, 2015, and 2016, the County’s General Plan Annual Progress Reports reflect the *same objective* for Policy H-1.9, namely to develop criteria as part of Planning & Development Service’s pending work program within a 2-7 year timeframe.<sup>4</sup>

In 2017, the County’s General Plan Annual Progress Report reflected the same objective and timeframe for Policy H-1.9, but added it was a “High Priority” work program (subject to staff and resources availability).<sup>5</sup> In this regard, Golden Door speculates that the County’s 2017 Progress Report reflects a County determination that “it did not need an implementing ordinance to enforce the requirements of General Plan Housing Element Policy H-1.9, or that there was no reason for why an implementing ordinance should be further delayed.” The County does not concur with these comments, nor does the plain language of the County’s 2017 Progress Report support Golden Door’s assertions.<sup>6</sup> For these reasons, there has been no “unreasonable delay,” and no abuse of discretion by the County. In addition, this is consistent with the letter issued by the California Department of Housing and Community Development in June 2017, finding the County’s adopted Housing Element is in full compliance with state housing element law.

### 6. April 2018 Board Presentation on Housing Affordability

On April 18, 2018, the County Board of Supervisors received a presentation on housing affordability in the unincorporated County to specifically address the region’s housing crisis. At that time, the Board acknowledged the need for a “multi-faceted approach and a variety of solutions.” Specifically, the Board presentation noted that:

“Promoting housing affordability through production incentives and regulatory policy review is one way this Board can encourage the production of much needed housing at all income levels, and shore up the regional housing supply by removing unnecessary impediments and/or bolstering the production process.

The analysis should include modifying or streamlining permitting processes, reducing production regulations, modifying zoning and use regulations, modifying parking requirements, exploring density bonuses, inclusionary housing, accessory dwelling units, pre-fabricated homes, and other options that would help boost discretionary and ministerial housing production.

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<sup>4</sup> Please refer to the County’s 2014 General Plan Annual Progress Report (March 2015), p. 1-4; the 2015 General Plan Annual Progress Report (March 2016), p. 1-4; and the 2016 General Plan Annual Progress Report (March 2017), Attachment 1 p. 5.

<sup>5</sup> Please see the 2017 County’s General Plan Annual Progress Report (March 2018), Appendix 3, No. 3.1.1.E.

<sup>6</sup> Please see footnote 5, above.

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Today’s action will direct the Chief Administrative Officer to investigate options that would further promote the expedient building of homes in the unincorporated region and the closing of the housing gap through incentive programs and/or reductions in regulations in San Diego County, and to return within 180 days with recommendations.”<sup>7</sup>

As noted above, the April 2018 Board presentation called for the analysis to include exploring, among other topics, “inclusionary housing.” In the “background” portion of the presentation, County staff highlighted the following facts:

- The shortage of affordable available homes and resultant rises in median home prices in rent has led to a number of negative impacts to the region, including a “negative net migration;”
- For example, a significant number of people have moved to adjacent Riverside County, commuting daily from Temecula and Murrieta to jobs in San Diego;
- In 2016 alone, San Diego lost 8,300 people; in the entire five-year period beginning in 2010, the census estimates that the County only lost a total of 7,177 people;
- This “negative net migration” impacts traffic adding 50,000 commuters into the County over the last decade, impacting County highways, freeways, and communities; and
- The disparity of nearby, affordable, available homes is dettracting employers from locating in the County, hampering economic growth.

Based on the April 2018 presentation, the Board directed its Chief Administrative Officer “to investigate options that would promote the expedient building of homes in the unincorporated region and the closing of the housing gap through incentive programs and/or reductions in regulations in San Diego County, and return in 180 days with recommendations” (or by October 14, 2018).

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<sup>7</sup> The County incorporates by reference the County of San Diego, Board of Supervisors, Agenda Item No. 05, dated April 18, 2018, to the Board of Supervisors, the subject of which is “Housing Affordability: Addressing the Region’s Housing Crisis (Districts: All)” — along with the “Housing Affordability” Slide Presentation. This agenda item and presentation are available upon request for public review and inspection at the County’s Department of Planning & Development Services.

