The RDEIR sets forth, for the first time, an analysis of the Project's energy impacts. However, this analysis does not meet CEQA's requirements. First, the document relies largely on the fact that the Project's residential and commercial development will exceed Title 24 requirements in order to conclude that it will not result in significant energy-related impacts. But Title 24 does not address many of the considerations required under Appendix F of the CEQA Guidelines, such as whether a building should be constructed at all, how large it should be, where it should be located, whether it should incorporate renewable energy resources, or anything else external to the building's envelope. Put simply, the building code does not address the energy impacts of a project intended to transform agricultural land into a new, suburban development, and the RDEIR thus may not rely on the code to find a less than significant impact. O10-44 cont.

Second, the RDEIR erroneously concludes that the Project will have less than significant energy impacts because the Project's per capita energy use will allegedly be "lower than average." RDEIR at 3-168. But this standard is legally flawed. Projects can have a lower than average impact on endangered species, air quality or noise and still have a significant impact. Whether or not an impact is significant does not depend on the project's impacts in comparison to other projects, but on a comparison to baseline conditions in the context of the existing regulatory environment. CEQA Guidelines § 15126.2. Here, California has committed to reducing fossil fuel-based energy consumption and production dramatically over the coming decades through AB 32, SB 375, EO S-03-05, the renewable portfolio standard, a requirement for zero-net energy homes by 2020, and other means. As described in the GHG section above, the Project does not come close to helping the state achieve its goals of reducing GHG emissions. Accordingly, the Project fails to do its part to reduce carbon-intensive energy use and promote clean energy, and therefore results in the inefficient or wasteful use of energy. Because the state has charted a path that requires deep reductions in average fossil-fuel based energy use, and steep increases in alternative energy production, simply comparing the Project's overall energy use to the current "average" is an inappropriate measurement. O10-45 O10-46

Moreover, the RDEIR does not even conduct an adequate analysis of the Project's energy impacts compared to "average" energy use. For example, it never describes what it means by "average" energy use or discloses the amount of energy that similar new homes in similar locations use. It therefore provides no actual point of comparison. Instead, the RDEIR asserts that, because the Project exceeds Title 24 standards, it will result in lower-than-average energy use. This assumption is unsupported. In fact, Public Resources Code Section 25402.1(h) and Section 10-106 of the Building Energy Efficiency Standards establish a process which allows local adoption of energy standards O10-47 O10-48

O10-45 The comment states that the FEIR uses a legally flawed methodology when evaluating energy impacts because it considers whether the project's per capita energy use would be lower "than average." Citing CEQA Guidelines section 15126.2, the comment states that the baseline should be established in the "context of the existing regulatory environment," in lieu of the actual on-the-ground conditions.

However, as provided in CEQA Guidelines section 15126.2(a): "In assessing the impact of a proposed project on the environment, the Lead Agency should normally limit its examination to *changes in the existing physical conditions in the affected area* …" (Italics added.) Similarly, CEQA Guidelines section 15125(a) states that the "environmental setting," which "will normally constitute the baseline" for assessing the significance of impacts, is established by reference to the "*physical* environmental conditions." (Italics added.) In other words, contrary to the comment's suggestion, the baseline is not established by reference to a non-physical, regulatory framework but rather to physical, on-the-ground conditions.

In this instance then, the baseline is established by considering the energy efficiency levels of the existing housing stock and other structures. And, the analysis presented in the FEIR appropriately considers whether the efficiency levels of the project's residential and non-residential structures would be more or less energy efficient than existing building stock and other structures.

Of course, the project's compliance with the existing regulatory framework is not irrelevant to the CEQA analysis. Rather, regulatory compliance can and should be used to inform the assessment of the significance of a project's impacts. Additionally, particularly in the area of building energy design, and vehicle engine technology and fuel efficiency, both the federal and state regulatory frameworks are becoming increasingly stringent in order to secure further feasible emission reductions and energy savings. For example, in the area of building construction, the California Energy Commission, California Public Utilities Commission, and California Air Resources Board have expressed a demonstrated commitment to achieving net zero energy by 2020 for residential structures and 2030 for commercial structures:

O10-45 (cont.)

California has a policy goal of achieving zero-net-energy building standards by 2020 for low-rise residential buildings and by 2030 for commercial buildings. … Making the zero-net-energy definition operational will require ongoing efforts through the 2016 and 2019 code development cycles. … Recommendations to ensure success in meeting the zero-net-energy goals as they are currently outlined include adopting triennial building standards updates that increase the efficiency of new buildings by 20 to 30 percent in each update … (California Energy Commission, 2013 Integrated Energy Policy Report (2013), pp. 5-6; see also id. at pp. 34-42. A copy of this report is publicly available at http://www.energy.ca.gov/2013publications/CEC-100-2013-001/CEC-100-2013-001-CMF.pdf, and hereby incorporated by reference.)

