

Attachment “D”

**Public Comments Received on
Revised Draft**

October 12, 2006

Mr. Gene Chapo
Chair, Planning Commission
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024

RE: Draft 2005-2010 Housing Element Update

Dear Mr. Chapo and members of the Planning Commission:

The Building Industry Association of San Diego County represents 1,450 member companies comprising a workforce of 165,000 San Diegans. Thank you for this opportunity to provide comments on the Draft Housing Element Update. We support the city's efforts to address their future housing needs. The housing element is an important first step in laying out a framework for how that should be done. We offer the following comments on the document.

Constraints Analysis

We continue to have concerns with the city's Inclusionary Housing discussion the draft element. The California Department of Housing and Community Development (HCD) requires cities to address inclusionary housing mandates as a constraint to development. HCD also points out, and it is critical that planning and elected officials recognize that, with the exception of redevelopment areas, ***inclusionary zoning is not required by any state or federal law, including Housing Element Law.*** In other words, the city is not now nor has it been required to adopt inclusionary housing policies or mandates to address affordable housing needs.

In practice, inclusionary housing mandates do little to provide affordable housing units but have the very real and negative side effect of increasing market rate housing prices. Ironically, the lack of affordable housing resulting from the complex list of market place factors the city's Housing Element cites on page H-15 of the document is further exacerbated by inclusionary housing mandates. ***In short, inclusionary housing mandates have a net negative effect on housing affordability.***

As it relates to the analysis in the draft Housing Element on page H-127, we disagree with the rationale used in the analysis. The analysis falsely assumes that high end real estate markets like Encinitas also generate high profit margins. In reality, this is typically not the case. To begin with, land values naturally rise as home prices rise. Buyers in higher end real estate markets also demand more amenities, larger homes and more façade and landscape improvements. Low density estate housing developments are also unable to achieve the economies of scale that small-lot and multifamily infill development can achieve. Consequently, the per-unit cost of infrastructure is much higher. While high end real estate markets are still profitable, all of these factors actually make the profit margins slimmer. ***The consequence of all of this is that inclusionary housing mandates actually have more of an impact in high end real estate markets.***

Just examining the affordability gap demonstrates this. The affordability gap (the difference between what it costs to build an affordable unit, which is substantially higher in high end real estate markets, and what the unit is sold for, which is established by affordability requirements which prevail throughout the state and are not unique to the city of Encinitas) is substantially higher in a place like Encinitas, making inclusionary housing mandates a larger impact than in other lower-priced markets. ***This is the opposite of what the city's Draft Housing Element analysis has concluded. We request that the analysis be modified to reflect these realities.***

Affordable Housing Overlay Zone

The discussion on page H-147 of the document indicates that affordable housing targets would be established for each site in the AHOZ. ***We discourage the practice of developing parcel and site-specific affordable housing targets.*** Instead of being an overlay zone for establishing affordable housing targets on various properties in the city, a zoning requirement that will surely impact the development potential and value of those properties and non-uniformly at that, ***the AHOZ should instead be used purely as a zoning tool to promote the development of smaller, higher density housing in the context of mixed use development through the provision of parking and zoning incentives and avoid including affordable housing percentages or yields.*** This will promote a vision of smart growth development and help to foster market-rate housing that is more naturally affordable. ***The incentives together with density bonuses for the provision of affordable housing are the best tools for ensuring that more affordable housing actually gets built. Mandates and targets contained in overlay zones instead have the opposite effect.*** Particularly onerous ones and ones that are not consistent throughout the city can also lead to legal challenges by affected property owners.

Thank you for this opportunity to provide comments on the city's Draft Housing Element Update. While we have specific concerns with certain parts of the document, the city has prepared a quality document and we are very supportive of the city's efforts to take pro-active steps to address its future economic and population growth.

Very truly yours,

Scott C. Molloy
Public Policy Advocate
(sent via e-mail)