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### 7. August 2018 Planning Commission Housing Affordability Strategy

On August 3, 2018, County staff provided an informational presentation to the Planning Commission on housing affordability in the unincorporated County. At that time, staff presented a detailed slide presentation to the Planning Commission addressing housing affordability and a related strategic framework.<sup>8</sup> This framework included a five-prong strategy: (i) streamlining and process; (ii) regulatory relief; (iii) participation and incentives; (iv) Community Plan updates; and (v) Land Development Code update. The County also evaluated what other jurisdictions are doing to address housing affordability, including inclusionary housing programs that may involve onsite, offsite, in-lieu, and land dedication affordable housing programs.

In short, both the Planning Commission and Board are receiving pertinent data to address housing affordability. Further, the Board has directed its Chief Administrative Officer to investigate options and return by October 14, 2018 with recommendations. The recommendations may include the development of affordable housing criteria, as contemplated in the County's Implementation Plans and annual progress reports.

### 8. Additional Golden Door Claims

Golden Door states that "if the County contends that it requires an implementing ordinance," it "should start immediately in devising and adopting that ordinance." (See Latham & Watkins May 10, 2018 letter, p. 3.) This statement oversimplifies the process required to implement Housing Element Policy H-1.9, and ignores the timeframes for this process established by the County in 2013.

The County's "objective" has been consistently reported. Starting in the 2012-2013 timeframe, the stated objective has been to "develop criteria" for implementing Housing Element Policy H-1.9 within two to seven years. The development of such criteria is a critical threshold step for the County to decide whether to ultimately devise and adopt an affordable housing ordinance. As stated, San Diego County is a relatively large county compared to other counties in the United States, and the incorporated areas exhibit a diverse mix of physical, demographic, economic, and other conditions. Moreover, the criteria to be developed must account for the size, scale, and uniqueness of the County's multiple planning areas. Further, the criteria should evaluate factors impacting housing affordability, such as availability of land, land costs, development opposition, permit process and state regulatory requirements, costs of housing, and labor and construction costs. Negative affordability housing effects also should be evaluated, including overcrowding, homeownership rates, commute times, and loss of jobs. Additionally, an inclusionary housing analysis (and an economic feasibility study) prepared by affordable housing

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<sup>8</sup> The County incorporates by reference the slide presentation titled, "County of San Diego Housing Affordability" to the Planning Commission (August 3, 2018), a copy of which is available for public review and inspection at the County's Department of Planning & Development Services.

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experts retained by the County would like be needed in association with the possible adoption of a countywide inclusionary housing ordinance and/or affordable housing program.

Additionally, the criteria must account for the varying inclusionary housing program characteristics, such as

- (a) whether affordable housing will be mandatory or voluntary;
- (b) whether to create threshold project size requirements below which projects would not be subject to affordable housing requirements (i.e., which will assist in defining the scope of the term “a large-scale residential project”);
- (c) identifying the appropriate income and affordability standards and the length of owner-covenant provisions (which will assist in defining the term “affordable housing component”); and
- (d) whether to create affordable housing subareas or submarkets within the County’s unincorporated areas given the diversity of the unincorporated areas, including the preparation of financial feasibility analyses for multiple subareas or submarkets;
- (e) developing residential prototypes for single-family homes, condominium, and apartment projects, and undertaking market surveys of representative projects to estimate the achievable market rate sales prices and rents for the prototype units in each of the identified subareas or submarkets; and
- (f) describing the range of options offered to developers to fulfill affordable housing requirements (e.g., constructing a defined percentage of income-restricted units within new market-rate residential projects; constructing affordable housing in an off-site location; paying fees in lieu of constructing affordable housing units; dedicating land appropriate for development of affordable housing, considering of submarkets within the County due to its size and diverse mix of physical, demographic and economic conditions, deciding upon exemptions and appropriate exceptions, etc.).

In the County’s view, development of all the above criteria is an essential predicate to devising or adopting an affordable housing program tailored to San Diego County. For similar reasons, the County does not concur with Golden Door’s claim that developing the criteria and ultimately adopting an affordable housing ordinance “should not be difficult or complicated” or that it can simply “cut and paste” the City of San Jose’s or the City of San Diego’s affordable housing programs. The County finds that such an approach, if used, would itself be arbitrary and capricious



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because it would not account for the unique aspects of the County's multiple planning areas and diverse mix of physical, demographic, economic, and other conditions.