The project will be required, by law, to comply with all applicable regulations designed to reduce energy consumption. And, due to the long-term, multi-year construction schedule associated with the project, these and other more efficient regulations will apply to the project when compared to those conservatively assumed in the EIR's analysis.

O10-46 The comment refers to a list of statewide regulatory initiatives designed to reduce energy consumption and GHG emissions, and again states that a comparison to the current "average" is an "inappropriate measurement." However, as addressed in **Response 45** above, consideration of the regulatory framework *and* the relative efficiency levels of existing building stock (which constitute the existing environmental setting) are relevant benchmarks in the assessment of the significance of the project's energy impacts. Additionally, while the comment identifies a relevant list of policy goals and regulatory efforts to further enhance California's efficiency levels, the comment seems to ignore that the project will comply with all applicable regulatory requirements to the extent required by the law. In other words, as additional regulatory standards are adopted to implement AB 32, etc., the project must adhere to applicable requirements, ensuring that there is no obstruction of stated policy goals and regulatory efforts.

O10-47 The comment states that the FEIR "never describes what it means by 'average' energy use or discloses the amount of energy that similar new house in similar locations use." However, the comment presupposes that CEQA demands quantitative analysis when establishing the existing environmental setting. This presupposition is not correct; rather, qualitative analysis is permitted by CEQA in the assessment of impacts. (See, e.g., CEQA Guidelines, §15064.4(a)(2), §15064(b), §15064.7(a).)

Additionally, in this instance, it is not feasible to conduct a survey of the relative operating efficiency levels of the existing building stock in the vicinity of the project site in order to develop a quantitative estimate of the amount of energy used. In order to prepare such an estimate, individual buildings and homes would need to be accessed or surveyed to determine, among other variables, their date of initial construction, their renovation/retrofit history, the operational state of any HVAC systems, etc. The County has determined that it is neither desirable nor physically feasible to require a project applicant to undertake such an analysis — not after taking into account the time required, the access difficulties, and the permission and indemnity requirements likely to arise in any such endeavor.

Finally, for the reasons addressed in Response 45 above, existing – not new – homes establish the existing environmental setting.

Therefore, the assessment of the project's energy impacts in the FEIR reasonably considers the fact that new building stock is more energy efficient than existing building stock due to the continuous evolution of the State's mandatory building energy efficiency standards contained in Title 24 and technology improvements that have increased efficiency as required by federal and state laws and regulations.

Also of importance to this discussion is the vehicle miles traveled (VMT) analysis that was conducted for the project. As summarized in Chapter 4.0of the FEIR:

A VMT analysis was conducted as a part of the traffic impact study completed for the project (see Appendix E). As shown in that analysis, constructing the project in its proposed location would result in an average vehicular trip length for the project of 7.6 miles, which is over [one]-half-mile lower than the rest of the Valley Center community.

that are more stringent than the statewide Title 24 standards. More than 35 cities and counties in the state have applied to and/or received approval from the California Energy Commission to set energy efficiency standards that are more strict than Title 24. See Energy Commission fact sheet, attached as Exhibit 4 and available at http://www.energy.ca.gov/title24/2008standards/ordinances/. Accordingly, the mere fact that the Project may exceed the 2008 Title 24 standards does not demonstrate that the Project will have better than average energy efficiency, or that it will have insignificant energy-related impacts.

O10-48 cont.

In fact, San Diego County itself has adopted more stringent energy efficiency standards for some types of development. As described in CNFF's August 16, 2013 letter, which it hereby incorporates in full by reference, the County General Plan requires that new leapfrog "village" developments such as this one must meet LEED ND standards. Among other things, these standards require that projects incorporate a variety of energy-saving measures into their design. But as described in CNFF's prior letter, as well as other letters submitted to the County, the Project does not come close to meeting the required LEED ND standards. It thus falls far below the energy efficiency requirements mandated by the County's own General Plan and, by definition, results in the wasteful and inefficient use of energy.

O10-49

Further, the RDEIR's use of the 2008 Title 24 standards does not provide a useful point of comparison because these standards were recently updated, and the 2013 standards have gone into effect as of July 1, 2014. RDEIR at 3-25. Thus, while the RDEIR touts how the Project's homes will be more energy efficient than average homes because all residential units will be "solar-ready" (RDEIR at 3-168), the new (2013) Title 24 standards already *require* all residential homes to be "solar-ready." http://www.energy.ca.gov/title24/2013standards/2013-03-12_Changes_for_the_2013_Update_to_Building_Energy_Efficiency_Standards.pdf . Likewise, the RDEIR states that the Project will be 25% more efficient than the 2008 Title 24 standards,[8] yet the new 2013 standards – which are already mandatory – are already 25% more efficient than the 2008 standards. RDEIR at 3-25. Accordingly, by committing to exceed 2008 Title 24 standards by 25%, the Project is not mitigating its

O10-50

O10-51

[8] As described above, the RDEIR is contradictory in what standards the Project will meet: it states in one place that the Project will exceed Title 24 energy efficiency standards by 25% (RDEIR at 1-53), but in other places states that it will exceed such standards by 30% (RDEIR at 3-168).

O10-47 (cont.)

(See also FEIR, Appendix E [traffic impact study].) In other words, the FEIR *does* contain comparative data regarding the fuel-related energy consumption of residential uses in similar locations. And, this particular analysis shows that the project's average vehicle trip lengths, and corresponding fuel consumption, would be more than 0.5-mile lower than the rest of the Valley Center community.

As another point of reference – this time on the subject of energy consumption associated with water use — the California Homebuilding Foundation recently issued *Codes and Standards Consulting: California's Residential Indoor Water Use* (March 2014 Update), a copy of which is publicly available at http://www.mychf.org/go/linkservid/19A16F2E-C561-47B7-9EC0618A43897B42/showMeta/0/ and hereby incorporated by reference. Among the findings presented in that report:

[T]here has been a 50% reduction in indoor water use due to the incorporation of low-flow fixtures and appliance requirements for new homes. Approximately 70% of this reduction comes from the installation of low-flow showerheads and low-flow toilets. Washing machines contribute an additional 17% of this reduction with faucets contributing the remaining 12%. (Id. at pp. 4-5.)

Newly constructed, three-bedroom, single-family homes with four occupants use 29,000 gallons less water per year than similar homes constructed in 2005. When compared to homes constructed prior to 1980, which have outdated and inefficient fixtures, new homes can save up to 46,500 gallons per year. (Id. at p. 8.)

The point here is to demonstrate that California's statutory and regulatory initiatives have been successful in reducing the energy consumption of its citizens. New homes, including those that would be constructed by the project in the event of its approval, represent an improvement over existing development and, therefore, do not impede the State's energy consumption goals and policies.

O10-48 The comment states that the project's exceedance of Title 24 does not demonstrate that the project's energy efficiency will be better than average, or that impacts will be insignificant, because cities and counties are allowed to establish energy efficiency standards that are more restrictive than those provided by Title 24. While the comment correctly notes that local land use jurisdictions are allowed to impose more restrictive standards than those set forth in Title 24, provided certain processes are followed, the comment erroneously compares the project to un-built building stock, instead of the on-the-ground conditions that actually represent the State's existing energy efficiency levels.

O10-49 The comment states that the project will not achieve the County requirement that new "village" developments comply with LEED-ND and, therefore, by definition, would result in the inefficient use of energy. However, as discussed in subchapter 3.1.4 of the FEIR, the project is designed to meet the LEED for Neighborhood Development certification, or equivalent, and was planned by Calthorpe and Associates in order to create a new urban village consistent with those principles. The comment offers no specific challenge to the assessment of the project's achievement of this particular County requirement and, therefore, no further response is required.

O10-50 The comment states that the FEIR's utilization of the 2008 Title 24 standards is not informative because the 2013 Title 24 standards are currently applicable. The comment is correct that, during the midst of the environmental review process for this project, the Title 24 standards were updated. More specifically, the 2013 Title 24 standards became effective on July 1, 2014. That, however, does not undermine the informational value or accuracy of the FEIR's analysis. Rather, this regulatory advancement illustrates the very point made in **Response 45** above. Namely, the project will be required to comply with whatever version of Title 24 is applicable at the time of building permit issuance; and, due to the increasing rigor of the Title 24 triennial updates, the energy demand estimates presented in the FEIR are conservative, because they do not take credit for the mandatory, additional energy efficiencies that will be imposed at the time building permits are issued.

O10-51 The comment states that the project is doing no more than complying with existing law because the 2013 Title 24 standards are more efficient than the 2008 standards, such that there is no evidence that the project's energy use is below "average" levels. This comment is again based on the premise that the relative efficiency levels of the existing building stock are not pertinent to the analysis. However, as discussed above in Response to Comment O10-45, the Draft REIR appropriately and qualitatively compares the efficiency level of the existing building stock to that associated with the project. When viewed from that lens, the project's energy use would be below existing, average levels.

energy impacts; it is merely complying with now-current law. *See* RDEIR at 3-43 (admitting that Project is only 5% more efficient than 2013 Title 24 standards, based on commitment to exceed 2008 standards by 30%). The measure therefore does not demonstrate that it will help reduce the Project's energy use below "average" levels.

In fact, Title 24 is slated to be updated again in 2016. http://www.energy.ca.gov/title24/2016standards/prerulemaking/. Accordingly, by the time any construction on this Project gets started, Title 24 efficiency standards may be more stringent that the Project now requires, even with its commitment to exceed the 2008 standards. At the least, the County should require the developer to apply the more stringent of 30% below 2008 measures or the standards that are in effect when the first building permits are issued for each phase of the development.