### **9. Additional Golden Door Claims Concerning General Plan Policy H-1.9**

Golden Door states the Newland Sierra project does not propose housing that would be characterized as "affordable" by the California Department of Housing and Community Development, the U.S. Department of Housing and Urban Development, or the San Diego Housing Federation (<https://www.housingsandiego.org/find-housing-faq>). (See, for example, Latham & Watkins April 17, 2017 letter, p. 1 and May 8, 2018 letter, pp. 1-2 and Attachment A.) Further, Golden Door states that the lack of "affordable housing" is inconsistent with County General Plan Housing Element Policy H-1.9, which requires "developers to provide an affordable housing component when requesting a General Plan amendment for a large-scale residential project when this is legally permissible." Golden Door concludes that the Newland Sierra project must seek to amend the General Plan to comply with Policy H-1.9 or risk being inconsistent with the General Plan. The County does not concur these comments.

The County has determined that the Newland Sierra project is consistent with General Plan Housing Element goals and policies, but that, in that absence of an ordinance or program, Policy H-1.9 does not apply to the project. The County has not developed its affordable housing criteria, nor vetted or adopted an affordable housing ordinance; and thus, the County does not have a legally permissible mechanism in place to require affordable housing or in-lieu fees. The County also is not willing to impose an ad hoc affordable housing requirement, in-lieu fee, or condition on the Newland Sierra project because:

- (a) it is not County practice to require ad hoc affordable housing requirements;
- (b) the County has no reason to treat the Newland Sierra project differently than other General Plan Amendment projects by imposing such a requirement;
- (c) the County has not studied the relationship between new housing development and affordable housing or in-lieu fees;
- (d) the County does not desire to invite possible, future litigation in the event it adopts ad hoc affordable housing requirements or conditions, particularly without putting in place affordable housing objectives, criteria, study, and further deliberation and public/community input;
- (e) the County has not yet finished developing the "criteria" to implement an affordable housing component within the timeframes contemplated in the County's General Plan Implementation, which is annually monitored in the County's published General Plan progress reports; and

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- (f) the County currently relies on the General Plan requirements for new development to provide a broad range of housing for a mix of all income levels; and this approach has been effective, and continues to be effective, until such time as the County decides it has a legally permissible mechanism in place, and further decides whether to impose a uniform affordable housing program by ordinance or otherwise.

### 10. The Newland Sierra Project aids the County in implementing its Regional Housing Needs Assessment (RHNA) requirements

The state Housing and Community Development Department requires the County to demonstrate sufficient planning and zoning capacity for a range of housing from low density single family housing to multifamily housing at 20 dwelling units per acre or higher. For the current Housing Element Cycle (Planning Period January 2013 through December 2020), the County is required to demonstrate sufficient capacity for 22,412 dwelling units of new housing capacity, including 2,085 dwelling units at a density range of 20 dwelling units per acre or higher, 1,585 dwelling units at a density ranging between 15 and 20 dwelling units per acre, 5,864 dwelling units ranging between 10.9 and 15 dwelling units per acre, and 12,878 dwelling at densities lower than 10.9 dwelling units per acre. The Newland Sierra Project would result in 294 dwelling units at a density of 20 dwelling units per acre or higher, 221 dwelling units ranging between 15 and 20 dwelling units per acre, 286 dwelling units ranging between 10.9 and 15 dwelling units per acre, and 1,334 dwelling units at 10.9 dwelling units per acre or lower. Thus, the project would result in a significant contribution toward implementing the County's RHNA's allocation for the current Housing Element Cycle, in particular by providing a range of housing at densities the state assigns based on the housing needs of very low, low, and moderate income households. The Table below demonstrates how the project would provide a range of housing densities consistent with the County's RHNA allocation.