The RDEIR also distorts the Project's use of energy in the transportation sector. Instead of comparing the Project's transportation-related fuel use with a countywide average, or with what it would be if the Project conformed with the general plan, it compares it with a hypothetical, worst-case scenario. The RDEIR describes how the Project's design features allegedly result in a reduction of 1.5 million vehicle miles traveled compared to if the Project did not include the design features (e.g., interim transit service, an on-site pedestrian network, and providing higher density residential uses adjacent to planned mixed-use and commercial development). RDEIR at 3-169. However, this comparison is illusory. As described above, the Project is *required* to meet LEED ND or equivalent standards, which means that the developer is not allowed to build a project that does not include the current design features. Comparing the Project with an illegal, "what if" scenario distorts the RDEIR's analysis, misleads the public and fails to promote informed decisionmaking. *Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 322 (EIRs must focus on realistic comparisons, not comparisons with merely hypothetical conditions);[9] *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 507 (EIRs must provide an analysis "that will give the public and decision makers the most accurate picture practically possible of the project's likely impacts.").

[9] In fact, *Communities for a Better Environment* rejected a comparison with hypothetical conditions that were *allowed*, whereas the RDEIR for the Project here compares the Project's impacts with hypothetical conditions that are flatly unlawful. Accordingly, the RDEIR's analysis is even more suspect that the analysis struck down by the Court in *Communities for a Better Environment.*

O10-51 cont.

O10-52 The comment notes that the Title 24 standards are updated periodically, correctly observing that the next update is slated for the 2016 code cycle.[1] The comment requests that the County require the project to exceed whatever is the then-applicable version of the Title 24 standards by 30 percent at the time of building permit issuance for each phase. However, the comment's suggestion ignores principles of technological and economic feasibility. More specifically, the Title 24 standards are formulated in light of what energy efficiency achievements are feasible at the time of the standards' enforcement. At this juncture, it would be speculative to ascertain what future iterations of the Title 24 standards will require, and whether the exceedance of those standards by 30 percent is feasible per the parameters of CEQA. This type of speculation is discouraged by CEQA. (Guidelines, §15145.) Further, however, the project will be required to comply with whatever version of the Title 24 mandatory standards are in effect at the time of building permit issuance.

O10-53 The comment states that the FEIR distorts the project's use of transportation-related energy because it compares the project with a hypothetical, worst-case scenario instead of a countywide average. The comment argues this comparison is illusory because the project is required by County standards to achieve LEED-ND (or its equivalent), such that any assumption of building a project without achievement of those standards is not permissible.

While the comment correctly notes that the County's General Plan requires the project to achieve LEED-ND or equivalent standards, LEED-ND does not specifically require design features to reduce VMT. Rather, LEED-ND is a point-based system that allows for achievement of various ratings; and, a range of design features/considerations is available to achieve the requisite number of points.

[1] As shown on the California Energy Commission's website, several upcoming events pertaining to the 2016 code cycle will be addressing emerging technologies that possibly could be incorporated into the next set of Title 24 standards. However, at this juncture, the efforts relating to the 2016 code cycle are still in the pre-rulemaking phase, with no concrete proposal available for public review. For more information, please see http://www.energy.ca.gov/title24/2016standards/index.html.

O10-53 (cont.)

To be conservative, the FEIR's energy analysis is based on the energy and vehicle calculations used in the GHG emissions modeling (see, FEIR Appendix O). (The energy calculations are based on state and regional energy consumption factors, and the vehicle calculations are based on project trip generation and various trip distances.) The purpose of the FEIR's discussion of the VMT reduction identified in the GHG analysis is to demonstrate that the project is designed to reduce energy consumption. Additionally, the VMT reductions reported in the energy analysis are conservative at approximately 5.9 percent. (Draft FEIR subchapter 3.1.8; see also FEIR, Appendix O [GHG Technical Report This is considered conservative because, according to CAPCOA, the range of effectiveness for design measures included in the project ranges from a minimum of 9 percent to a maximum of 30 percent, in terms of VMT reduction. (CAPCOA, *Quantifying Greenhouse Gas Mitigation Measures* (August 2010), pp. 65, 163-166 [increasing the diversity of land uses near one another in accordance with measure LU-2 can decrease VMT, and thereby decrease GHG emissions].)

Of relevance to this discussion is the VMT analysis that was conducted for the project. As summarized in Chapter 4.0 of the FEIR:

> A VMT analysis was conducted as a part of the traffic impact study completed for the project (see Appendix E). As shown in that analysis, constructing the project in its proposed location would result in an average vehicular trip length for the project of 7.6 miles, which is over a half-mile lower than the rest of the Valley Center community.

(See also FEIR, Appendix E [Traffic Impact Study].) This particular analysis shows that the project's average vehicle trip lengths, and corresponding fuel consumption, would be more than 0.5-mile lower than the rest of the Valley Center community.

Here, if development of the Project area proceeded in accordance with the General Plan and consistent with existing legal lots under existing land use designations, there could be only 49 – 110 single family homes developed. RDEIR at 4-9, 4-13. This would cause only 588-1,320 average daily vehicle trips, which represents a 93-97% reduction in traffic compared to the project. *Id.* at 4-11, 4-15. Although the RDEIR fails to compare the GHG and energy impacts of the Project with these alternative scenarios—which is itself a legal error—a 93-97% reduction in traffic and corresponding decrease in the number of homes would obviously result in massive energy savings. Likewise, if the Project complied with the requirement to meet LEED ND or equivalent standards, which would require the Project to be more dense and be sited in a different location where it was adjacent to existing commercial uses, the Project would not cause so many long vehicle trips. Thus, compared with a realistic scenario—compliance with the General Plan—the Project will cause a profligate waste of energy.

O10-54

By definition, a project will result in the inefficient and wasteful consumption of energy if it does not incorporate all technically, legally and financially feasible mitigation measures to reduce energy use. *See Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal.App.4th 587, 599-600 ("if [a] project can be economically successful with mitigation, then CEQA requires that mitigation"). Here, there are many, many more measures that the Project could, and therefore must, incorporate in order to reduce its wasteful use of energy. Because these measures also reduce the Project's GHG impacts, they are listed in the section of this letter regarding GHG impacts, and we request that the County refer back to that section. Briefly, these measures include, but are not limited to, requiring that new trees are planted in a manner to shade new homes and reduce energy consumption, requiring "cool roofs" and "cool pavement" that reduce the need for energy consumption and the heat island effect, and approving a project in a different location where residents will not have to drive so far to access services.

O10-55

Finally, the RDEIR failed to comply with the requirements of Appendix F to the Guidelines by not discussing or analyzing renewable energy options for the Project. As demonstrated by the meteoric rise of distributed solar energy generation, installing such generation is feasible. In fact, other cities in California already require that all new housing within their city provide solar energy generation capacity. In 2013, the City of Lancaster, California updated its municipal code to require that all new homes constructed in the city provide a minimum average solar generating capability of .5 to 1.5 kW per unit depending on lot size and location. New multi-family developments are also covered by the ordinance. Developers may alternately elect to purchase solar energy credits from other facilities within the City in lieu of constructing solar equipment on site.

O10-56

O10-54 The comment states that the project will waste energy because: (1) the existing land use designations only allow for the development of 49 to 110 single-family homes; and, (2) the LEED-ND (or equivalent) standards require the project to be more dense and sited in a different location adjacent to commercial uses.

First, the FEIR considered a "legal lot" alternative in Section 4.3 that assumed build-out on the project site consistent with the existing land use designations. In light of the comment, that analysis has been supplemented to consider the impacts of that alternative relative to the project in the resource areas of GHG emissions and energy:[2]

GHG Emissions

Under the legal lot alternative, the project would develop fewer homes and no commercial uses, providing a residential density consistent with regional planning documents. As a result, this alternative would generate approximately 97 percent less trips than the project. Therefore, GHG emissions from transportation sources would be substantially less because of the limited amount of traffic that would be generated from this alternative.

Similarly, the reduced number of homes would consume less energy for lighting, heating, cooling, as well as less electricity for water and waste water conveyance, thereby reducing the GHG emissions total. However, based on the California Air Pollution Control Officers publications, the development size of the alternative would likely still exceed the County's threshold of 900 $MTCO_2E$ per year, as 50 single-family homes would generally generate emissions greater than 900 $MTCO_2E$. Therefore, while GHG emissions would be less than the project, GHG impacts associated with this alternative would likely be significant and require mitigation as well.

[2] This analysis previously was not provided in the FEIR because the purpose of alternatives analysis under CEQA is to focus on identifying a reasonable range of alternatives capable of reducing a project's unavoidably significant impact(s). Because the project's energy impacts would not be significant, the relative energy consumption of the legal lot alternative was not addressed.

O10-54 (cont.)

While this alternative's GHG emissions total would be less than the project, the alternative would not result in the establishment of a complete community. Rather, a small number of isolated residences would be constructed under this alternative, leaving future residents with the necessity of traveling to off-site, neighboring communities for necessary services, such as commercial and retail uses. This alternative also could result in piecemeal development, with the initial number of residences constructed being quite small, but subject to the risk of future, uncoordinated lot splits and land divisions.

Further, from a policy perspective, for a global environmental issue such as climate change, even if the alternative results in fewer homes and no commercial uses, the future residents and occupants of the development enabled by the proposed project's approval would exist and live somewhere else if this project, as proposed, is not approved. Thus, whether "here or there," GHG emissions associated with those residents and other planned population growth projections in San Diego County will occur. The project, as proposed, would serve to accommodate this growth in a more GHG-efficient manner.

Energy

Under the legal lot alternative, the project would develop fewer homes and no commercial uses, providing a residential density consistent with regional planning documents. As a result, this alternative would generate approximately 97 percent less trips than the project. Therefore, fuel-related energy consumption from transportation sources would be substantially less because of the limited amount of traffic that would be generated from this alternative. However, as individuals would be required to travel further for services, individual trip distances would likely be longer under this alternative.

O10-54 (cont.)