#### **COUNTY AND NEWLAND SIERRA RHNA NUMBERS**

	<b>VERY LOW (20+ DU/AC)</b>	<b>LOW (15 TO 20 DU/AC)</b>	<b>MODERATE (10.9 TO 15 DU/AC)</b>	<b>ABOVE MOD. (&lt;10.9 DU/AC)</b>
County	2,085 (9.3%)	1,585 (7.1%)	5,864 (26.2%)	12,878 (57.4%)
Newland Sierra	294 (13.8%)	221 (10.4%)	286 (13.4%)	1,334 (62.5%)

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### 11. The Newland Sierra Project is consistent with the County's Housing Element goals and policies.

The County General Plan Housing Element, including through its Housing Element Goals and Policies, focuses on planning for a sufficient range of housing to meet its RHNA allocation; on improving the affordability of housing in the unincorporated area by reducing governmental constraints and costs; by preserving the existing supply of naturally affordable housing, rent-restricted affordable housing, farm worker housing, and special needs housing in the County; and by furthering the housing assistance programs of the County's Department of Housing and Community Development. The goal and policy framework of the County's Housing Element is structured around these broad objectives such that these objectives provide context to how the County defines affordable housing and applies its Housing Element Goals and Policies.

The Newland Sierra Project would assist the County in implementing its Housing Element Goals and Policies by providing a range of housing types and sizes with projected prices that are anticipated to be sold at market rates affordable to lower and moderate income families, defined as households earning between 80 and 120% of the Area Median Income (AMI). Housing that is affordable to households within this income range (80 to 120% of AMI) is commonly known as "workforce housing", a housing need that is not being met in most parts of the San Diego region, including in the unincorporated area. Many jurisdictions, including the City of San Diego, around the state are recognizing housing that is sold to families earning up to 150% of AMI, as "naturally affordable". For example, the City of San Diego exempts projects or portions of projects from its inclusionary housing ordinance that meet this housing need.

Using these income ranges (80 to 120% of AMI and 80 to 150% of AMI), MarketPointe Realty Advisors prepared an updated Housing Attainability Analysis (refer to Appendix JJ-26 to the Final EIR) that evaluated the project's housing types, sizes, and projected pricing under three different income and family size scenarios. This updated analysis produced the following results:

- When the San Diego Region's AMI of \$81,800 for all family households is applied, depending on whether FHA or conventional lending requirements are applied, the project would provide between 780 and 800 units of workforce housing (37 to 38% of the total units in the project) and between 1,199 and 1,329 units (56 to 62% of the total units in the project) affordable to incomes up to 150% of AMI.
- Based on the San Diego Region's AMI for a four-person household of \$97,300, depending on whether FHA or conventional lending requirements are applied, the project would provide between 1,108 and 1,166 units of workforce housing (51 to 55% of the total units in the project) and between 1,794 and 1,884 units (84 to 88% of the total units in the project) affordable to incomes up to 150% of AMI.

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- Again using the San Diego Region’s AMI of \$81,800 and adjusting family sizes based on projected home sizes (i.e., number of bedrooms), depending on whether FHA or conventional lending requirements are applied, the project would provide between 1,189 and 1,930 units of workforce housing (56 to 90% of the total units in the project) and between 1,872 and 2,085 units (88 to 98% of the total units in the project) affordable to incomes up to 150% of AMI.

Thus, the updated MarketPointe Realty Advisors analysis demonstrates that a substantial amount of the units proposed in the Newland Sierra Project would constitute workforce housing or “naturally affordable” housing. The County considers the project’s housing mix as consistent with the County’s Housing Element goals and policies. Accordingly, the project will aid the County in implementing its Housing Element and as well as in achieving its RHNA allocation requirements. Therefore, notwithstanding the lack of applicability of Policy H-1.9 to the project (as addressed above), the Newland Sierra Project is consistent with the spirit and intent of Policy H-1.9.

### 12. The Court Case Cited by Golden Door does not Require the County to Immediately Adopt an Affordable Housing Ordinance

Golden Door primarily relies on the *City of San Jose* decision to support its claims. The County disagrees that the case supports Golden Door’s claims. While *City of San Jose* found that no nexus requirement is needed for affordable housing ordinances because it is reviewed with the same discretion as any other land use regulation, that decision neither requires jurisdictions to adopt inclusionary housing ordinances, nor does it address ad hoc fees that deviate from a jurisdiction’s normal practice and are unsupported by fee studies and a clear nexus.