Similarly, the reduced number of homes would consume less energy for lighting, heating, cooling, as well as less electricity for water and wastewater conveyance. While the total energy consumption from operation would be lower under this alternative, the project design measures identified for the project may not all be required because of the alternative's GHG emissions being less than the project, while still exceeding the County's Threshold of 900 $MTCO_2E$. Thus, the energy consumption per dwelling unit may be higher under this alternative.

In summary, while this alternative would consume less energy, due to the absence of a mix of land uses in the project area and other design commitments of the project to increase building energy efficiencies, energy consumed under this alternative would likely be less efficient. Thus, total energy consumption under this alternative would be less than the project, but per dwelling unit or per capita energy consumption would likely be less efficient than the project.

Notably, while the legal lot alternative would result in fewer potentially significant impacts than the project, the alternative "would not meet any of the project objectives," as provided in FEIR subchapter 4.3.3.

Further, please see the "policy perspective" point raised above, which applies to energy consumption as well.

Second, as discussed in Response to Comment O10-49 above, the project is consistent with the LEED-ND (or equivalent) design standards.

O10-55 The comment states that the FEIR does not incorporate all technically, legally and financially feasible mitigation measures to reduce energy use, citing the possibility of shade trees, cool roofs, cool pavement, and an alternative location. First, however, because the FEIR does not identify a significant impact relating to energy consumption, there is no requirement to adopt all feasible mitigation measures under CEQA Guidelines section 15126.4(a)(3). Second, the project design already includes features that will serve to reduce energy use (see, e.g., FEIR Subchapter, Project Design Features and Regulatory Compliance Measures). Third and finally, Subsection 4.1.1.1 (Alternative Location) of the Draft REIR considers the feasibility of an off-site alternative, and concludes as follows:

Therefore, an alternative location was considered but rejected because of the (1) lack of a suitable-sized site, (2) lack of a site located in proximity to I-15 and existing service areas, (3) lack of ability to reduce VMT[,] the potential for greater GHG emissions and traffic impacts, and (4) that the proponent cannot reasonably acquire an alternative site.

The comment provides no specific challenge to the analysis provided in Subsection 4.1.1.1; therefore, no further response is required and no further response can be provided.

Spreading Sunshine All Over the Place, attached as Exhibit 4; *see also* http://www.greentechmedia.com/articles/read/Lancaster-CA-Becomes-First-US-City-to-Require-Solar. Likewise, the City of Sebastopol now requires "new residential and commercial buildings -- as well as major additions and remodelings -- to include a photovoltaic energy-generation system. The system would have to provide 2 watts of power per square foot of insulated building area or offset 75 percent of the building's annual electric load." *See* Press Democrat article at http://www.pressdemocrat.com/csp/mediapool/sites/PressDemocrat/News/story.csp?cid=2224191&sid=555&fid=181. Lancaster and Sebastopol have demonstrated that it is feasible to require all new homes to provide solar power, and the RDEIR is deficient because it fails to analyze and require this option for reducing the Project's energy impacts. O10-56

In sum, the RDEIR's energy impacts analysis is incomplete and misleading. When it is corrected, the County must recirculate the EIR so that the public can see and comment on the new analysis and mitigation measures. O10-57

V. Alternatives.

The RDEIR states that the County summarily dismissed the idea of analyzing an offsite alternative "because of the (1) lack of a suitable-sized site, (2) lack of a site located in proximity to I-15 and existing service areas, (3) lack of ability to reduce VMT the potential for greater GHG emissions and traffic impacts, and (4) that the proponent cannot reasonably acquire an alternative site." RDEIR at 4-6. None of these reasons are both supported by the evidence and legally tenable. Most obviously, an offsite alternative could be constructed in the City of Escondido. This City is adjacent to I-15 and is much closer to existing service areas, and would therefore drastically reduce VMT related to Project travel. As the recently adopted Escondido General Plan demonstrates, there is also plenty of room to put the Project's planned 1,700 units, as the General Plan anticipates development of more than 6,000 new residential units. *See* p. 3-23 of Escondido General Plan EIR, available at http://www.escondido.org/Data/Sites/1/media/PDFs/Planning/GPUpdate/Vol1ProjectDescription.pdf; *see also* K. Johnson letter of July 25, 2013 (discussing and attaching the Downtown Escondido Specific Plan and requesting consideration of an alternative in this location). Thus, the first three reasons are not supported by substantial evidence because a downtown Escondido location would meet these criteria. O10-58 O10-59

The fact that the Project proponent cannot reasonably acquire necessary sites in Escondido is no excuse either. *San Bernardino Valley Audubon Society v. County of San* O10-60

O10-56 The comment states that the FEIR is inadequate because it fails to analyze and require the benefits of solar energy. However, this is not correct. As discussed in FEIR Subchapter 3.1.2, the project will install 2,000 kilowatts of on-site solar/photovoltaic systems capable of producing approximately 3,400,000 kilowatt-hours of electricity (which is approximately 22 percent of the project's total electricity needs at build out). Further, as further stated in FEIR subchapter 3.1.2:

In addition to the design measures quantified for the GHG analysis, the Specific Plan includes other energy conservation measures that were not quantified due to the uncertainty of resident participation, such as the requirement to provide the infrastructure necessary to accommodate the future use of solar photovoltaic panels and/or systems, including wiring for roof mounted solar systems and a recharging connection for electric vehicles in the garage of all buildings.

Similarly, FEIR subchapter 3.1.2 states: "All buildings would be solar ready and have roofs built for solar panels and pipes for solar hot water, and are individually planned to consider solar orientation." Therefore, contrary to the comment, there is a demonstrated commitment in the project design to increasing the availability of solar energy sources. The Specific Plan requires that all building be "solar ready" so that – at the election of the home buyer or purchaser – solar energy systems can be readily installed. Therefore, it cannot be said that the FEIR fails to discuss or analyze renewable energy options for the project.

O10-57 The comment states that the energy analysis is deficient for all of the reasons addressed in Responses to Comments O10-44 through O10-56, above. Please see the referenced responses above for responsive information.

O10-58 As stated in CEQA Guidelines Section 15126.6(f)(2)(B), if the lead agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion, and should include the reasons in the FEIR. This issue is fully addressed in the FEIR subchapter 4.1.1.1, Alternative Location. The need to consider larger parcels, or groups of contiguous parcels available for development was necessary as a project alternative because the proposed project could not be feasibly located on small noncontiguous parcels due to infrastructure requirements and to meet the walkable, mixed-use village concept. The analysis of offsite locations was based on knowledge of the availability of land in the general area and consideration of CEQA Guidelines Section 15126.6(f)(1), which states that factors that must be taken into account when considering feasibility of alternatives include "whether the proponent can reasonably acquire, control or otherwise have access to the alternative site (or that site is already owned by the proponent)." The FEIR explains that alternative locations were considered but rejected due to "the (1) lack of a suitable-sized site, (2) lack of a site located in proximity to I-15 and existing service areas, (3) lack of ability to reduce VMT the potential for greater GHG emissions and traffic impacts, and (4) that the proponent cannot reasonably acquire an alternative site." Reasons for elimination of offsite alternatives are fully discussed and disclosed in the FEIR and adequately meet the requirements of CEQA. Refer to FREIR subchapter 4.1.1.1 for additional details.

O10-59 The County disagrees that the project is required to include the Escondido Downtown Specific Planning Area (located nearly 15 miles away from the proposed project) as an off-site alternative in the EIR. Section 15126.6(a) of the State CEQA Guidelines requires the discussion of "a reasonable range of alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." The CEQA Guidelines provide several factors that should be considered with regard to the feasibility of an alternative: (1) site suitability; (2) economic viability; (3) availability of infrastructure; (4) general plan consistency; (5) other plans or regulatory limitations; (6) jurisdictional boundaries; and (7) whether the project applicant can reasonably acquire, control or otherwise have access to the alternative site (if an off-site alternative is evaluated).

O10-59 (cont.)

The suggested Escondido alternative is outside the jurisdiction of the County of San Diego and is located nearly 15 miles away from the proposed project. This suggested alternative would therefore fail to meet a project objective of providing a range of diverse housing types with the jurisdiction of the County of San Diego to accommodate expected population growth and to assist the County in meeting the requirement to accommodate its fair share of housing for regional population growth as required by Government Code sections 65583 and 65584.

Senior housing is a significant housing type in the proposed project. The 468 deed-restricted senior housing units in the development plan comprise 27% of the total number of housing units. None of the 171 development projects on the Cumulative Projects list (REIR Table 1-6) appears to contain any deed-restricted senior housing units (or any other type of senior housing). The County's General Plan Housing Element Background Report (April 2013) identifies the housing needs of the growing elderly population to require special considerations such as proximity to services and shopping, as well as more affordability, all which can be achieved in the Village-style design of the proposed project.

The range of proposed housing types in the proposed project also includes single-family detached homes abutting open space. This housing type cannot be duplicated in a small-lot urbanized environment such as the Escondido Downtown Specific Plan Area (see Figure II-4, page II-12, of the Escondido Downtown Specific Plan, which Figure is attached) that lacks any adjacent open space areas.

O10-59 (cont.)

Also, the applicant cannot reasonably, economically and timely acquire a large of block of parcels under the Escondido alternative that are necessary to develop a comparable project that includes single family detached homes and single-story senior housing. As shown in Figure II-4, page II-12, of the Escondido Downtown Specific Plan, the Escondido Downtown Specific Plan residential areas are comprised almost exclusively of very small legal parcels. Based on information from a qualified real estate broker, those parcels are mostly in separate fee title ownership. The applicant would therefore be required to negotiate for and acquire hundreds of separate occupied and operational legal parcels from diverse ownership interests to assemble land for a comparable development project. The existing operations, many of which are on medium to long-term leases, would also have to be relocated at significant cost. Such a task, according to a qualified real estate broker, is unrealistic and infeasible.

The alternatives evaluated in detail within the alternative subsection include: 1) No Project / No Development Alternative, 2) No Project / Existing Legal Lot Alternative, 3) General Plan Consistent Alternative, 4) Reduced Footprint Alternative, 5) Reduced Intensity Alternative, 6) 2.2 C Alternative, 7) Roadway Design Alternative, and 8) Mountain Ridge Road Fire Station Alternative. Each of these alternatives was selected in order to either: (1) avoid or minimize significant impacts associated with the project, or (2) compare potential effects with the General Plan Consistent alternative, which is considered a viable development option for planning purposes.

These alternatives permit informed decision making and public participation because there is enough variation amongst the alternatives that provide a reasonable range. As required under CEQA, the alternatives would avoid or minimize significant impacts associated with the project while also meeting the project objectives. The alternatives are compared to the impacts of the project and are assessed relative to their ability to meet the basic objectives of the project. Please refer to Table 4-2 for a breakdown of project alternatives impact comparison.

Bernardino (1984) 155 Cal.App.3d 738, 751 (overturning EIR that did not discuss possible land trade that would facilitate project in a different location). Although the RDEIR claims that the Project proponent cannot reasonably acquire an alternative site, it offers no support for this claim. Further, given that the Project is flatly inconsistent with the General Plan and may not be approved in the current location and configuration anyway, this Project will not be approved soon and the RDEIR may not use the fact that it could take the Project proponent some time to find other locations as an excuse for not analyzing this alternative. O10-60 O10-61

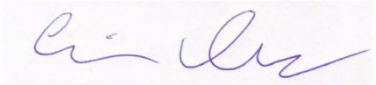
Finally, the alternatives analysis is also legally flawed because it fails to compare the relative impacts of the Project's and alternatives' GHG and energy impacts. *See generally*, RDEIR, Chapter 4. O10-62

Conclusion

We urge the County to deny this Project, which is fundamentally and irrevocably inconsistent with the General Plan and relevant Community Plans, and is wholly out of step with surrounding land uses. The RDEIR is also deeply flawed and fails to inform the public of the full impacts of the Project or to require legally adequate mitigation measures. These errors must be corrected and the RDEIR recirculated for further public review. O10-63

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Erin B. Chalmers

EXHIBIT LIST

Exhibit 1: San Diego County Guidelines for Determining Significance—Agricultural Resources

Exhibit 2: San Diego County Guidelines for Determining Significance—Climate Change

O10-59 (cont.)

The alternative posed by the commenter would not serve any new purpose, and therefore, is not needed to create a "reasonable range" as required by CEQA. The court in Citizens of Goleta Valley v. Board of supervisors (1990) 52 Cal.3d 553) held that in assessing the feasibility of alternatives located off-site, a jurisdiction may consider whether a project proponent owned or had reasonable access to the alternative site and whether such sites were in its planning jurisdiction. The law does not require in-depth review of a project alternative which cannot be realistically considered and successfully accomplished. The proposed alternative site is not under the ownership of the project proponent and is not located within the jurisdiction of the County of San Diego.

As discussed in FEIR Chapter 4.0, an alternative site in the County for the project was considered taking into a number considerations including the existing General Plan (or Community Plan) land use designations, and availability of infrastructure. No other similarly sized (600+ acres) parcel, or group of contiguous parcels available for assembly, was available for development that met the Project's objectives. The two village sites identified in the Valley Center Community Plan) were considered and rejected.

O10-60 See response to comment 59, above, and reference real estate letter mentioned above.

O10-61 As detailed in FEIR Appendix W, entitled, "General Plan Consistency Analysis Matrix," which provides a point-by-point analysis of whether the project is consistent with the General Plan, the Valley Center Community Plan and the Bonsall Community Plan. The analysis individually analyzes approximately 140 separate principles, goals, objectives, and policies within these plans, and correlates each one to relevant facts about the project. These facts cover the full spectrum of project specifics including for example, project location, neighborhood planning and design, innovative zoning approaches, biological and agricultural resource protection measures, connectivity via trails and pathways, water and energy efficient buildings, water and sewer district coordination, fire safety and planning, schools, parks, integrated transportation planning, shade trees and drought tolerant landscaping, dark sky protective lighting, and facility operational standards to name a few. The matrix analysis uniformly concludes

Exhibit 3: CA Energy Commission: Local Ordinances Exceeding the 2008 Building Energy Efficiency Standards (screenshot)

Exhibit 4: SANDAG Sustainable Communities Strategy, Appendix D: Background Documentation

Exhibit 5: Spreading Sunshine All Over the Place

605151.2

O10-61 (cont.)
that the project and its General Plan Amendment are in agreement with each of the project-applicable principles, goals, objectives, and policies of the General Plan. (Appendix W, pp.1 to pp. 198).

O10-62 See response to comment O10-54.

O10-63 This comment is a conclusion to the preceding comments. Thank you for the additional information; however, this information was considered in the preparation of the GHG analysis. No further response is required.